



Department for
Communities and
Local Government

Mr Tim Rodway
Rodway Planning Consultancy
9 Riverside
Shoreham-by-Sea
West Sussex
BN43 5RU

Our Ref: APP/D3830/A/12/2189451
Your Ref:

10 February 2016

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY WOODCOCK HOLDINGS LIMITED
LAND AT KINGSLAND LAINES, REEDS LANE/LONDON ROAD, SAYERS COMMON,
WEST SUSSEX**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Jennifer Vyse DipTP DipPBM MRTPI, who held a public local inquiry between 8 and 11 October 2013 into your clients' appeal against the refusal by Mid-Sussex District Council ("the Council") to grant outline planning permission for 120 dwellings, community facility/office space, care home and retail units, with primary access off the B2118 (London Road), in accordance with application No 12/01540/OUT dated 27 April 2012.
2. The appeal was recovered for the Secretary of State's determination on 1 November 2013, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990 because the appeal involves proposals which raise important or novel issues of development control and/or legal difficulties.
3. The Secretary of State initially issued his decision in respect of the above appeal by way of his letter dated 4 September 2014. That decision was challenged by way of an application to the High Court and was subsequently quashed by order of the Court dated 1 May 2015. The appeal has therefore been re-determined by the Secretary of State. In re-determining the appeal, the Secretary of State has taken into account all of the evidence submitted prior to his earlier determination of the appeal, including the Inspector's report, and all other representations received following the close of the Inquiry.

Inspector's recommendation and summary of the decision

4. The Inspector recommended that the appeal be allowed, and planning permission granted subject to conditions. For the reasons given below, the Secretary of State disagrees with the Inspector's recommendation. He considers that the appeal should

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be dismissed and planning permission refused. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

5. The Secretary of State notes (IR1.3) that, following ongoing discussions with the Council, a slightly revised layout was submitted with the appeal and was subject to a local consultation. Like the Inspector, the Secretary of State is satisfied that the appeal can be determined on the basis of the amended plan without prejudice to anyone's interests.

Matters arising after the close of the Inquiry

6. Following the quashing of his decision, the Secretary of State issued a letter dated 16 June 2015 under Rule 19 of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 to those persons entitled to appear at the Inquiry who appeared at it, setting out a written statement of the matters with respect to which further representations were invited for the purposes of his re-determination of the appeals. These matters were:
 - i. any implications of the judgment which led to the quashing of the Secretary of State's decision (*Woodcock Holdings Limited v SSCLG*) on the evidence that was before the Inspector and before the Secretary of State;
 - ii. the current state of play with regard the preparation of Local Plans in the Mid Sussex District Council's area and the relevance of policies for the purposes of this appeal;
 - iii. Any relevant policies in the Hurstpierpoint and Sayers Common Neighbourhood Plan made in March 2015;
 - iv. Whether there is a demonstrable five year supply of deliverable housing sites;
 - v. Any other material change in circumstances, fact or policy, that may have arisen since his decision of 4 September 2014 and which the parties consider to be material to the Secretary of State's further consideration of this appeal.
7. The Secretary of State has carefully considered all the responses received and which are listed in Annex A to this letter. These were circulated to parties and any additional responses are also listed in Annex A. Copies of the representations received can be made available upon written request to the address at the foot of the first page of this letter.

Policy considerations

8. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan consists of the saved policies of the Mid Sussex Local Plan (LP), adopted in May 2004; and the Hurstpierpoint and Sayers Common Parish 2031 Neighbourhood Plan (NP), made in March 2015.
9. The Secretary of State has also had regard to the Pre-Submission Draft District Plan for which focussed amendments were published for consultation in November 2015. He gives very limited weight to relevant policies in the draft District Plan with regard to the

first and second elements in paragraph 216 of the Framework given that the draft Plan is not at a very advanced stage of preparation and has not been subject to an independent examination, and also because there are unresolved objections to be considered by means of the examination. With regard to the third element, relating to the degree of consistency of the relevant policies in the emerging plan to the policies in the Framework, the Secretary of State takes the view that the amendments published in November 2015 make the relevant policies more consistent with the Framework than the previous draft but he nevertheless gives them only limited weight. Overall, the Secretary of State takes the view that he can give only very limited weight to relevant policies in the emerging plan when considered against the three elements of paragraph 216 of the Framework.

10. Other material considerations which the Secretary of State has taken into account include the *National Planning Policy Framework* (The Framework) and the subsequent planning guidance as well as the *Community Infrastructure Levy (CIL) Regulations 2010* as amended. He has also had regard to section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the decision-maker to have special regard to the desirability of preserving listed structures or their settings or any features of special architectural or historic interest which they may possess.

Main issues

Local Plan

11. The Secretary of State agrees with the Inspector (IR12.2) that the appeal site lies outside the built-up limits of Sayers Common as defined by the LP; that it is not allocated for housing; and that general residential development in the open countryside is contrary to LP policy C1. He sees these as important policy issues and concludes that the appeal scheme is therefore overall not in accordance with the LP. However, he also agrees with the Inspector that this has to be set against the fact that the Council accepts that it does not have a five-year land supply, so that paragraph 49 of the Framework indicates that relevant policies for the supply of housing should not be considered up-to-date.

Hurstpierpoint and Sayers Common Parish 2031 Neighbourhood Plan (NP)

12. The Secretary of State has given careful consideration to the NP, which has been made since the Inspector wrote the IR for this appeal (see paragraph 8 above), as well as the comments received on the NP in response to the Rule 19 letter (see paragraph 7 above). The two directly relevant NP policies are H1 and H3.
13. Policy H1 of the NP indicates that new housing development in Sayers Common will be supported where it enhances the existing settlement pattern (Policy H1(a)) and can enhance the flood and drainage management in the village (Policy H1(c)). The Secretary of State agrees with the Inspector's conclusion at IR13.2 that the appeal scheme would be capable of being adequately drained while not increasing flood risk elsewhere, and is therefore in accordance with Policy H1(c) in that respect. However, he considers that the size of the scheme (see paragraph 15 below) cannot be reconciled with the requirement to enhance the existing settlement pattern in accordance with Policy H1(a). Overall, therefore, the Secretary of State takes the view that the appeal scheme would not be in conformity with policy H1.
14. Policy H3 of the NP indicates that, subject to existing water drainage issues being resolved to remove the incidence of localised flooding (as required by the LP), new housing will be permitted at Sayers Common. Policy H3 also anticipates that Sayers

Common will accommodate around 30-40 dwellings during the plan period and states that a review and appraisal of deliverable housing sites will be undertaken at an early stage in the plan period. (Work is already in progress on this.)

15. The Secretary of State has taken account of the fact that the appeal scheme proposes a number of dwellings considerably in excess of the indicative figure of 30-40 dwellings contained in NP Policy H3, that the local community consider that it is in conflict with the NP, and that paragraph 198 of the Framework says that planning permission should normally be refused where a planning application conflicts with a NP which has been brought into force. While the Secretary of State acknowledges that there is no cap imposed in NP Policy H3 on the number of houses to be provided, he considers that the indicative number represents the aspirations of the community and that the appeal scheme is for 4 times the indicative number. He therefore concludes that the appeal scheme would not be in accordance with the NP.

Character and appearance

16. For the reasons given at IR12.4-12.7, the Secretary of State agrees with the Inspector's conclusion at IR13.2 that the appeal scheme would not have a significant adverse impact on the character and appearance of the area and, while agreeing in particular (IR12.7) that it is unfortunate that the oak tree to the rear of the Grade 2 listed building (Aymers and Sayers) would be likely to be lost, he also agrees that any impact on the character and appearance of the area in general would be more than compensated for by the amount of new planting that would be undertaken as part of the proposal.

Listed buildings

17. Turning to the Grade 2 listed building (Aymers and Sayers), the Secretary of State agrees with the Inspector at IR12.18 and IR13.3 that, for the reasons given at IR12.8-12.17, there would be less than substantial harm to its setting and significance. The Secretary of State gives considerable weight to this less than substantial harm. He has then gone on to weigh this harm against the benefits of the proposal including the benefit of providing housing (see paragraph 26 below).

Drainage and flooding

18. For the reasons given at IR12.19-12.25, having particular regard to the provisions in the submitted unilateral undertaking and to the fact that the Environment Agency has raised no objection to the proposal, the Secretary of State agrees with the Inspector at IR12.25 and IR13.2 that the scheme would be capable of being adequately drained and would not increase flood risk elsewhere. He is satisfied that the proposal would be in conformity with LP policies CS12 and CS13 in that respect.

Highway safety

19. The Secretary of State notes (IR12.26) that the Council did not pursue the highway safety reasons for refusal in relation to the appeal scheme, but that it remains a matter of concern for local residents. However, having regard to the Inspector's arguments at IR12.27-12.28, the Secretary of State agrees with her conclusion at IR12.29 that there is no reason to suppose that the development proposed would lead to any material increase in danger to highway users.

Accessibility/Sustainability

20. The Secretary of State agrees with the Inspector at IR12.3 that one of the main considerations in this case is whether the proposal constitutes sustainable development

within the context of the Framework. He has carefully considered the Inspector's assessment of accessibility/sustainability at IR12.30-12.43 and, for the reasons contained therein, he agrees that the elements included in the planning obligation, together with existing public transport, walking and cycling provision, would be sufficient for there to be a reasonable prospect of providing access by sustainable modes to those services and facilities required by people on an everyday basis. The Secretary of State is therefore satisfied that the scheme would represent a sustainable form of development in economic, social and environmental terms (IR13.1-13.4).

Conditions

21. The Secretary of State has considered the proposed conditions and the Inspector's comments on them at IR10.1-10.15. He is satisfied that the conditions recommended in Appendix C to the IR and set out at Annex B to this letter are reasonable and necessary and meet the tests of the Framework and the guidance. However, he does not consider that these overcome his reasons for refusing the appeal.

Obligation

22. The Secretary of State has considered the terms of the Unilateral Undertaking and of the Bilateral Planning Agreement submitted by the appellant and discussed at the Inquiry (IR11.1-11.3). He agrees with the Inspector (IR11.7 and IR11.16) that both the Unilateral Undertaking ((IR11.4-11.6) and the Bilateral Agreement (IR11.8-15) meet the Framework tests. He also considers that it complies with the CIL Regulations. However, for the reasons set out above, he does not consider that these provisions are sufficient to overcome the concerns identified in this decision letter.

Overall balance and conclusions

23. Having regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, the Secretary of State concludes that the appeal proposal is not in overall conformity with the Development Plan (LP + NP) for the reasons outlined above. He has therefore gone on to consider whether there are any material considerations which might nevertheless justify allowing the appeal.
24. The Secretary of State considers that the Council cannot demonstrate a five-year supply of deliverable housing sites, which means that relevant policies for the supply of housing in the DP should not be regarded as being up-to-date.
25. With regard to the benefits of the proposal, the Secretary of State gives substantial weight to the contribution which the scheme would make to helping to meet the overall shortfall in housing provision and significant weight to the fact that the appeal scheme would provide 30% affordable housing (IR3.1). He also gives significant weight to the fact that it represents a sustainable form of development in economic, social and environmental terms including accessibility and drainage considerations.
26. However, against this, the Secretary of State gives substantial weight to the conflict with the LP (see paragraph 11 above), as well as to the conflict with the recently adopted NP. The Secretary of State has also taken into account paragraph 198 of the Framework, which states that planning permission should not normally be granted where the application conflicts with the NP (as in this appeal). He also gives considerable weight to the less than substantial harm to the Grade 2 listed building, but considers that this harm is clearly outweighed by the public benefit of providing housing.
27. Overall, the Secretary of State considers that the adverse impacts of the appeal scheme would significantly and demonstrably outweigh the benefits when assessed

against the policies in the Framework taken as a whole. He concludes that it is not in overall conformity with the development plan and that there are no material considerations which would justify granting planning permission.

Formal Decision

28. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation to allow the appeal and grant planning permission subject to conditions. He hereby dismisses your clients' appeal and refuses outline planning permission for 120 dwellings, community facility/office space, care home and retail units, with primary access off the B2118 (London Road), in accordance with application No 12/01540/OUT dated 27 April 2012.

Right to challenge the decision

29. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
30. Copies of this letter have been sent to the Council and the Hurstpierpoint and Sayers Common Parish Council. A notification e-mail / letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Jean Nowak

JEAN NOWAK

Authorised by the Secretary of State to sign in that behalf

Site at Kingsland Laines, Sayers Common, Mid Sussex DC

Appeal by Woodcock Holdings Limited

Responses to 'Rule 19 letter' of 16 June 2015

Name of Party	Date of response
Rodway Planning Consultancy on behalf of the applicants	22 June 2015, 10 July 2015 and 20 July 2015
Dowsetmayhew on behalf of Hurstpierpoint and Sayers Common Parish Council	9 July 2015
Mid Sussex DC	18 June 2015
Sayers Common Village Society	14 July 2015

Richborough Estates

Report to the Secretary of State for Communities and Local Government

by Jennifer Vyse DipTP DipPBM MRTPI

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

Date: 6 January 2014

Town and Country Planning Act 1990

Appeal by

Woodcock Holdings Limited

against the decision of

Mid-Sussex District Council

Inquiry opened on 8 October 2013

Land at Kingsland Laines, Reeds Lane/London Road, Sayers Common, West Sussex

File Ref: APP/D3830/A/12/2189451

Appeal Ref: APP/D3830/A/12/2189451

Land at Kingsland Laines, Reeds Lane/London Road, Sayers Common, West Sussex

- 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 Mr S Woodcock of Woodcock Holdings Limited against the decision of Mid-Sussex District Council.
- The application No 12/01540/OUT, dated 27 April 2012, was refused by a notice dated 9 October 2012.
- The development proposed comprises 120 dwellings, community facility/office space, care home and retail units, with primary access off the B2118 (London Road).

Summary of Recommendation: That the appeal be allowed, and that planning permission be granted subject to conditions.

1. Procedural and Background Matters

- 1.1 Following the close of the Inquiry, the appeal was recovered for determination by the Secretary of State.¹
- 1.2 The Inquiry sat for four days (8-11 October 2013). I undertook an accompanied visit to the site and its surroundings on the afternoon of the first day. At the request of local residents, and with the agreement of all parties, I also undertook an unaccompanied visit on the evening of 10 October, to look at the location of various facilities and services in the surrounding area, including their proximity to bus stops.²
- 1.3 The application was submitted in outline, with all matters other than access reserved for future consideration. Following ongoing discussions with the Council, a slightly revised layout was submitted with the appeal and was the subject of a local consultation³. As agreed at the Inquiry, the alterations are relatively minor. With the Wheatcroft principles in mind, and given that the layout is only illustrative, I consider that the appeal can be determined on the basis of the amended plans without prejudice to anyone's interests.
- 1.4 The site location plan (Dwg No 55027-101A) together with the original illustrative site layout (Dwg No 55027-106B) and landscape masterplan (Dwg No MBC17819-10D) are found at Tabs 13, 14 and 30 respectively of the Appeal Documents Folders (ADF). Details of the proposed road junction, which are to be considered at this stage, can be found within ADF Tabs 50, 51 and 57 (Dwg No SK20924-02). The revised plans submitted with the appeal referred to in paragraph 1.3 above (Dwg No 55027-107B: illustrative site layout and Dwg No MBC17819-10E: landscape masterplan) are appended to SoCG/A (Appendices 3 and 4).
- 1.5 The Council's Decision Notice set out five reasons for refusal. By the time of the Inquiry, as set out in the SoCG, only the first two reasons (relating respectively to the setting of a grade II listed building, comprising a pair of semi-detached cottages known as Aymers and Sayers⁴, and surface water drainage/flooding)

¹ Document 31

² The facilities I saw included: schools at Twineham, Albourne Green and Hassocks; doctors' surgeries at Hurstpierpoint, Ditchling and Hassocks; and railway stations at Hassocks and Burgess Hill.

³ Paragraphs 3.15-3.17 of the Statement of Common Ground (SoCG)

⁴ The statutory list description can be found at Appendix 1 to APP/3/P

remained at issue between the Council and the appellant.⁵ The Inquiry heard the evidence of the Council on these issues, as presented by its two expert witnesses. However, in each case, after cross examination, the Council confirmed that it was no longer pursuing its opposition in relation to these matters. The evidence of Mrs Bishop, in relation to drainage and flooding was withdrawn in its entirety. The evidence of Mr Wade was withdrawn insofar as it related to the setting of the listed building. The remainder of his evidence, relating to the planning obligations, remained pertinent. Accordingly, this Report does not contain a statement of the Council's case.

- 1.6 Prior to the Inquiry, local residents had expressed concern that they had not had sufficient time to assess the evidence of the appellant relating to drainage and flooding matters. On opening the Inquiry, I heard submissions from three local residents. I then adjourned to allow for the appellant to explain the proposed drainage arrangements to them and to deal with any queries. On resumption, and in answer to my questions, it was confirmed that, whilst they still had significant concerns, the local residents taking part in the Inquiry understood what was being proposed and felt comfortable enough to be able to take an active part in the Inquiry proceedings with no prejudice to their cases.
- 1.7 Hurstpierpoint and Sayers Parish Council had been afforded Rule 6(6) party status, at its request, and also took part in the proceedings.
- 1.8 Two planning obligations, one in the form of a unilateral undertaking, and the other in the form of a bilateral agreement with the Council, were submitted to the Inquiry.⁶ The obligations are a material consideration in relation to this appeal and are discussed in more detail later.

2. The Site and its Surroundings

- 2.1 The site and its surroundings are described in detail in the Design and Access Statement;⁷ in the Landscape and Visual Impact Assessment and Landscape Design Statement;⁸ the relevant section of the planning officer's report to the Development and Transport Area Planning Committee (South West); at section 2 of the SoCG; at section 2 of APP/3/P; and at sections 3 and 4 of PC/1/P.
- 2.2 In summary, the appeal site, which is roughly level and extends to some 5.85 hectares, is located on the northwestern edge of Sayers Common. The southern part of the site includes a large detached residential property, Kingston Laines, and its associated gardens and outbuildings, including stables. The remainder of the site comprises open fields that are used as paddocks/pasture land, which are bisected by ditches and hedges/hedgerow trees.
- 2.3 The southwestern corner of the site abuts existing properties on Reeds Lane, and a recreation ground which is located at the junction of Reeds Lane with the B2118 London Road. To the east, the site abuts properties and their associated

⁵ Following further survey work undertaken in relation to a later application for a similar development on the site (Application No 12/04347/OUT) there remained no concerns for the Highway Authority in relation to traffic generation and highway safety (reason for refusal 4) – see Appendices 4 and 5 to CC/1. The contributions and arrangements secured by the S106 Agreement addressed the Council's concerns relating to the sustainability of the location (reason for refusal 3) and the impact of the development on local infrastructure, services and facilities (reason for refusal 5).

⁶ Docs 24 and 25

⁷ ADF Tab 10

⁸ ADF Tabs 28 and 29

gardens in Dunlop Close and on London Road, and includes part of the garden areas to Aymers and Sayers. To the north, the land is open, rising in shallow terraces towards buildings associated with the former 'Priory of Our Lady', now occupied by LVS Hassocks, a specialist education centre. To the west is a wet woodland area, beyond which are open fields.

- 2.4 Open views of the surrounding countryside are possible through natural gaps within the boundary vegetation. A network of public footpaths and bridleways crosses land further to the north and west of the site.

3. The Proposal

- 3.1 Although in outline at this stage, with all matters apart from access reserved for future consideration, the development is intended to provide a mixture of 120 residential units, 30% of which would be provided as affordable units, a two storey nursing/care home, a purpose built community facility with B1 office space incorporated within the first floor, and two retail units. In addition, replacement parking for the occupiers of Aymers and Sayers would be provided within the site. The development would be served by a single vehicular access onto the London Road, with additional pedestrian/cycle only access points onto Dunlop Close and Reeds Lane.⁹
- 3.2 The illustrative layout also incorporates a swathe of green infrastructure across the middle of the site, running from east to west along an existing ditch line. Other open green spaces and corridors within the site include village squares, and two ponds/detention basins, together with retained trees and hedgerows along the site boundaries.
- 3.3 The Design and Access Statement¹⁰ gives a more detailed description of what is envisaged. Although some of the detail relates to the layout as originally envisaged, as opposed to the revised scheme, the general principles set out in the Document are unaffected by the changes.

4. Planning Policy and Guidance

- 4.1 The planning policy context for the development proposed is set out in the officer's committee report, at section 4 of the SoCG, at section 6 of APP/4/P, and at Appendix PC2 to PC/1/A1. At the time that the application was determined, the South East Plan was in force. However, an Order to partially revoke the Regional Strategy came into force on 25 March 2013 and it no longer forms part of the development plan.¹¹

Local Plan

- 4.2 At the time of the Inquiry, the statutory development plan for the site included the saved policies of the Mid-Sussex Local Plan, adopted in May 2004. The policies referred to below are those most relevant to the issues raised by this appeal.
- 4.3 Together, policies B1 and B2 seek to secure high standards of design and layout in new development. Policy B3 looks to protect the amenities of existing

⁹ SoCG paragraphs 3.3-3.14

¹⁰ ADF tabs 10

¹¹ The policies that were not revoked are not relevant to this appeal.

residents and policy B4 promotes energy efficiency, efficient use of water and the use of natural drainage. Policy B7 resists the loss of trees with significant amenity value.

- 4.4 Policy B10(d) reflects the statutory duty set out at Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving or enhancing the setting of listed buildings. Among other things, policy B23 requires that particular attention is given to the impact of noise generating development on listed buildings.
- 4.5 Within Countryside Areas of Development Restraint, policy C1 resists new development other than in particular circumstances, in order to protect the countryside for its own sake.
- 4.6 Together, policies G1, G2 and G3 seek to protect the existing environment and ensure that efficient use is made of land, whilst meeting high standards of design, layout and landscaping. Development should also be accessible by a choice of means of transport and should be supported by appropriate infrastructure.
- 4.7 Policy H2 requires that new housing developments include a mix of dwelling types, sizes and affordability, with policy H4 seeking to secure 30% provision of affordable units on sites proposing more than 15 dwellings.
- 4.8 Policy T4 is generally supportive of development in sustainable locations that minimises reliance on the private car.
- 4.9 Policy CS12 is only permissive of development where, among other things, adequate provision is made for the treatment of waste water and where adequate sewerage capacity is available. Policy CS13 requires that sites should be adequately drained in order to reduce the risk of flooding.
- 4.10 Paragraphs 36.1- 36.6 of the Local Plan relate specifically to Sayers Common. They set out a summary of the physical setting of the village, the facilities available there, and confirm that a built-up area boundary is defined for the village to protect the surrounding countryside from unnecessary development.

Supplementary Planning Documents

- 4.11 The Council has produced a number of Supplementary Planning Documents. Although part of the Local Development Framework, they are not part of the development plan. The Sustainable Construction SPD, adopted July 2006, details how sustainable construction techniques can be employed in new development, minimising detrimental social and environmental impacts and, where possible, bringing about enhancements.¹² The Dwelling Space Standards SPD, adopted in July 2009, seeks to secure satisfactory standards of accommodation through the use of minimum space thresholds.¹³ The Development and Infrastructure SPD, adopted in February 2006, sets out guidance on the Council's approach to the calculation of developer contributions.¹⁴

¹² Doc 5

¹³ Doc 6

¹⁴ Doc 7

Other Documents

- 4.12 In addition to the National Planning Policy Framework and its accompanying Technical Guidance, I was referred to the Consultation Draft of the Parish 2031 Neighbourhood Plan, which was published in March 2013,¹⁵ and to the Rural Issues Background Paper that was prepared as part of the evidence base to inform the Local Development Framework.¹⁶ Among other things, the emerging Neighbourhood Plan suggests that the housing requirements of the Parish should be met through, among other things, the provision of 30-40 additional dwellings at Sayers Common.
- 4.13 The Parish Council drew attention to policies in the emerging Mid-Sussex District Plan Proposed Submission. However, that Plan is still at an early stage and the policies within it could change before adoption. I therefore afford it little weight. I am mindful, however, that policies referred to by the Parish Council in this respect, relate to matters to which regard would be had in coming to view on the development proposed in any event.
- 4.14 Attention was also drawn to English Heritage Guidance: The Setting of Heritage Assets, dated October 2011,¹⁷ to DCLG's New Homes Bonus Calculator,¹⁸ and to the West Sussex Housing Market Assessment of May 2009.¹⁹

5. Agreed Matters

- 5.1 An extensive statement of common ground between the Council and the appellant was submitted prior to the Inquiry (SoCG and SoCG/A)(see also paragraph 6.11 to APP/4/P). Among other things, it confirms that:
- The Council is unable to demonstrate a five year supply of housing land, the agreed supply being 1.82-2.35 years, depending on methodology.
 - There is a demonstrable housing need within the Parish.
 - The site can be drained satisfactorily and will not be at risk from flooding or increase the risk of flooding elsewhere.
 - The maintenance of the watercourses running through the site will be secured by planning obligation, which will allow the Council to adopt the on-site areas of open space and watercourses, overcoming the second reason for refusal.²⁰
 - The site is in a sustainable location for housing, with good access to a range of local facilities and services. Subject to a planning obligation to secure an agreed package of highway works and other transport related measures and financial contributions, the Council's objection in relation to reason for refusal 3 is addressed.

¹⁵ Appendix PC3 to PC/1/A1

¹⁶ Appendix PC5 to PC/1/A21 and Appendix 3 to APP/4/A

¹⁷ Appendix PC4 to PC/A/A1

¹⁸ Appendix 11 to APP/4/A

¹⁹ Doc 10

²⁰ Notwithstanding this statement, the Council did, initially pursue a case at the Inquiry relating to this reason for refusal. As noted at the outset, its case, in this regard, was withdrawn in its entirety following cross-examination of the witness.

- Although the development would encroach into countryside on the edge of the village, the site is well contained and there would be no unacceptable landscape or visual impacts.²¹
- The proposed residential density of 25 dwellings per hectare is appropriate, given the surrounding pattern of development. Housing mix can be dealt with at reserved matters stage.
- Taking account of the community and retail facilities proposed, the level of development is appropriate in the context of the village of Sayers Common.
- The on-site provision of 30% affordable dwelling units, to an agreed tenure split, accords with policy H4 of the Local Plan.
- Satisfactory residential amenity would be provided for existing and future occupiers.
- The creation of a shared pedestrian/cycle link between the development and Dunlop Close will not cause increased noise and disturbance for residents.
- Adequate foul drainage can be funded and provided.
- There is an agreed need for an elderly person care facility in the area.
- The retail facilities would benefit existing and future residents.
- The site is of low overall ecological value and, subject to conditions, there would be no significant ecological impact.
- Acceptable impact on trees and hedgerows.
- The loss of Kingsland Laines and its associated outbuildings is acceptable.
- Other than Aymers and Sayers, there will be no impact on the setting or significance of any other heritage asset.
- The site is not affected by contamination and the development will not affect any site of archaeological importance.
- Subject to a planning obligation, the appeal scheme will deliver all necessary infrastructure.
- This is not EIA development
- The scheme will achieve level 3 of the Code for Sustainable Homes, with a commitment to ensure that at least 12% of the site's total CO₂ emissions will be reduced via renewable technologies.
- The New Homes bonus that would be generated by the development is a material planning consideration in favour of the proposal.
- The main matter in dispute relates to the degree of harm to the setting of the listed building.²²

²¹ At the time that the SoCG was agreed, the Council's position was that the proposed access road would have an unacceptable effect on the setting of the listed building.

²² Again, notwithstanding this stated position, the Council withdrew its case in this regard at the Inquiry, following cross-examination of the witness

6. The Case for Woodcock Holdings (the appellant)

- 6.1 The case for the appellant is set out in its Closing Statement to the Inquiry.²³ The material points can be summarised under a series of headings:

Background and Policy Approach

- 6.2 The site lies outside, but immediately adjacent to the settlement boundary of Sayers Common, as defined by the Local Plan, which is identified as a Category 3 settlement suitable for housing growth. The site is recognised to be sustainably located with regard to the settlement, and in terms of access to services and facilities and sustainable modes of transport.
- 6.3 By virtue of the adopted settlement boundary, development of the site conflicts with policy C1 of the Local Plan. However, the adopted boundaries are out of date in that they do not provide for the objectively assessed needs for development, both currently and in the future, as required by the National Planning Policy Framework (the Framework). Specifically, they do not provide for the objectively judged housing needs, including market and affordable housing, and the Council is unable to demonstrate a five year housing land supply. The agreed range, depending on methodology, is 1.82-2.35 years.²⁴ Paragraph 49 of the Framework is therefore engaged.
- 6.4 With regard to heritage matters, Local Plan policy B10 contains a blanket protection, pre-dating the Framework approach of balancing harm against benefits. The relevant tests, therefore, are those at paragraphs 133 and 134 of the Framework.
- 6.5 By virtue of the relevant development plan policies being out of date, paragraph 14 of the Framework provides that permission should be granted, unless the adverse impacts of doing so significantly and demonstrably outweigh the benefits, or specific policies in the Framework indicate that development should be restricted. In relation to paragraphs 133 and 134 of the Framework, the three dimensions of sustainable development set out at paragraph 7 are relevant.
- 6.6 Overarching all of this is the definition of sustainable development set out at the beginning of the Framework. In this regard, the needs of the present generation must be met now if sustainable development is to be achieved. The question is 'how', not 'whether'. A planning system that does not meet the objectively judged needs of the present generation is not delivering sustainable development and is not fulfilling Government policy.

*Character and Appearance*²⁵

- 6.7 The appeal site comprises low-lying land that is well contained in visual and landscape terms, lying behind the built-up frontage of London Road and the modern development of Dunlop Close. London Road is characterised by development which has, historically, been linear but now includes development

²³ Doc 28

²⁴ The Council calculates the supply as 1.82 years. The figure arises from frontloading the shortfall rather than spreading it across the remaining plan period. If the shortfall is spread across the plan period, the Council calculates the supply as 2.35 years.

²⁵ Doc 28, ADF Tabs 28 and 29 and the SoCG

of depth. More widely, Sayers Common has a varied character, much of it of 20th Century origin.

- 6.8 As set out in the SOCG, the development proposed will not have a widespread landscape or visual impact. Nor would it be out of character with the prevailing character of the village. The scale and density of development are acceptable, as is the overall quantum of development. The illustrative layout has been through iterations with the design officers of the Council and there are no urban design objections to the scheme. The Parish Council's criticisms of the masterplan are not accepted by the appellant, or indeed the Council but, in any event, all such matters are properly addressed at reserved matters stage. At 25 dwellings per hectare, on a 5 hectare site, there is ample flexibility to adjust the layout to suit.

Effect on the Listed Building²⁶

- 6.9 Whilst no works are proposed to the grade II listed Aymers and Sayers, and so there would be no direct harm to its special interest, there would be works within its setting. However, the setting of a listed building is not a heritage asset. Its importance lies in the contribution it makes, if any, to the significance of the heritage asset.
- 6.10 Much complaint was addressed (by the District Council initially, but also by the Parish Council) to the alleged harm to the setting. However, what is relevant is whether change within the setting affects the contribution, if any, that the setting makes to the significance of the listed building. To assess that, one must first assess the significance of the listed building and from what it derives. Then one can see the role the setting has in contributing to that significance and what impact the change to the setting would have on the significance.
- 6.11 Although listed, the significance of the listed building is at the lower end of the scale. In any event, what significance it has, is not derived from its setting to any great degree. Its origin is an early 19th Century row of four workers' cottages, post-dating 1800 and pre-dating 1842. They were subsequently amalgamated into two semi-detached houses, both extended, re-clad, re-fenestrated and 're-reported'. They have, in short, been much altered.
- 6.12 Their setting too has been much altered, with the development of Dunlop Close to the north, Berryland Close to the east and the re-alignment of London Road itself over the years. The plot has seen historic alteration, from a shared plot with other houses, to separation, to amalgamation. It shares no historic relationship with the land to the west (the appeal site) in either functional or ownership terms, nor in artistic, architectural or archaeological terms.
- 6.13 As such, development on the appeal site has no impact on the contribution of the setting to the significance of the listed buildings. The access road through the curtilage would cause some harm, but that would be of a less than substantial nature. The Council's design officer did not consider the access road to warrant refusal and, in cross-examination, it was accepted for the Council that, subject to detailed layout, 120 houses could be acceptably

²⁶ APP/3/P

developed on the appeal site, with the access road in place, without unacceptable harm to the listed building.

- 6.14 In any event, the Framework requires that any harm be weighed against benefits. These are covered later but are more than adequate to outweigh any harm to the significance of the listed building caused by development in its setting.

*Flooding and Drainage*²⁷

- 6.15 The site floods, adjacent properties and their gardens flood, and the site is important to the drainage of the village and surrounding area. All of this was known to the appellant's drainage engineers and has been taken into account.
- 6.16 As of April 2013, the appellant had agreed a drainage scheme (referred to as Scheme 2) with the Council, which would not increase the risk of flooding to existing properties and which would not create an unacceptable risk of flooding for future occupiers of the appeal site. However, uncertainties over land ownerships and boundary lines led to the Council declining to enter into a planning agreement in relation to the 'agreed scheme'.
- 6.17 This led to 'Scheme 3', the scheme now being considered as part of the appeal proposal. Although objecting to the scheme at the start of the Inquiry, the Council's case in relation to this matter was withdrawn following cross-examination of its witness.
- 6.18 As the site lies within Flood Zone 1, there is no need to apply a Sequential test to the proposal. Moreover, there would be no increased risk to adjacent properties, there is no 'in principle' objection to housing within the 1 in 1000 year zone for 'ordinary' water courses (including ditches) and the houses proposed would be protected from flooding. There is sufficient space for the proposed drainage ditches, detention basins and other measures that comprise the sustainable drainage scheme for the site and there would be no increased flood risk for upstream areas.
- 6.19 The Parish Council took no issue in relation to drainage matters. Although local residents had considerable concerns, these were addressed by Mr Bond. Flooding is an emotive issue but is also one that is subject to technical and very expert analysis and evidence. That evidence shows that the Council was right to withdraw its objection on this matter.

*Sustainable Location*²⁸

- 6.20 Sayers Common is accepted by the Council as being a sustainable location for the development of new housing. It will be made more sustainable through the provision of additional housing, off-site works and transport contributions and the social facilities proposed.
- 6.21 It is odd that the Parish Council should complain that the settlement is unsustainable, and then argue that it should not receive the development necessary to improve its sustainability credential. The Parish Council's

²⁷ APP/1/P and APP/1/A and SoCG

²⁸ APP/4/P, APP/4/A and SoCG

approach is to starve Sayers Common of new development and facilities. In contrast, the appellant and the District Council are planning positively for a settlement of an already acceptable degree of existing sustainability, but one that can be improved to the benefit not only of future, but also existing, residents.

*Highway Safety*²⁹

- 6.22 Highway safety was, initially, a matter of concern to the County Council as Highway Authority for the area. That was due, chiefly, to unsatisfactory speed surveys on which it relied. Further, and better, information has overcome that concern. There is no highway safety point from the statutory body, and the matter was not seriously pursued by others.

*The Planning Balance*³⁰

- 6.23 Paragraphs 133 and 134 of the Framework do not indicate that development should be restricted. The test, therefore as set out in the first part of the second bullet of the second half of paragraph 14, is whether any harm significantly or demonstrably outweighs the benefits.
- 6.24 The benefits are manifest and undisputed as to nature and quantum. The development will bring economic benefits in terms of the construction employment benefits referred to in the Government's publication 'Laying the Foundations: A Housing Strategy for England' (November 2010) and the research paper 'The Labour Needs of Extra Housing Capacity – Can the Building Industry Cope?' (2005). It is calculated that the construction value of the scheme would be in the region of £22 million, creating approximately 154 – 180 net jobs for a year period. Construction would also create a multiplier effect through supply chain purchases and the spending of construction workers in the area. Based on the ONS Family Spending Report (2012) direct household expenditure by future occupiers would be in the region of £3 million per annum gross. In addition, the New Homes Bonus would bring further income into the area.
- 6.25 Social benefits in terms of market and affordable housing in the context of a failure to deliver the five year housing supply and acute worsening affordable housing need also need to be weighed in the balance.
- 6.26 Non-residential uses are also allowed for in the development proposed. The Council's Housing Market Assessment (May 2009) confirms the need to provide for people of retirement age. The care/nursing home provided for would help meet that need. Retail facilities would also help increase the sustainability of the settlement, as referred to in the Rural Issues Background Paper. The Background Paper also refers to a need for a replacement community hall in Sayers Common. Again, that is allowed for within the appeal scheme. The proposed office accommodation would further add to the sustainability of the location.
- 6.27 The development would create a high quality environment, in a location that is sustainably accessible to services and facilities, whilst improving that

²⁹ APP/2/P and SocG

³⁰ APP/4/P

accessibility and those services. It would achieve this without harm to landscape, townscape, amenity or biodiversity, while fostering the aims of reducing pollution, prudently husbanding scarce resources and meeting the challenges of climate change and low carbon economy. All of these should be afforded significant positive weight.

- 6.28 Against this is the acknowledged, but limited harm to the significance of a perfectly pleasant but much altered 19th Century listed building, by taking access through part of its garden. That does not significantly and demonstrably outweigh the benefits identified. In such circumstances, paragraph 14 of the Framework indicates that the appeal should be allowed and permission granted.

7. The Case for Hurstpierpoint Parish Council

- 7.1 The case for the Parish Council is set out in the Closing Statement to the Inquiry.³¹ The material points can be summarised under a series of headings:
- 7.2 The appeal site lies within a countryside area of development restraint as defined by the Local Plan. Whilst Local Plan policy C1 seeks to restrict housing in such locations, it is also accepted that the Council cannot demonstrate a five year housing land supply. Paragraph 49 of the Framework is, therefore, relevant which, in turn, engages paragraph 14. This indicates that permission should be granted unless any adverse impacts of so doing would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole, or where specific policies in the Framework indicate that development should be restricted. This last point includes, among other things, a footnote reference to policies affecting designated heritage assets.

Setting of the Listed Building

- 7.3 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be given to the desirability of preserving or enhancing the setting of listed buildings. In addition, Section 12 of the Framework emphasises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. The definition of significance is set out in Annex 2 of the Framework and was acknowledged, in answer to questions put to Mr Mascall, to derive not only from the physical presence of a heritage asset, but also from its setting.
- 7.4 As acknowledged in the proof of Mr Mascall³² the listed building (Aymers and Sayers) has architectural as well as historic interest. Although he disputes the Council's assertion that the dwellings originally comprised agricultural workers' cottages, he agreed that they were likely to have been built for rural workers.
- 7.5 All parties agree that 'setting' is the surroundings in which a heritage asset is experienced, and that it can be more extensive than its curtilage. Paragraph 4.33 of Mr Mascall's proof notes that the 'wider setting and context is provided by the remnant of Sayers Common to the south (recreation ground) fields and hedgerows to the west...'. His view, however, is that these do not contribute to the significance of the asset.

³¹ Doc 26

³² APP/3/P

- 7.6 The Parish Council does not agree. The land to the south of the cottages, up to the edge of the Common, complements the heritage asset, a point previously acknowledged in the Heritage Statement submitted with the application.³³ This setting makes a positive contribution to the significance of the asset, given its origins as roadside, rural workers' cottages, and the contribution made to the historic character and appearance of Sayers Common, underlying the origins of the settlement.
- 7.7 The appellant accepts that the proposed access road would have some impact on the setting of the heritage asset. What is in dispute is the extent of that harm. The access road would be within 5.7 metres of the southern extent of the listed building and, as accepted in answer to questions at the Inquiry, in order to form a junction with the main road, it would need to be raised above the ground floor level of the listed building and its side garden, due to changes in ground levels here.
- 7.8 It was also accepted for the appellant that the proposed plans³⁴ envisage the removal of a large oak tree to the southwest of the heritage asset, within its curtilage. This would affect views of the appeal scheme in the context of the listed building. In this regard, Mr Mascall considered that the scheme would require screening around the setting of the listed building to mitigate that impact, but was unwilling to accept that this was to compensate for any harm.
- 7.9 The development would lead to substantial harm to the significance of the listed building. As such, permission should be refused unless that harm is necessary to achieve substantial public benefits that outweigh that harm. In the alternative, if the harm is less than substantial, then that harm should be weighed against the public benefits.
- 7.10 Mr Rodway sets out the appellant's view on public benefits. Neither individually nor cumulatively are these considered to represent sufficient public benefits to justify the permanent and irrevocable harm that would be caused to the heritage asset by the proposal. There is conflict, therefore, with Section 12 of the Framework and, following the second limb of paragraph 14, the appeal should not succeed.

Accessibility

- 7.11 The current range of services and facilities at Sayers Common is summarised in the Mid-Sussex District Rural Issues Background Paper.³⁵ This is limited both in real terms, and in relation to other settlements within Mid-Sussex, revealing that the settlement lacks many of the basic services for day to day living, including a post-office and primary school etc.
- 7.12 Although not in his proof, Mr Kitching agreed, in answer to questions put to him, that paragraph 34 of the Framework is relevant to this appeal and is a material consideration. This emphasises that developments such as this, which generate significant movement, should be located where the need to travel will be minimised and that use of sustainable transport modes can be maximised.

³³ ADF Tabs 26 and 27

³⁴ Dwg Nos 55027-107B and MBC17819-10E

³⁵ Appendix PC5 to PC/1/A2

- 7.13 It was argued, for the appellant, that the site is sustainably located as future occupiers could walk to existing facilities. His assessment of this accessibility on foot is by reference to the 2 kilometre catchment isochrone at Plan 2 of his proof. This represents the preferred maximum threshold of accepted walking distances. However, it was confirmed that the distance shown was 'as the crow flies' and did not necessarily reflect the actual walking route. He accepted that facilities at Hurstpierpoint were at, or beyond this 2 km threshold, although declined to accept that, allowing for the acknowledged walking route (heading south along the B2118 before heading east along the B2116 Albourne Road) it would be some 2.75 km to the nearest retail facility there and 3 km to the edge of the village retail centre.
- 7.14 Mr Kitching's assessment of accessibility to a primary school focussed on Albourne, some 1.6-1.75 km to the south of the appeal site. He did not look in detail at Twineham, even though the County Council had indicated that capacity at Albourne is limited and that residents of the appeal site may need to travel to other schools further away,³⁶ and having agreed to make a financial contribution towards a school safety zone at Twineham.³⁷ He did concede, though, that future residents would be unlikely to walk to Twineham School.
- 7.15 It was also maintained that the site is accessible by cycle, with reference to a 5 km isochrone shown on Plan 3 of his proof. This shows many of the facilities at Burgess Hill, including the station, at the very limit of that preferred maximum threshold. Those distances are likely to be exceeded when measured by the actual cycling route.
- 7.16 In all, the appeal site is not sustainably located and future residents would be heavily reliant on the private car for access to local services and facilities. That conclusion is reinforced by the evidence base of the Rural Issues Background Paper. Having regard to the quantum of development proposed, the development does not represent sustainable development and would therefore conflict with paragraph 34 of the Framework.

Character of the Settlement

- 7.17 Sayers Common has evolved as a small settlement primarily fronting the north-south London Road (B2118) and, to a lesser extent, the east-west Reeds Lane, focussing around the Common, close to the junction of those roads. Views from London Road across the appeal site and to a lesser extent, the filtered views northward from the Common, are important in defining the character of the village and its semi-rural setting. They are positive attributes. The appeal scheme would result in the loss of these views and the loss of the semi-rural setting of this part of the village.
- 7.18 Although in outline, means of access is to be determined at this stage. Furthermore, a specific quantum of development is sought. It is suggested that the density of development would be in the region of 25 dwellings per hectare. However, that does not acknowledge the proposed care home, other commercial buildings and the significant constraints and land requirements of

³⁶ Appendix 2 to CC/1

³⁷ Appendix 5 to CC/1

the drainage proposals. The reality is, that there is little flexibility on the extent of the location of the site coverage of the built form.

- 7.19 The access point, and the illustrative layout, fail to demonstrate how the development, or its constituent parts, would make a positive contribution to local character. These are legitimate concerns that cannot be dismissed by reference to the outline nature of the scheme. It is for the appellant to demonstrate how the scheme would satisfactorily integrate with surrounding land uses and layout and how it would reinforce local distinctiveness. The public benefits prayed in aid by the appellant are insufficient to outweigh the identified harm.

8. The Case for Interested Parties

- 8.1 Oral representations made in addition to the respective parties' written submissions.

The case for Dr J M Sweet³⁸

The main points were:

- 8.2 The planning application, in its many forms, has been going on now for almost two years. During this time, there have been inconsistencies in the approach of the Highway Authority. The first application was refused on advice from the Highway Authority that insufficient information had been provided. The second application was also refused on highway grounds, with reference to the site not even being suitable for a fewer number of dwellings. Then, in relation to the third application, which was submitted just before Christmas, the scheme was considered to be acceptable, even though nothing, other than it being dealt with by a different officer, had changed. Within a few days of that decision, the officer then refused an application for 10 houses in Sayers Common.
- 8.3 The traffic survey was undertaken at an inappropriate time and at a point on the road where traffic is at its slowest. This throws doubt on the modelling used.
- 8.4 The village does not have adequate social facilities and essential services to support future residents of the proposed development. There will be increased reliance on the private car for basic services and the proposal is contrary to policies H5 and T4 of the Local Plan and paragraphs 17 and 30 of the Framework.
- 8.5 Moreover, the parking shown for the care home will not be adequate when staff parking is factored in. Based on my own experience as a health care professional, 24 hour staff cover would need to be provided, needing a minimum of three shifts, plus clerical, domestic, catering and management staff. There will be an increased reliance on the private car as there are no evening or Sunday bus services in the village. There will be difficulties too for those wishing to visit patients at the facility. As an indication, the LVS Hassocks school in the village, a school for children with special needs, has just had to build its third 40 space car park for staff. Taking account also of

³⁸ Doc 2

the traffic associated with the 120 dwellings proposed, the development is clearly unsustainable.

- 8.6 Contrary to the assumption of the appellant that this is a dormant village with no centre, we have a thriving community here, centred around the village hall which is at the heart of the village, in a well lit area with plenty of parking. There is a popular public house and a church, with a modern and well-used church hall. We have written many times in the past about all the activities that take part in the village. One example being a village pétanque court that has received planning permission and for which funds are currently being raised. We are also finalising details of an extension to, and refurbishment of, the village hall, to include a new kitchen and toilet and space for a community shop. The community hall and shops proposed are not needed. If asked, we could have advised accordingly, but no approach was made.

The case for Mr P Edwards³⁹

The main points were:

- 8.7 The Parish Council recommended refusal of the first application back in December 2011. The vote was unanimous, with Parish Councillors using their local knowledge.
- 8.8 Major issues highlighted at the time included the overbearing scale of development; its unsustainability; large scale drainage and sewage issues; frequency of excessive speeding through the village; impact on listed buildings, not just Aymers and Sayers, but also Kingscot;⁴⁰ and impact on local doctors and schools. Those concerns led to the application being withdrawn in January 2012.
- 8.9 A second application was made in March 2012. Again, the Parish Council recommended that the application not be approved. Again, the vote was unanimous for the reasons as before. The application was considered at the planning committee and was refused for five strong reasons.
- 8.10 The third application, submitted just before Christmas 2012, was again resisted by the Parish Council. It was considered by the planning committee and refused again for five reasons. Although four of the five reasons are no longer being pursued by the Council, much to the frustration of local residents since the associated problems remain the same, the remaining reason is still strong and valid.
- 8.11 All the independent Councillors who voted on this application over the years have said no. This is, beyond doubt, the worst area of land within the village on which to build. This is the opportunity for the application to not only be refused, but also to state that no building should ever occur on it and that any future development of the village should be on a smaller scale and on higher ground, not on the lowest land in a flood risk village.

³⁹ Doc 3

⁴⁰ Mr Edwards also made reference to the LVS Hassocks School being listed. The Council checked and was able to confirm that it isn't statutorily listed.

The case for Mrs J Marsh⁴¹

The main points were:

- 8.12 There are ongoing land ownership issues in relation to the ditches to the rear of the Dunlop Close properties. This should have been clarified before carrying out the flood modelling. Research into ownership has not been thorough and there has been a lack of consultation. Local residents offered to meet with the appellant's consultants, but with no response.
- 8.13 The Furze Field ponds are not part of the watercourse system and should not be relied on. They are man made, resulting from clay extraction, and are full all year round with no spare capacity.
- 8.14 The 1:1000 year flood plain at the bottom of the Dunlop Close properties is not shown correctly on the appellant's plans. This land floods on a regular basis, as shown on the photographs accompanying this statement and other submissions made prior to the Inquiry, although the houses themselves are on elevated land.
- 8.15 Although the Environment Agency's flood maps are the starting point, the main problems relate to pluvial flooding, not fluvial. The long running history of flooding on the site has been recorded by the Council and is supported by local newspaper reports and photographs of the site over the years. The problems were exacerbated when the new A23 by-pass was constructed – the road cambers were wrong which led to the village being inundated by water for a three month period in 1992. The problems experienced here are recognised by others, it is not just a resident's issue.
- 8.16 Just because Sayers is a small village, that doesn't make the flooding problems any less of a real issue for residents.
- 8.17 Land that is required for flood risk management should not be built on.
- 8.18 Whilst there may be a fall of 2.5 metres across the site as a whole, this gives a false impression and is not representative of the relatively flat nature of the majority of the site.
- 8.19 The reference to a second drainage ditch 'appearing to originate' from beneath the B2118 in the vicinity of the pond at Kingscot (paragraph 3.2.4 of APP/1/P) demonstrates the inadequacy of the watercourse mapping undertaken. It is important to establish what happens to water in the village before trying to address the problems.
- 8.20 The storm water tank on Reeds Lane (beneath the recreation area to the south of the appeal site) was not delivered to the project specification. The primary objective of installing the tank was to remove the listed building (Aymers and Sayers) from the flood risk register. A secondary objective was to relieve flooding on Reeds Lane. What it does not do is alleviate all the flooding problems in the village. For instance, surface water run-off from the north of the village runs down through Dunlop Close and across the appeal site.

⁴¹ Doc 4

- 8.21 Whilst it might be appropriate in most outline applications to have drainage details as part to the reserved matters, it would be negligent to do that here, given the well documented flooding problems of the area.
- 8.22 Whatever the measurements taken of the heights of the banks (levels of the adjacent banks etc were taken remotely) the ditches, the floodplain and the surrounding fields all flood on a regular basis. The ditch flooding, and the flooding of the fields are not directly connected – they happen at the same time due to rainfall events.
- 8.23 The proposed pedestrian/cycle link between the appeal site and Dunlop Close, alongside the existing detention basin, is not the only location for such a link: the access could have been located along the access to Kingsland Laines, onto Reeds Lane, or other arrangements with landowners on London Road could have been made. The problem relates to the sewage chamber beneath the proposed access route. Access is required to it and, at times of flood, it acts as an early warning system, alerting local residents not to use downstairs/upstairs toilets, sinks and washing machines etc.
- 8.24 For the proposed system to operate effectively, the ditches and drainage channels will have to be cleared of debris on a regular basis. This involves a lot of time and effort and there are doubts about how this would be monitored and enforced. Although the appellant proposes a financial contribution for this, it is not sufficient. Indeed, the money secured would do little more than pay for the monitoring and enforcing of the agreement, as opposed to the significant ongoing works that will be required.
- 8.25 Pages 88-89 of APP/1/P refer to a visit to the appeal site by Mesdames Bishop and King of the Council at the end of May 2013. Although May was an unusually wet month, the rainfall event experienced just prior to the visit was not unusual. Moreover, the village lies in a 'bowl', with all the run-off from the surrounding land collecting in the village, often at speed.
- 8.26 The balancing ponds proposed will help, but will not leave much room for the quantum of housing proposed. It is not even clear what will happen to the ditches along the north-eastern site boundary, where there is a big drop from the land at Kingscot. Consequently, local residents have little confidence in the flood modelling that has been done and there can be no certainty that the development proposed would not exacerbate existing serious problems and/or increase problems downstream.
- 8.27 There are other sites that are more suitable for additional housing in the village. The consultation on the emerging Neighbourhood Plan showed that nearly 64% of the village voted that no new housing development should take place until existing drainage infrastructure issues have been resolved. In any event, the Neighbourhood Plan indicates that there is only provision for 30 new dwellings in the village.

9. Written Representations

- 9.1 All but one of the representations received expressed some form of objection to the proposal. Those submitted in response to the original planning application are summarised in the officer's committee report. The responses submitted in relation to the appeal are summarised here and cover much the same ground:

- Ongoing and well documented sewage, flooding and drainage problems
- Uncertainty on the part of the developer as to boundary ownership
- Concerns over long term management and maintenance of the proposed sustainable drainage scheme
- Increased traffic through the village
- Highway safety implications relating to the location of the proposed vehicular access
- The proposed cycle path is dangerous – conflict between pedestrians, horse riders and cyclists
- This is an area of countryside development restraint
- Impact on character and appearance of the village and the surrounding countryside
- The density of development is too high
- Disproportionately large development for this small village
- The nursing home is not needed and is out of proportion to its rural location. It is not supported by local infrastructure
- Impact of the proposed access and the development itself on listed buildings
- The village has only limited services and facilities and is poorly served by public transport
- The retail units proposed will become white elephants – the village shop had to close years ago because of lack of trade
- There is no need for the community building proposed. Who will use it – so many residents work outside the village. It would take funds away from existing local facilities. The new business centre on Reeds Lane can't fill all the business units there
- Local schools are over-subscribed
- No assessment of the impact on the youngsters at LVS Hassocks, a special needs school close to the appeal site
- Nearby facilities, including schools rail stations, shops etc are further away from the appeal site than indicated by the developer
- Hurstpierpoint is not readily accessible from Sayers Common – need to cross busy main road to get to the railway station.
- The High Street in Hurstpierpoint is already a traffic bottleneck
- Parking in Hurstpierpoint for doctors, shoppers, schools etc is already at capacity
- The Goddards Green sewage plant is already operating at more than 20% over capacity

- Noise, light and traffic pollution
- Sayers Common is not averse to development, just not at any cost
- Applications for development of this site have been consistently rejected by both the Parish and District Councils
- In order to try and create sustainable drainage scheme within the site, the garden areas to some of the proposed dwellings are disproportionately small
- Loss of habitat and adverse impact on local wildlife
- Taking advantage of the period of limbo before adoption of the Neighbourhood Plan
- No local engagement

9.2 There was one letter of support for the development scheme.

10. Conditions

- 10.1 A list of suggested conditions was submitted by the Council,⁴² with additional conditions emerging during the related discussion.⁴³ The suggested conditions were discussed in some detail at the Inquiry, in the light of advice in Circular 11/95 *The Use of Conditions in Planning Permissions*, and paragraph 206 of the Framework.
- 10.2 As set out in the Circular, conditions must be necessary; relevant to planning; relevant to the development to be permitted; enforceable; and reasonable in all other respects. I have made a series of minor alterations to the conditions as presented, in the interests of precision and, in some cases, to deal with implementation. The alterations were discussed at the Inquiry, with the exception of the wording to suggested condition 18, which was dealt with by post-Inquiry correspondence.⁴⁴
- 10.2 At the Inquiry, it was agreed that suggested conditions 2, 3, 4, 5, 15, and 17 (which deal, respectively, with materials samples, landscaping, landscape management plan, timetable for planting etc, parking provision and refuse/recycling) are otiose, since they relate to reserved matters. It was also agreed that suggested condition 25 was unnecessary, since any damage to the listed building would be covered by other legislation.
- 10.3 Among other things, suggested condition 6 requires wildlife mitigation and enhancement measures, including bat and bird boxes,⁴⁵ with suggested condition 7 requiring the appointment of an ecological clerk of works to carry out certain tasks relating to the protection of bats. However, the appellant's Ecological Assessment⁴⁶ concludes that the appeal scheme would not involve the loss of any habitat of significant interest, that there would be no significant impact on bat interest, and that any impact on birds and badgers would be neutral. It confirms that the retention and enhancement of the new habitats

⁴² Doc 14B

⁴³ Docs 22 and 27

⁴⁴ Doc 30

⁴⁵ It also refers to external lighting. This is covered in paragraph 10.6 below.

⁴⁶ ADF Tab 15

that would be provided as part of the landscaping and sustainable drainage measures proposed, would result in overall impacts being neutral and 'non-significant positive'. Those measures would be secured as part of the reserved matters and drainage details to be submitted. In considering whether a condition is necessary, the question as to whether planning permission would have to be refused if the requirements of that condition were not imposed, is important. In my view, the suggested conditions do not meet the test of necessity and, with regard to suggested condition 7 in particular, would duplicate other legislation.

- 10.3 In addition to the standard conditions relating to the submission of reserved matters details and commencement of development, it is necessary to ensure that the reserved matters accord with the parameters that informed the Design and Access Statement⁴⁷ and to protect the visual amenities of the area.⁴⁸
- 10.4 There is a possibility that the development might be carried out on a phased basis. Accordingly, details of phasing of the development are required in order to ensure that key aspects of the scheme are delivered at an appropriate stage of development, in the interests of the living conditions of future residential occupiers.⁴⁹
- 10.5 For the avoidance of doubt, and in the interests of proper planning, it is necessary to list the plans to which the decision relates, but only insofar as they relate to the matter of access, which is not reserved for subsequent approval.
- 10.6 A condition in relation to external lighting, other than within an individual domestic curtilage, is necessary in the interest of residential amenity and to avoid undue disturbance to wildlife, including protected species.
- 10.7 It is necessary to ensure that those trees to be retained within the site, and those close to but outside the site boundary, are protected during construction, in order to safeguard visual amenity. Although not one of the conditions included in the Council's list, it was agreed that a condition along these lines was required. The plan shown at ADF Tab 5 (drawing No MBC17819-03a) sets out such measures.
- 10.8 In order to address existing flooding issues on the site, and to avoid increasing the risk of flooding elsewhere, a condition is required to deal with surface water disposal. At the Inquiry it was agreed that a condition based on the wording of the PINS model sustainable drainage condition would be more appropriate than the various iterations of suggested condition 9. In addition, the unilateral undertaking secures further details relating to sustainable drainage and flooding mitigation measures.⁵⁰ It is also necessary to secure details and implementation of a scheme for the disposal of sewage, in order to prevent pollution in the interests of amenity and the environment.
- 10.9 A construction management plan is necessary in the interest of highway safety and to safeguard the living conditions of adjoining occupiers. A condition

⁴⁷ ADF Tab 10

⁴⁸ Doc 22

⁴⁹ Document 27

⁵⁰ See paragraphs 11.4- 11.7 of this Report

controlling hours of working on the site is also necessary to protect the living conditions of local residents.

- 10.10 Conditions relating to construction of the junction of the site access with the London Road, and the pedestrian/cycle links with Dunlop Close and Reeds Lane, are necessary in the interests of highway safety, accessibility and sustainability. Whilst a Framework Travel Plan was submitted with the proof of Mr Kitching,⁵¹ a full Travel Plan is required in order to promote the use of more sustainable modes of transport, in accordance with national and local planning policy and guidance.
- 10.11 The care/nursing home included in the development was included at the Council's behest in response to an identified need for such a facility in the area. In order to ensure that, if built, it would continue to meet that identified need, an occupancy condition is necessary.
- 10.12 Having regard to the likely proximity of residential properties to the care/nursing home, it is necessary to secure a scheme of noise attenuation, relating to any external plant and machinery that might be installed, in order to safeguard the living conditions of nearby residents. For the same reason, conditions to control the opening times of the community building, and the hours for the opening of, and deliveries to, the retail units, are necessary.
- 10.13 Having regard to previous uses both on and adjacent to the site, the appellant's Phase 1 Environmental Audit⁵² identified potential sources of contamination on the land. Conditions requiring an assessment, and if necessary, a programme of remediation, are necessary to ensure that future residents of the site are protected.
- 10.14 The existence of a 19th Century brickworks immediately to the west of the appeal site raises the possibility of former industrial activity within the site. A programme of archaeological work is therefore necessary to ensure protection of any heritage assets.
- 10.15 The growing emphasis on the use of decentralised and renewable or low-carbon energy in new development is reflected in Local Plan policy B4 and the National Planning Policy Framework. A condition to ensure that the development maximises energy conservation is therefore warranted.

11. Planning Obligations

- 11.1 A unilateral undertaking, in the form of a deed and a bilateral agreement with the District and County Councils were submitted by the appellant and discussed at the Inquiry.⁵³
- 11.2 Policy G3 of the Local Plan requires that the necessary infrastructure to support new development should exist, or can be provided. That policy is supported by the Council's Development and Infrastructure SPD.⁵⁴ In essence, the obligations are intended to meet a range of local policy objectives, with the aim of overcoming, or substantially mitigating, identified problems.

⁵¹ Appendix B to APP/2/P

⁵² ADF Tab 16

⁵³ Docs 24 and 25 respectively

⁵⁴ Doc 7

- 11.3 Consideration of the obligations must be undertaken in the light of the advice at paragraph 204 of the National Planning Policy Framework and the statutory requirements of Regulation 122 of the Community Infrastructure Levy Regulations. These require that planning obligations should only be accepted where they meet the following tests: they are necessary to make the development acceptable in planning terms; are directly related to the development; and are fairly and reasonably related in scale and kind to it. Both obligations are conditional upon the appeal succeeding and planning permission being granted.

The Unilateral Undertaking

- 11.4 Although this is an outline application, with all matters other than access reserved for future consideration, the appellant has, in order to address concerns in relation to sewage, flooding and drainage, submitted extensive details of a sustainable drainage strategy for the site.⁵⁵
- 11.5 Whilst planning conditions can secure the implementation of a drainage scheme, were the appeal to succeed, it is imperative that its efficient operation of the surface water network across the site is secured for the lifetime of the development. Among other things, the undertaking secures the following:
- Maintenance of the channel profiles of the respective drainage ditches throughout their reaches, within the site boundary;
 - Control of vegetation growth within the drainage ditch channels;
 - Prevention of the build-up of silt within drainage channels;
 - Removal of obstructions to channel flow;
 - All culverted sections, channel outfalls and headwalls to be kept clear of obstructions and build-ups of silt and debris;
 - Repair and making good, as required, of the drainage ditch network on the site, to maintain the efficient conveyance of surface water.
- 11.6 The arrangements secured allow for the Council to adopt the open space areas, including the watercourse running westwards from Dunlop Close, all boundary ditches, ponds and detention basins. A commuted sum is secured towards that purpose.
- 11.7 For the reasons set out above, I consider that the contributions and obligations secured by the unilateral undertaking meet the Framework tests and comply with the Community Infrastructure Levy Regulations.

The Bilateral Planning Agreement

- 11.8 The obligation secures the financial contributions sought by the District and County Councils under a number of heads of terms, together with other

⁵⁵ Section 4 of APP/1/P – in particular paragraphs 4.3.6-4.3.19

arrangements. Its provisions are discussed in the SoCG, at section 7 of APP/4/P, at section 8 of DC/1/P⁵⁶, at section 4 of APP/2/P, and in CC/1.

- 11.9 In addition, insofar as the District Council is concerned, a joint statement between the Council and the appellant, relating to the agreement, including background information, was submitted to the Inquiry.⁵⁷ The document sets out the contributions sought by the District Council in relation to children's play space, informal sport, formal sport, community buildings and local community infrastructure.⁵⁸ It sets out background information relating to each contribution, and how it is calculated (with reference to the formulae in the SPD) together with information on how the contributions would be used.
- 11.10 I would draw attention to the Community Buildings contribution, in light of the fact that the development proposed also includes the provision of land for a community building. There is no obligation on the appellant to provide that building. In answer to my questions, it was confirmed that that would be a matter for the market to decide. The same goes for the care/nursing home: whilst land would be made available for such facility, the provision of such a facility itself does not form part of the proposal. However, the need for both those elements was identified by the Council, hence their inclusion on the scheme for which permission is sought. The community buildings contribution, secured by the planning obligation, would be used towards the extension and/or improvement of the existing Village Hall and/or replacement facilities in Hurstpierpoint and Sayers Common, given the likely increase in use of/demand for those facilities as a direct consequence of the development proposed.
- 11.11 The obligation also secures the on-site provision of 30% affordable housing units, in accordance with policy H4 of the Local Plan and the Development and Infrastructure SPD. The tenure mix is also agreed by the Council.
- 11.12 CC/1 sets out the contributions sought by the County Council in relation to primary and secondary education facilities and libraries. It sets out background information relating to each contribution, and how it is calculated, with reference to the formulae in the SPD, together with information on how the contributions would be used.
- 11.13 Further information about the sustainable transport contribution secured, how it is calculated and what it would be used for, can be found at Appendix 5 to CC/1, at section 4 of APP/2/P and in the Council's SPD.
- 11.14 Also as required by the County Council, and referred to in the SPD, the planning obligation secures the provision of three fire hydrants within the site, and ensures that suitable access for fire brigade vehicles and equipment is available for each phase of the development.
- 11.15 Lastly, the obligation ensures that the ground floor of the community building proposed would be used only for purposes falling with Use Class D1, with the

⁵⁶ The figures referred to in the evidence of the Council on this, had been updated by the time of the Inquiry. The most up to date figures relating to the mix of development shown on the revised plans, and the contributions sought, are found in Doc 23.

⁵⁷ Doc 23

⁵⁸ Sections 8.5 and 8.6 of DC/1/P refer to a range of headings that are not reflected in Document 23 or the undertaking itself. In answer to my questions, it was confirmed the reference to Equipped Play equates to Children's Play Space, and that Kickabout Facilities equate to Informal Sport.

first floor to be used only for B1 purposes. The reason for those restrictions is to ensure that, once provided, the building is retained for those community purposes and to ensure that living conditions for future residents close to the building, and residents for the nursing/care home are protected in terms of noise and disturbance.

- 11.16 For the reasons set out above, I consider that the contributions and obligations secured by the bilateral agreement meet the Framework tests and comply with the Community Infrastructure Levy Regulations.

Richborough Estates

12. Inspector's Conclusions

- 12.1 The following conclusions are based on the written evidence submitted, on my report of the oral and written representations to the Inquiry, and on my inspection of the site and its surroundings. The numbers in square brackets thus [], refer to paragraphs in the preceding sections of the report from which these conclusions are drawn.
- 12.2 The appeal site lies adjacent to existing housing on Dunlop Close, London Road and Reeds Lane, but is outside the built-up limits of Sayers Common as defined by the Local Plan. In planning policy terms therefore, the site lies in the open countryside. [6.2, 7.2] It is not allocated for housing and it was common ground that general residential development in the open countryside is contrary to policy C1 of the Local Plan. However, the Council has a significant shortfall in its five year housing land supply.[5.1, 6.3, 7.2] In such circumstances, paragraph 49 of the Framework makes it clear, that relevant policies for the supply of housing should not be considered up-to-date.
- 12.3 At the heart of the Framework is a presumption in favour of sustainable development. I therefore consider the **main consideration** in this appeal to be whether the proposal constitutes sustainable development within the context of guidance in the National Planning Policy Framework.

Character and Appearance/Listed Buildings

- 12.4 A detailed Landscape and Visual Impact Assessment (LVIA) accompanied the planning application.⁵⁹ For the reasons set out in the LVIA, the Character Area Sensitivity of the landscape has been weighted as medium. The development proposed would extend the settlement eastwards, introducing built structures into what is currently a pastoral landscape.[7.17] However, the appeal site is, for the most part, visually enclosed by natural and built features[6.7] although, from the rising land to the north (the house and grounds of LVS Hassocks, which have a parkland character and form) there are views across the site.
- 12.5 Based on the medium sensitivity of both the local and wider landscape, rather than of the site itself, the LVIA concludes that the significance of the effect on the landscape character resulting from the development proposed would be moderate/minor, which is considered acceptable in planning terms.
- 12.6 The landscape masterplan shows that development would be kept back from the site boundaries to allow for reinforcement of existing boundary planting and screening, further minimising the impact of the built form. I find the density of 25 dwellings per hectare to be appropriate, given the surrounding pattern of development. The submitted details show two/ two and a half storey, mainly semi-detached or detached houses, which are characteristic of the area, plus some flats. The care/nursing home and community hall buildings would be larger structures but, subject to detailed design, need not undermine the established character and appearance of the area. The indicative materials palette largely reflects the mid-Sussex vernacular. The masterplan also includes significant areas of open space within the site. Existing hedgerows would be contiguous with the rear garden boundaries of

⁵⁹ ADF Tab 28

the dwellings proposed and the network of protected ditches would be integrated into the sustainable drainage system that is proposed for surface water drainage.

- 12.7 It is unfortunate that the oak tree to the rear of Aymers and Sayers is likely to be lost.[7.8] However, in my view, that loss would not impact on the setting of the listed building (see below) and, in terms of any impact on the character and appearance of the area in general, would be more than compensated for with the amount of new planting that would be undertaken as part of the proposal.
- 12.8 Moving on to the listed buildings themselves, there is a statutory duty to have special regard to the desirability of preserving the setting of such buildings. That duty is reflected in Local Plan policy B10. In addition, paragraph 132 of the National Planning Policy Framework advises that the significance of a heritage asset can be harmed by development within its setting. Annex 2 of the National Planning Policy Framework defines the setting of a heritage asset as the 'surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.'
- 12.9 As confirmed in the English Heritage publication: 'The Setting of Heritage Assets', setting is not a heritage asset. Rather, its importance lies in what it contributes to the significance of the asset.[6.10]
- 12.10 The statutory list description describes the properties as dating probably from the 17th Century. However, investigations for the appellant suggest that, based on general construction, materials and layout, the building is more likely to date from the late 18th/early 19th Century.[6.11]
- 12.11 The building is a two storey range sited parallel to, and at a slightly lower level than, the main road. It has a pitched tiled roof with two heavy brick chimney stacks, each originally serving a pair of cottages (four overall). It has been extended in more recent times: a two storey extension has been added at the southern end, with a single storey lean-to added at the other. All windows are modern timber casements, some replaced recently, and the elevations have been remodelled so that the original entrances to the four cottages are no longer discernable. The building is now divided to provide a pair of semi-detached dwellings.
- 12.12 Notwithstanding the cumulative alterations, I consider that the special interest of the building, and thus its significance, derives from its simple vernacular domestic character, and evidence of its original form as four cottages for workers and labourers of the time as the local rural population grew.
- 12.13 With regard to setting, an 1842 map shows no evidence of any physical or functional relationship at that time between the building and the surrounding land beyond its plot, including the appeal site.⁶⁰ Since then, the immediate context, has changed considerably, in particular with the development of Dunlop Close immediately to the north of the appeal site (although I

⁶⁰ APP/3/P

understand that this was previously the site of a garage) and the development of Berrylands Farm/The Chestnuts/The Sycamores on the opposite side of London Road, all of which reflect the continuing growth of the settlement.[6.12] I have no reason to suppose that those developments have undermined the significance of the listed building.

- 12.14 To my mind, the elements of setting that contribute to the significance of the listed building comprise its roadside location and domestic plot, rather than the surrounding fields, including the appeal site. Even then, I am mindful that both those elements have been the subject of considerable change over time.
- 12.15 In terms then of potential impact of the development proposed on the setting of the listed building, this can be split into two parts: first is the impact of the built form of the development; second is the impact of the proposed access onto the London Road.
- 12.16 The introduction of buildings onto land that is currently largely undeveloped would change the character and appearance of that land. However, for the reasons set out above, the contribution that the appeal site makes to the setting of the listed building is negligible. The masterplan shows that the nearest buildings would be some distance away from the listed property but, in any event, were the appeal to succeed, the Council would have control over the exact siting and overall heights of those buildings. The existing surrounding development does not impede the legibility of the building or harm its significance. Similarly, the development proposed would not undermine the identified significance of the listed building and I find no material harm in this regard.[6.13]
- 12.17 The proposed access road would be sited between the extended southern gable and a modern garage forecourt to the south. That arrangement would reduce the current extent of the garden to the listed building and would introduce traffic movements and associated noise close to the listed building. In addition, a stretch of the existing boundary hedge along the back of the pavement here would be removed and, due to changing ground levels, the access would need to be built up, as London Road is at a higher level than the existing garden area. The proposed access would, therefore, alter the present setting of the listed building.
- 12.18 However, as noted earlier, that setting has already changed over the years. In particular, historic maps show that this part of the site was originally occupied by another dwelling, long since demolished, and the plot has been narrowed as the London Road has widened. Moreover, the listed building itself has been the subject of significant alterations, including the two storey extension at its southern end. I am satisfied, therefore, that the changes proposed would not affect an historic component of the building's setting. Rather, it has already changed over the years and is not critical to an understanding of the significance of the listed building. Thus, on balance, I consider that any harm to the significance of the listed building would be less than substantial.

Drainage and Flooding

- 12.19 The appeal site comprises an area of largely greenfield land that is relatively flat and essentially low lying. A number of drainage ditches dissect the site and run along site boundaries in places. Local residents presented detailed

evidence of localised flooding in Sayers Common and spoke very eloquently on the consequential problems that they have experienced over the years. [8.12-8.27, 9.1]

- 12.20 Notwithstanding that this is an outline application with all matters reserved, a significant amount of detail has been submitted in relation to the proposed drainage strategy. All that needs to be demonstrated at this stage, given the historical problems of flooding on the site, is that it would be feasible to develop the site in the manner proposed, without placing future residents at risk, or increasing the risk of flooding elsewhere. Table 1 of APP/1/P sets out the evolution of the drainage strategy.
- 12.21 The Environment Agency flood maps show that the appeal site lies above the fluvial flood level and is located wholly within Flood Zone 1.[6.18] Accordingly, it is not at risk of fluvial flooding during storm events of up to 1 in 1000 years. Trial pits dug in four locations across the site revealed Wealden Clay to a depth of at least 1.65 metres, with no water strikes, precluding ground water emergence as a likely cause of, or a contributory factor to, the flooding problems experienced.⁶¹ Moreover, notwithstanding that Sayers Common is identified as one of 53 'wet spots' in the West Sussex Local Flood Risk Management Strategy 2013,⁶² the appeal site does not lie within an area with critical drainage problems notified to the local planning authority by the Environment Agency.⁶³ It seems likely that the flooding experienced is, in all likelihood, attributable to surface water ponding in depressions on the site, with the underlying strata preventing the accumulated surface water from draining away naturally. Accumulation of water on the site is compounded by poor maintenance of a number of the drainage ditches in the vicinity of the appeal site which inhibits their capacity and efficacy.⁶⁴
- 12.22 In order to ensure that the future residents of the appeal site would not be at risk of flooding, and to ensure that there would be no increased risk of flooding elsewhere as a consequence of the development proposed, a sustainable drainage strategy has been designed for the site.⁶⁵ The entire run-off volume arising from the development from a six hour 1 in 100 year event (inclusive of a 30% allowance for climate change) equating to some 1769 cubic metres of storm water, would be attenuated within 25 sustainable drainage sub-catchment areas on the site, including permeable pavements, sub-surface storage devices and detention basins. These would discharge to local watercourses at greenfield run-off rates via five separate outfalls that would be controlled by hydrobrakes or similar systems.
- 12.23 None of the permeable pavements, sub-surface storage devices or detention basins would be located within the area that would be affected by a 1 in 100 year flood event and so would continue to operate effectively at such a time. Even if one or more of the outfalls did become submerged during such an event, all additional run-off would be accommodated within the on-site sustainable drainage system storage structures until cessation of the storm.

⁶¹ APP/1/P paragraph 3.1.5

⁶² APP/1/P paragraph 3.3.27

⁶³ APP/1/P paragraph 2.1.8

⁶⁴ APP/1/P paragraphs 3.3.15-3.3.18

⁶⁵ APP/1/P Section 6 and Doc 24

The water would then be released naturally by gravity, at the greenfield rate, back into the local watercourses.⁶⁶

12.24 The drain-down time of the system is estimated at around five hours. It is highly unlikely that a successive extreme storm event would occur within that timeframe and overwhelm the system. Nevertheless, should such an event occur, consideration of road and overland flow routes would form part and parcel of details to be submitted at a later date, were the appeal to succeed.⁶⁷

12.25 I have taken into account the representations of local residents on this matter. However, I am satisfied that the land drainage system proposed would lie wholly within the boundary of the appeal site and that a condition could be imposed to ensure that the required measures, intended to overcome flooding or drainage problems at the site, and the displacement of surface or foul water on land nearby or in the village, would be implemented and would be effective. Indeed, it seems likely that the development would also, to some extent, help address flooding problems experienced by adjoining occupiers, in that it would ensure that surface water crossing the site from the wider area would be dealt with, rather than backing up into nearby properties. The management of that system is further addressed by means of the submitted unilateral undertaking.⁶⁸ I am also mindful that the Environment Agency raises no objection to the proposal. All in all, I find no conflict with policies G3 and CS13 of the Local Plan, or with the objectives of the National Planning Policy Framework in this regard, which, together, seek to ensure that new development is not at risk from flooding and that flood risk in the wider area is not exacerbated.

Highway Safety

12.26 The Council's Decision Notice included a highway safety reason for refusal, relating to concerns about the junction of the principal site access with the London Road (B2118). However, the appellant undertook further survey work, particularly in relation to traffic speeds on London Road, in connection with a further application for a similar development on the appeal site.[6.22] As a consequence, the Highway Authority raised no objection to that application. Although that application was subsequently refused, none of the reasons for refusal cited highway safety as a concern. Consequently, as set out in the SoCG, the Council did not pursue the highway safety reason for refusal in relation to appeal scheme. Nevertheless, it remains a matter of concern for local residents.[8.3, 9.1]

12.27 The access arrangement shown on the appeal plans is identical to the arrangement agreed in relation to the more recent application. The Highway Authority considered that proposal in the light of the revised and updated transport and highways information (Road Safety Audit, visibility splays and speed survey information). As set out in the related officer's report, it was confirmed that the appellant was able to demonstrate that the site access would have adequate capacity for the traffic levels predicted from the development.⁶⁹ In addition, visibility splays of 2.4 metres by 46 metres to the

⁶⁶ APP/1/P paragraphs 4.5.6-4.3.10

⁶⁷ APP/1/P paragraph 4.3.11

⁶⁸ Doc 24

⁶⁹ Appendix 2 to the SoCG/A – page 19. See also Appendices 4 and 5 of CC/1

north, and 43 metres to the south, are achievable for the junction, in accordance with the Authority's current standards. Speed surveys carried out by the appellant, in the vicinity of the proposed junction, support the visibility splays shown.

12.28 Vehicle tracking analyses were also carried out, demonstrating that vehicles using the London Road/Reeds Lane roundabout could be seen from the site access. In addition, a Technical Note submitted by the appellant to the committee confirmed that the inclusion of traffic movements relating to the recently consented Whiteoaks Farm development, near to the appeal site, created no material change in the performance of the proposed road junction over and above the modelling already agreed with the Highway Authority.⁷⁰

12.29 The National Planning Policy Framework advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. In the absence of any substantiated evidence to support the concerns of local residents, and given that the Highway Authority is now satisfied with the visibility from the site access, I have no reason to suppose that the development proposed would lead to any material increase in danger to highway users. There would be no conflict with policy T4 of the Local Plan which, among other things, seeks to protect such interests, or the National Planning Policy Framework.

Accessibility/Sustainability

12.30 The Council's Decision Notice included a reason for refusal relating to concerns about access by sustainable modes of transport and the absence of any measures to reduce reliance on the private car. However, a revised Framework Travel Plan, which contained additional detailed information on bus, cycle and pedestrian links to the site, was submitted in relation to the later application for development of the appeal site, referred to above. That information forms part of the appellant's submissions in relation to this appeal.⁷¹ In addition, the bilateral planning agreement secures a package of sustainable transport related measures.⁷² These include:

- Improvements to the north and south bound bus stops at Sayers Common School (LVS Hassocks);
- The introduction of cycle lanes on London Road;
- The creation of school safety zones at Twineham CE Primary School and Albourne CE Primary School;
- Crossing improvements on London Road to the north of the proposed site access;
- Parking restrictions on the spine road with the appeal site and on London Road, to ensure that the parking requirements of the development are met on site.

12.31 As set out in the SoCG, in the light of that additional information and arrangement, the Council did not pursue the related reason for refusal of the

⁷⁰ Doc 11

⁷¹ Appendix B to APP/2/P

⁷² Doc 25

appeal scheme. However, the Parish Council, and local residents, maintained their objections to the appeal scheme with regard to its sustainability and accessibility credentials.[7.11-7.16, 8.4, 8.6]

- 12.32 The Council's Rural Issues Background Paper (RIBP) details the extent of the services and facilities that exist in Sayers Common.[4.12]⁷³ Although not part of the development plan for the area, the RIBP was prepared in 2009 as part of the evidence base to the Local Development Framework and to inform policies in the emerging District Plan and it provides useful information for this appeal.
- 12.33 It identifies Sayers Common as one of the Limited Local Service Centres (LLSCs) that share facilities, confirming that the village has a village hall/community centre, play area, a place of worship and a public house. Whilst it does not have a shop or a school, the RIBP notes that there is a school at Albourne, with retail services at Hurstpierpoint, both within five kilometres of the village. In defining LLSCs that share facilities, the RIBP only allows a maximum of two key services to be shared. I note, in this regard, that the primary school at Twineham is well within the five kilometre threshold cited, as are the larger settlements of Hassocks and Burgess Hill.⁷⁴
- 12.34 Information relating to local bus services can be found at Appendix B to APP/2/P⁷⁵ and at Appendix 7 to PC/1/A2. Service No 331 is primarily for school children and runs a single bus in term time only. However, service No 71/273 runs roughly every two hours, with the No 100 bus operating on an hourly basis. The nearest bus stops to the appeal site are located on the London Road opposite the LVS Hassocks School, just to the north of the site within an approximate walking time of 2.5 minutes.
- 12.35 I recognise that neither of these services runs in the evenings, with no service at all on Sundays or bank/public holidays. However, as noted by an Inspector dealing with an appeal in Albourne, which is served by the same bus routes,⁷⁶ they do provide a reasonable level of service to larger nearby settlements that have the necessary shops and facilities during the main part of the day on weekdays and Saturdays.
- 12.36 Notwithstanding that that appeal related to a single dwelling, as opposed to the 120 proposed here, I have no reason to disagree with the sentiments expressed. It seems to me that the bus services, whilst not as frequent as in a large urban area, do provide a reasonably viable alternative to the private car during the day, to get to/from the rail station at Burgess Hill for example, and to local shopping areas. Indeed, in my experience, the level of service is relatively good compared with that in many rural areas. I also note that the bilateral planning agreement secures improvements to the bus stops to enhance the existing public transport facilities.
- 12.37 There are rail stations at Hassocks and Burgess Hill, within approximately five kilometres of the site (see below). Both are on the London to Brighton line.

⁷³ Appendix 5 to PC/1/A2

⁷⁴ Plan 3 at APP/2/P

⁷⁵ Tables 2.2, 2.4, Table 3 and Plan 1. NB The bus routing and timetabling information at Table 2.17 of the Transport Statement that accompanied the original application (ADF Tab 39) was updated by this Table.

⁷⁶ Appendix A to APP/2/P – paragraph 8

Whilst they are in excess of accepted walking times from the site, they do have parking facilities for use by commuters, or future residents may 'kiss and ride'.

- 12.38 The Parish Council and local residents made much of the five kilometre cycling isochrone shown on Plan 3 of APP/2/P, which is measured 'as the crow flies' rather than along any actual cycling route.[7.15] Even taking account of the actual route that riders might take, I am in no doubt that the local centres of Hurstpierpoint and Burgess Hill are within a five kilometre cycle distance, as is the rail station at Hassocks. The rail station at Burgess Hill is only just within the isochrone. Local residents demonstrated that there was no actual route that could be cycled to get to that station in a direct line, the consequence being that the actual route to the station would be likely to be more than five kilometres. To my mind, however, the difference would not be significant.
- 12.39 As shown on Plan 1 of APP/2/P, the site also lies adjacent to Route 20 of the National Cycle Network, which links Crawley and Brighton. In addition, Hurstpierpoint can be accessed either via the National Cycle Network or by quiet residential streets and country lanes.
- 12.40 With regard to walking, pedestrian links are described at paragraphs 4.7-4.14 of APP/2/P. The two kilometre walking isochrone shown on Plans 2 and 4 of that document, includes the primary schools at Twineham and Albourne, although the actual distance that would need to be travelled to the Twineham school is likely to be longer than two kilometres, via routes that are likely to be unattractive to parents walking with children.[7.13]⁷⁷ Some employment facilities are also within the isochrone although, contrary to the assertion of the appellant, most of the facilities at Hurstpierpoint are just beyond the defined area and, in any event, are not accessible in a direct line from the appeal site.⁷⁸ That said, the difference is not, in my view, significant.
- 12.41 All in all, it seems to me that residents of Sayers Common have access to a reasonable range of services and that it would be appropriate to permit further development here, both in terms of there being a range of services and facilities to support an increased population, and in terms of the potential that the increased population itself would have in helping maintain the viability of those services and facilities.
- 12.42 The concept of accessibility needs to be regarded flexibly, according to local circumstances. Sayers Common is a relatively small settlement in a rural area but, as acknowledged by the BIBP, is one where residents do have access to a range of services and facilities, albeit limited. In a rural setting such as this, it is unrealistic to expect that everything required to support a modern lifestyle could be accessed either within walking distance or by using public transport. Whilst every opportunity should be given to minimise the use of cars, the use of cars (or taxis) in rural areas, to access a full range of services and facilities is almost inevitable. The accessibility limitations, therefore, need to be set against the recognition that the RIBP identified Sayers Common as being suitable for accommodating between 30-100 dwellings over the plan period, with paragraph 9.16 indicating that it has the potential to accommodate a level of development closer to the higher end of the scale. The same paragraph

⁷⁷ Doc 20

⁷⁸ Paragraph 4.12 of APP/2/P and Plan 2

also notes that future development could generate sufficient demand for a local shop to become a viable proposition to create a more distinct village centre and allow the village to become more self-sufficient.

- 12.43 As recognised by the Highway Authority, whilst the elements included in the planning obligation do not, of themselves, make the site sustainable in transport terms, they are, together with the existing public transport, walking and cycling provision, sufficient to ensure that access to those services and facilities required by people on an everyday basis, by sustainable modes, is a realistic prospect.⁷⁹ In principle therefore, and notwithstanding that the development proposed exceeds the upper figure referred to in the RIBP, I am satisfied that future occupiers would not be heavily reliant on the private car and that the site can be considered as a reasonably accessible location for the residential development proposed. I find no material conflict with policies G2 and T4 of the Local Plan, or the thrust of the National Planning Policy Framework in this regard which, together, seek to direct development to sustainable locations in order to reduce reliance on the private car.

Other Matters

- 12.44 The Parish Council and local residents make reference to the emerging Neighbourhood Plan. The pre-submission draft Neighbourhood Plan for Hurstpierpoint and Sayers Common (dNP) was published by the Parish Council for consultation in March 2013.⁸⁰ In particular, attention is drawn to policy H7 which indicates that new housing at Sayers Common will only be permitted once the existing drainage infrastructure issues have been resolved, and that the village might accommodate 30-40 new homes.[4.12]
- 12.45 As set out in the introduction to the dNP, the next stage in the process is consideration of the comments received during the consultation and the production of a Submission Plan, which would need to be submitted to and approved by the District Council and the South Downs National Park Authority. If approved, it would then be subject to a further round of consultation, an assessment by an independent examiner and, if approved, would be put to a public referendum.
- 12.46 Paragraph 216 of the National Planning Policy Framework indicates that, from the day of publication, decision takers may give weight to the relevant policies in emerging plans according to, amongst other factors, the plan's stage of preparation - the more advanced the preparation the greater the weight may be given. So, whilst the dNP provides an indication of how local people might wish to see the village evolve in the future, the implication of the guidance in the Framework is that relatively limited weight can be given to the dNP, since its adoption process still has quite a way to go, and it could be that its policies change along the way. I am also mindful in this regard, that any Neighbourhood Plan will need to be in general conformity with the development plan, and should not promote less development than is required to meet the housing needs of the area. As noted earlier, the Council cannot, at the present time, identify a five year supply of housing land, however it is calculated.

⁷⁹ Appendix 5 to CC/1

⁸⁰ Appendix 3 to PC/1/A1 The period for comments finished at the end of May 2013.

Benefits of the Proposal

- 12.47 Although I have found no harm in terms of the sustainability of the location, or highway safety, the absence of harm does not add positive weight in the overall balance. However, in terms of drainage and flooding, it seems likely that a benefit of the proposal would be an improvement in the long-standing localised flooding problems currently experienced by local residents.
- 12.48 The 120 dwellings proposed would make a worthwhile contribution towards the acknowledged shortfall of both market and affordable housing.[6.3, 6.25] Among other things, the development would also bring economic benefits in terms of jobs, in addition to some £3 million consumer expenditure and public sector finance. A further benefit is the provision of land for care home accommodation, for which there is an acknowledged need, although I recognise that provision of the home itself is not part of the development proposed.[6.24 -6.28]

13. Conclusion

- 13.1 I have found the site to be acceptable in terms of its locational characteristics, with regard to accessibility to local services and facilities. It would also contribute to economic growth in the area by providing much needed market and affordable housing in the context of an identified shortfall in the Council's five year housing land supply. In addition, there would be benefits in terms of employment, consumer expenditure and public sector finance. The combination of those factors accords with the principal thrusts of the National Planning Policy Framework of securing economic growth and boosting significantly the supply of housing.
- 13.2 I have also found that scheme would not have a significant adverse impact on the character and appearance of the area and is capable of being adequately drained, whilst not increasing flood risk elsewhere.
- 13.3 The only harm I have identified relates to the less than substantial harm to the significance of the grade II listed building (Aymers and Sayers). I consider, in this regard, that that harm is clearly outweighed by the timely public benefit of providing much needed housing.
- 13.4 All in all, the adverse impact that I have identified does not significantly and demonstrably outweigh the benefits set out above, when assessed against the policies of the Framework as a whole. Furthermore, I am satisfied, subject to the imposition of appropriate conditions, and the provisions of the planning obligations, that the scheme proposed would represent a sustainable form of development in economic, social and environmental terms. As such, there is a compelling case for releasing the site for the development proposed.
- 13.5 I recognise that this finding will be disappointing for local residents and the Parish Council who have consistently opposed development of the appeal site and am mindful, in this regard, of the Government's 'localism' agenda. However, even under 'localism', the views of local residents, very important though they are, must be balanced against other considerations, including national planning policy and, in this case, the importance the Government attaches to boosting, significantly, the supply of housing development. In coming to my conclusions on the various issues that have been raised, I have taken full and careful account of all the representations that have been made,

which I have balanced against the provisions of the development plan and the National Planning Policy Framework. On balance, the evidence in this case leads me to conclude that the appeal should succeed.

14. Recommendation

Appeal Ref: APP/D3830/A/12/2189451

- 14.1 For the reasons set out above, I recommend that the appeal be allowed and planning permission be granted subject to conditions 1-27 set out in Appendix C attached hereto. The reasons for the suggested conditions are set out in Section 10 of this Report.

Jennifer A Vyse

INSEPECTOR

Richborough Estates

Appendix A: APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr A Byass of Counsel, instructed by the Council's solicitor

He called

Mrs F L Bishop Senior Engineer with the Council
BEng(Hons)

Mr D Wade D W Planning
BSc(Econ) MCD, MRTPI

FOR THE APPELLANT:

Mr C Boyle of Queen's Counsel, instructed by Russell Cook LLP

He called

Dr P C Bond Associate Sustainability Consultant with the Hilson
PhD, MSc(Hons), CEnv, Moran Partnership
MEnvSc, MCIEEM

Mr M Kitching Director, SK Transport Planning Limited
BSc, MSc, CMILT

Mr R Mascall Head of Heritage, Turley Associates
BSc(Hons), DipBldgCons
(RICS), IHBC, MRTPI

Mr T Rodway Partner at Rodway Planning Consultancy
BSc(Hons), DipTP,
LMRTPI

FOR HURSTPIERPOINT AND SAYERS PARISH COUNCIL:

Mr D Mayhew Director, dowsettmayhew Planning Partnership
BA(Hons), BTP, MRTPI Limited

INTERESTED PERSONS:

Mrs J Marsh BSc(Hons) Local resident

Mr P Edwards Local resident

Dr J M Sweet Local resident
BSc(Hons) MSc, PhD

Appendix B: DOCUMENTS

STATEMENTS OF COMMON GROUND

SoCG Statement of common ground between Mid-Sussex District Council and Woodcock Holdings Limited

SoCG / A Appendices 1- 4 to Statement of Common Ground

NB. See also the flood risk/drainage statement of common ground between the appellant and the Council, handed in during the Inquiry (Doc 12 below).

APPEAL DOCUMENTS FOLDERS (ADF)

Folder 1 of 3

Tabs 1-4 Application forms and letter
Tabs 5-8 Arboriculture
Tab 9 Archaeology Assessment
Tab 10 Design and Access Statement
Tabs 11-12 Draft Section 106
Tabs 13-14 Drawings
Tab 15 Ecological Report
Tab 16 Environmental Statement
Tabs 17-24 Flood Risk Assessment

Folder 2 of 3

Tab 25 Foul Sewerage and Utilities Statement
Tabs 26-27 Heritage Assessment
Tabs 28-30 Landscape
Tabs 31-34 Planning – Housing Supply – Community Involvement Statement
Tab 35 Section 106 – Planning Obligations
Tab 36 Sustainability Statement
Tab 37 Topographical survey
Tab 38 Transport

Folder 3 of 3

Tabs 39-60 Transport

APPELLANT'S DOCUMENTS

APP / 1 / P Proof of evidence of Mr Bond
APP / 1 / S Summary proof of Mr Bond
APP / 1 / A1 Appendix A to the proof of Mr Bond
APP / 1 / A2 Appendices B-Z and A1-A12 to the proof of Mr Bond
APP / 2 / P Proof of evidence of Mr Kitching (including Appendices A and B)
APP / 2 / S Summary proof of Mr Kitching
APP / 3 / P Proof of evidence of Mr Mascall, including Appendices (Nos 1-3)
APP / 4 / P Proof of evidence of Mr Rodway
APP / 4 / S Summary proof of Mr Rodway
APP / 4 / A Appendices 1-11 to the proof of Mr Rodway

PARISH COUNCIL DOCUMENTS

PC/1/P	Proof of evidence of Mr Mayhew
PC/1/S	Summary proof of Mr Mayhew
PC/1/A1	Part 1 Appendices Nos 1 - 4 to the proof of Mr Mayhew
PC/1/A2	Part 2 Appendices Nos 5 - 7 to the proof of Mr Mayhew

DISTRICT COUNCIL DOCUMENTS

DC/1/P	Proof of evidence of Mr Wade (remaining sections not withdrawn)
DC/1/A	Appendices to the proof of Mr Wade (Nos 1-5)

COUNTY COUNCIL DOCUMENTS

CC/1	Written submission of West Sussex County Council, including Appendices (Nos 1 – 5)
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DOCUMENTS SUBMITTED AT THE INQUIRY

Doc 1	Council's letters of notification
Doc 2	Written statement of Mrs J M Sweet
Doc 3	Written statement of Mr P Edwards
Doc 4	Written statement of Mrs Marsh (submitted by email prior to the Inquiry)
Doc 5	Extract from West Sussex Strategic Housing Market Assessment – District Summaries: Mid Sussex (May 2009)
Doc 6	Council's SPD – Sustainable Construction
Doc 7	Council's SPD – Dwelling Space Standards
Doc 8	Council's SPD – Development and Infrastructure
Doc 9	Full size copies of Appendices Y, Z and A1- A11
Doc 10	Appendices A-X, A5 and A12 to the evidence of Dr Bond
Doc 11	Whiteoaks Farm: Officer's report and decision Notice
Doc 12	Flood risk/drainage statement of common ground between the appellant and the Council
Doc 13	Plan 4 of Mr Kitching's proof (see also Document 20)
Doc14A	Suggested conditions
Doc14B	Revised suggested conditions
Doc 15	A2 version of the Council's SFRA Map
Doc 16	Extract from draft National Planning Practice Guidance: Flood Risk and Coastal Change
Doc 17	Extract from English Heritage Document 'The Setting of Heritage Assets'
Doc 18	List entry for Kingscot, London Road, Sayers Common
Doc 19	Extract from English Heritage response, dated 8 February 2013, to the Government's review of planning practice guidance
Doc 20	Annotated version of Plan 4 to Mr Kitching's evidence
Doc 21	Policy extracts from the Mid-Sussex Local Plan
Doc 22	Additional suggested condition relating to scale parameters
Doc 23	Joint statement and background information relating to the S106 agreement between the Council and the appellant
Doc 24	Unilateral Undertaking
Doc 25	Bilateral Agreement
Doc 26	Closing submissions on behalf of the Parish Council
Doc 27	Additional suggested condition relating to phasing
Doc 28	Closing submissions on behalf of the appellant
Doc 29	Office copy entries relating to the signatories to the planning obligations
Doc 30	Post-Inquiry correspondence relating to the wording of one of the suggested conditions

Appendix C: RECOMMENDED CONDITIONS

PHASING

- 1) Development shall not begin until a phasing strategy has been submitted to and approved in writing by the local planning authority. Development shall be carried out only in accordance with the approved strategy.

RESERVED MATTERS

- 2) Details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") for any phase shall be submitted to and approved in writing by the local planning authority before any development begins on that phase. Development shall be carried out in accordance with the approved details.
- 3) Application for approval of the reserved matters for any phase shall be made to the local planning authority not later than three years from the date of this permission.
- 4) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved for that phase.
- 5) The reserved matters to be submitted pursuant to condition 1 above shall accord with the following parameters:
 - i) The retail element of the scheme shall not exceed 120 square metres gross internal floor area.
 - ii) Houses shall not exceed 2.5 storeys in height.
 - iii) Buildings containing flats shall not exceed three storeys in height.
 - iv) The nursing/care home shall not exceed two storeys in height and shall not provide more than 70 bedrooms, with a gross external area of not more than 500 square metres.
 - v) The community/office building shall not exceed two storeys in height.

PLANS

- 6) The development hereby permitted shall be carried out in accordance with the following approved plans: Nos SK20924-02, 55027-107B and MBC17819-10E, but only in respect of those matters not reserved for later approval.

EXTERNAL LIGHTING

- 7) With the exception of individual domestic curtilages, no external lighting, including security lighting, is to be installed other than in accordance with a scheme that shall previously have been submitted to and approved in writing by the local planning authority.

BOUNDARY TREATMENT

- 8) Development shall not begin until details, including the position, design, materials, finish and type of all boundary treatments, and a timetable for implementation, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

TREE PROTECTION

- 9) Development shall not begin, including any works of site clearance, until the tree protection measures and exclusion zones shown on drawing No MBC17819-03a, are in place. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written approval of the local planning authority. The protective fencing and exclusion zones shall not be removed other than in accordance with a timetable that shall previously have been submitted to and approved in writing by the local planning authority.

DRAINAGE

- 10) No building hereby permitted shall be occupied until surface water drainage works for the site as a whole have been implemented in accordance with details that have previously been submitted to and approved in writing by the local planning authority. The submitted details shall:
- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation in relation to each phase of the development; and,
 - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker, or any other arrangements to secure the operation of the scheme throughout its lifetime.
- 11) No building hereby permitted shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.

CONSTRUCTION

- 12) No development shall begin, including any works of site preparation, until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The approved CMP shall be adhered to throughout the construction period.
- 13) Works of demolition, site clearance, or construction, including the use of plant and machinery on the site, shall not take place outside 08.00-18.00 hours Monday to Friday and 09.00-13.00 hours on a Saturday, nor at any time on Sundays or bank/public holidays.

ACCESS / HIGHWAYS / TRAVEL PLAN

- 14) Development shall not begin until full details of the junction of the site access with the B2118 London Road, shown on Plan No 55027-107B, have been submitted to and approved in writing by the local planning authority.
- 15) No building hereby permitted shall be occupied until the junction of the site access with the B2118 London Road, including the visibility splays shown on

Plan No 55027-107B, has been constructed in accordance with the details to be approved pursuant to condition 14 above and is fully operational.

- 16) Once formed, the visibility splays associated with the junction of the vehicular/pedestrian/cycle access with the B2118 London Road shall thereafter be retained and kept free of all permanent obstructions exceeding 0.6 metres above ground level.
- 17) No building hereby permitted shall be occupied until the pedestrian accesses onto Dunlop Close and Reeds Lane, as shown on Plan No 55027-107B, have been constructed in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. The details to be submitted shall include measures for future maintenance. The accesses provided shall be retained thereafter.
- 18) No part of the development hereby permitted shall be brought into use until a detailed Travel Plan, including a timetable for its implementation, has been submitted to and approved in writing by the local planning authority. The Travel Plan shall be developed in accordance with the principles set out in the Framework Travel Plan appended to the proof of Mr. Kitching and shall be implemented as approved.

NURSING/CARE HOME

- 19) Any unit within the care/nursing home hereby permitted shall be occupied only by 'elderly' persons, or any person with a 'specific care requirement', and their partners. For the purposes of this condition, a person shall be regarded as 'elderly' if they are 65 years or over or, in the case of a couple, where one of the occupants is aged 65 years or more and the other is aged 55 years or more. A person shall be regarded as having a 'specific care requirement' if a suitably qualified medical practitioner has diagnosed the illness or disability. In respect of a couple, where one person qualifies as either having a 'specific care requirement' or being aged 65 years or over, and that person then leaves the home, or is deceased, the other person will be required to vacate the home within six months of their partners last day at the home, unless they themselves are aged 65 or over.
- 20) Any external plant and machinery on the nursing/care home hereby permitted shall be enclosed with soundproofing materials, and shall be mounted so as to minimise the transmission of structure-borne and airborne sound to neighbouring residential properties, in accordance with a scheme that shall previously have been submitted to and approved in writing by the local planning authority.

COMMUNITY BUILDING

- 21) The community building hereby permitted shall not be open to the public outside of the following times: 07.30-22.30 hours Monday to Saturday; 10.00-18.00 hours on Sundays and on bank/public holidays.

RETAIL UNITS

- 22) No deliveries shall be taken at the retail units on the site outside of the following times: 08.00-18.00 hours Monday to Saturday; 09.00-13.00 hours on Sundays and on bank/public holidays.
- 23) The retail units on the site shall not be open for business other than between 07.30-22.30 hours on any day.

CONTAMINATED LAND

- 24) Other than as may be required by an approved scheme of remediation, no development shall take place until a full contaminated land assessment of the site has been carried out and a remediation strategy to deal with any contamination has been submitted to and approved in writing by the local planning authority for the relevant part. The contaminated land assessment shall identify the extent of any contamination and the measures to be taken to avoid risk to the environment, the general public and the proposed development. It shall include a timetable of works. Any necessary remediation strategy shall be implemented in accordance with the approved details and timetable. No part of the development shall be occupied until a Completion Report, confirming that the remediation has been carried out as approved, has been submitted to and approved in writing by the Local Planning Authority.
- 25) If, during development, contamination not previously identified, is found to be present at the site, then no further development on that part of the site (unless otherwise agreed in writing by the local planning authority) shall be carried out until remediation works in accordance with a Method Statement for remediation, including a timetable, that has previously been submitted to and approved in writing by the local planning authority, have been completed and a verification report demonstrating completion of the works set out in the Method Statement has been submitted to and approved in writing by the local planning authority. The Method Statement shall detail how the unsuspected contamination shall be dealt with. The verification report demonstrating completion of the works set out in the Method Statement shall include results of any sampling and monitoring. It shall also include any plan for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the local planning authority.

ARCHAEOLOGY

- 26) No development shall take place, including any works of site preparation, until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has previously been submitted to and approved in writing by the local planning authority.

ENERGY SUPPLY

- 27) At least 10% of the energy supply of the development hereby permitted shall be secured from decentralised and renewable or low-carbon energy sources (as described in the glossary of the National Planning Policy Framework). Details, and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the local planning authority before development begins. Development shall be carried out in accordance with the approved details and retained as operational thereafter.
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RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act). This new requirement for permission to bring a challenge applies to decisions made on or after 26 October 2015.

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

Richborough Estates