



Appeal Decision

Hearing held on 13 December 2022

Site visit made on 14 December 2022

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th January 2023

Appeal Ref: APP/Z3825/W/21/3283823

Land at Duckmoor, East of Billingshurst, Billingshurst RH14 9DZ

- 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 Andrew Munton of Reside Developments Limited against the decision of Horsham District Council.
 - The application Ref DC/20/2607, dated 21 December 2020, was refused by notice dated 6 April 2021.
 - The development proposed is an outline application for the development of 83 residential units, landscaping, access, parking and associated infrastructure on land at Duckmoor, East Billingshurst with all matters reserved except access.
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Decision

1. The appeal is allowed and planning permission is granted for an outline application for the development of 83 residential units, landscaping, access, parking and associated infrastructure on land at Duckmoor, East Billingshurst with all matters reserved except access at Land at Duckmoor, East of Billingshurst, Billingshurst RH14 9DZ in accordance with the terms of the application, Ref DC/20/2607, dated 21 December 2020, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The application has been made in outline with access for determination at this stage. Matters of appearance, landscaping, layout and scale have been reserved for later consideration. A number of plans have been submitted in addition to those which detail the access arrangements. These include plans which show the proposed density, land use and building heights. The appellant has confirmed that these should form part of any permission while other plans, such as the layout of the individual housing plots, are illustrative. I have considered the appeal on this basis.
3. The proposal is accompanied by an Unilateral Undertaking (UU) under section 106 of the Town and Country Planning Act 1990. This includes obligations in respect of affordable housing, custom/self build housing, sustainable travel, air quality, water neutrality, open amenity space and management, and public right of way improvements. I will consider the UU later.
4. The application was refused in part because of a lack of a completed planning agreement to address a range of planning requirements. This was a procedural matter and, with the completed UU, the Council has confirmed that it is

satisfied that the matters raised in the related reason for refusal have been addressed.

Main Issues

5. The main issues are:

- whether or not the development plan would support the proposed residential development in this location,
- the effect of development on the character and appearance of the area,
- the effect of the development on the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites and, in particular, whether or not the scheme can demonstrate water neutrality, and
- when examining the overall planning balance, if the proposal would not accord with the development plan when considered as a whole, whether or not material considerations indicate a decision should be made otherwise.

Reasons

Location

6. The development plan for the purposes of this appeal consists of the Horsham District Planning Framework (excluding South Downs National Park) November 2015 (the HDPF) and The Billingshurst Parish Neighbourhood Plan 2019-2031 (the Neighbourhood Plan).
7. The Neighbourhood Plan, under Policy Bill 1, now sets the Billingshurst Built-up Area Boundary. This includes the development parcels of housing, open spaces and spine road (Hilland Road) that have been permitted since 2014 to the broadly eastern side of Billingshurst. The road has been constructed and most of the housing parcels built together with the provision of the open space.
8. The three fields the subject of the appeal are located adjoining but beyond the settlement boundary. The housing is proposed to be accessed off Dadswell Drive that serves one of the constructed housing parcels. The fields, two of which are proposed for residential development, because they are located beyond the settlement boundary, should be considered to be countryside in planning terms.
9. The scheme would not comply with the approach to the location of development as set out in Bill 1 of the Neighbourhood Plan because the new build housing would not meet any of the categories of development allowed outside the built-up boundary.
10. Also in terms of the approach to development in the HDPF, the scheme would not meet the policy tests for settlement expansion in Policy 4 because the land has not been allocated in the Local Plan or Neighbourhood Plan. Billingshurst is categorised as a second tier settlement in the development hierarchy established by Policy 3. However, as the proposed development would not be located within the defined built-up areas it would again not accord with the approach to the location of development, in principle, in terms of Policy 3. It follows that there would also be a conflict with Policy 15 of the HDPF which sets out the strategic approach to housing provision.

11. There would also be some conflict with Policy 2 of the HDPF because, for the reasons I explain later, there would be some harm to the rural character of the area.
12. Finally, Policy 26 of the HDPF concerns countryside protection and sets the policy approach for those areas outside the built-up area boundaries. The proposed housing would be categorised as inappropriate development in terms of the types of development allowed on such sites and, thereby, would fail the policy.
13. In the light of the above analysis, I conclude that the scheme would, because of its location outside the built-up area boundary, and the harm to the rural character of the area, conflict with the policies identified above.

Character and appearance

14. The three medium sized fields have a gently undulating landform and are bounded by mature hedges and trees. In these respects the fields are fairly typical of their location within the Landscape Character Area G3 Slinfold and Five Oaks Wooded Farmlands as described in the Horsham District Landscape Character Assessment 2003¹. The evidence indicates that the fields form part of the remaining medieval assart field pattern surrounding this north-eastern section of Billingshurst. There is a small broadleaved woodland block further to the north and this adjoins with the site at the north eastern corner.
15. The three fields have a reasonably high level of visual self-containment because of the boundary treatments that separate the land from the wider area. There are few longer distance views out beyond the hedged and treed boundaries from within the site. Because of the reasonably level and low lying nature of, especially, the two western fields, the appeal site only has a modest presence beyond its boundaries and it does not make a meaningful visual contribution to the wider countryside. Within the fields themselves there is a rural character, especially the eastern field. From within the two western fields the presence of some of the new housing can be glimpsed through the site boundaries and the pylons are partially visible. As a consequence, there is an awareness, when within these western fields, that the site is influenced to a modest extent by the built form and there is an edge of settlement context.
16. From Hilland Road, the more southerly of the two western fields can be partially viewed through the hedge and tree boundary and this makes a positive contribution to that part of the street scene, although it is the boundary planting rather than the open space beyond that is the more significant feature. From Hilland Road, the new housing that has been constructed, some of which is on reasonably elevated land, is a fairly dominant component that now forms part of the character of the area. The extensive areas of open space and landscaping, which have formed part of the eastern expansion, make a valuable and significant contribution in providing green surroundings to the parcels of development at this edge of Billingshurst. The new housing, however, is quite extensive, the road is at present quite a prominent feature and there are areas of housing development, such as that at Dadswell Drive and Hillyfield, and especially the new business development to

¹ At the County Level the site falls within the character area LW6: Central Low Weald and at the Local Level within character area LLCA 49 – Land North East of Billingshurst.

the north, which extend development beyond Hilland Road into what would have been more open areas of countryside.

17. The proposed scheme would include the development of the two western fields for housing and the eastern field as open space. The scale of the development in the two fields would be fairly sizeable and larger than those individually in Dadswell Drive and Hillyfield, but they would not be out of scale with the wider developments which have formed part of the eastern extension. The indicative layout shows meaningful areas of open and landscaped spaces around the field edges of the housing and the retention of most of the mature planting between these fields to help to visually separate the extent of new buildings. The eastern field would be retained as open space with access by the public. The combination of these open and green spaces would provide good interconnectivity and a pleasant, landscaped environment which would complement the design approach that has taken place with the other new developments.
18. Consequently, while the scheme would extend a sizeable area of built development further to the east into undeveloped countryside, the extent of development would not look out of place in the wider developed context from Hilland Road.
19. Generally I consider that the proposed housing would, with the areas of landscaping indicated at this outline stage, produce a development which would be read on the ground as a further phase of the approved housing schemes for development on this side of Billingshurst. The existing eastern boundaries of the two fields proposed to be developed with housing would provide a contained site with clear and defensible boundaries that would separate the scheme from the countryside further to the east. The original field pattern would still be legible albeit not experienced in the same way as present.
20. The reasonably low lying nature of the land, the self-containment and the limited wider views would limit the visual effect of the development on the appearance of the area. There would be some experience of the scale of the new housing scheme including when walking along the public footpath to the north of the site, from parts of Hilland Road and from some of the new housing including from parts of Dadswell Drive. However, these experiences of the proposed housing would be reasonably limited in extent and in the broad context of the development being within or near the edge of the built-up area. There would also be some glimpsed and filtered views from Wooddale Lane across the field, but the rural experience from the lane would not be substantially altered.
21. I have carefully considered all the landscape evidence, including the Council's Landscape and Visual Hearing Statement. I consider there would be a fairly limited visual impact from the proposed housing, having regard to the details of the scheme, the context at the edge of the built-up area and with the relationship to the wider built development.
22. However, despite the positive qualities of the proposal, there would be an inevitable effect on the character of the land with it changing from two open fields to a fairly sizeable housing development. Even with a well-designed and landscaped housing scheme, within the site and in the immediate surroundings, this character change would erode the rural qualities of the site and would not meet with the National Planning Policy Framework (the Framework)

requirement that development should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. This harm to the character of this part of Character Area G3 would be localised and modest, but would nevertheless be evident.

23. On this basis, I am unable to conclude that the scheme would meet with the policy tests in the HDPF that require development to protect, conserve and enhance the landscape character of the area. In particular, in the specific ways I have described, the scheme would thereby conflict with Policies 25, 26, 31, 32 and 33 of the HDPF.
24. The reason for refusal identifies a conflict with Policy Bill 2 of the Neighbourhood Plan. This policy concerns housing design and character, and includes criteria to assist with determining the detailed design and layout of a housing scheme. At this stage, the proposal is in outline with only access for consideration and, therefore, Policy Bill 2 of the Neighbourhood Plan is not directly relevant to the main issues to be determined at this stage.

Habitats Sites

25. In September 2021, Natural England released a Position Statement which advised that within the Sussex North Water Supply Zone it cannot be concluded that existing water abstraction within this Zone is not having an adverse effect on the integrity of the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites (the Arun Valley SAC/SPA/Ramsar sites). These habitat sites are, in particular, important for waterfowl, wetland invertebrate species and the wintering population of Bewick's Swans.
26. The Position Statement advised that schemes, including for housing, should demonstrate water neutrality, and that this can be achieved by minimising water use in the new build and, for any remaining increase in water use, by off-setting that amount elsewhere.
27. In this case, the housing scheme would use water that would be abstracted from within the Sussex North Water Supply Zone. Accordingly, it is a scheme that would, as a starting point, potentially have an adverse effect on the conservation objectives of the Arun Valley SAC/SPA/Ramsar sites. It is necessary, if this matter is to be addressed satisfactorily, for any measures that seek to achieve water neutrality to be sufficiently secured and likely to work in practice.
28. The proposal has been accompanied by detailed and extensive information, data and calculations². The scheme is intended, firstly, to minimise the water usage in the housing which is proposed. This includes water saving fixtures and fittings for each home, water efficient white goods for each home and rain water harvesting. Secondly, the remainder of the water increase that would be used within the development site is intended to be off-set by a scheme at Dedisham Farm.
29. Dedisham Farm operates as a fairly sizeable dairy enterprise and draws water from the Sussex North Water Supply Zone. The intended works at Dedisham would include the construction of quite a large building over the yard and clamp areas and the harvesting of the rainwater from the roofs. This water would then be used as a substitute for water presently drawn from the mains

² Including the Motion Technical Note 3: Water Neutrality Statement – 21st October 2022 Rev H

as part of the dairy operations. The figures show that the dairy operation is water intensive and the calculations demonstrate that the savings in water at Dedisham Farm would more than offset the increased use which would result from the occupation of the proposed housing development the subject of the appeal scheme.

30. Natural England has examined these specific details and has commented that if the Inspector was satisfied that the measures (on site and at Dedisham Farm) can be secured then the scheme would be water neutral and, as such, the project would not adversely affect the integrity of the habitat site.
31. The details of the on-site works and those at Dedisham Farm form part of the UU which requires these water neutrality measures to be implemented and thereafter maintained. The farm owners are party to the planning agreement. I am satisfied that from a scientific point of view the water neutrality scheme would meet its intended purposes and would be likely to work in practice. Furthermore, the UU specifies that the housing units cannot be occupied until the measures are in place.
32. However, at the time of the hearing, the scheme for the buildings at Dedisham Farm, which are an integral part of the water neutrality scheme, had not been granted planning permission. The application was still being processed by the Council. There appeared, on the information which I heard at the hearing, a reasonable prospect that permission would be granted in due course.
33. Nevertheless, there is no absolute certainty that a permission at Dedisham Farm will be granted. This was discussed at the hearing. It was agreed that it would be reasonable and appropriate that any permission in this appeal should contain a planning condition that the housing scheme would only be able to be commenced if the specified works at Dedisham Farm had been permitted.
34. Such a condition would provide certainty and cover either outcome for the planning application at Dedisham Farm. If the water neutrality scheme could be fully implemented the housing scheme would be water neutral and if the scheme at Dedisham Farm was not to be permitted the housing scheme could not take place and therefore there would be no effect on the habitats site. I am satisfied that such a condition would meet the tests for conditions in the Framework.
35. The combination of a planning condition attached to any approval and the obligations in the UU, which specify in detail both the on and off-site water measures with suitable safeguards for implementation and retention, would provide suitable and secure mechanisms to deliver a water neutral development. In these circumstances, the proposal, either alone or in combination with other schemes, would not have a significant or adverse effect on the integrity of the Arun Valley SPA/SAC/Ramsar sites. When undertaking an appropriate assessment I am satisfied that the scheme would accord with the requirements of the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations). The scheme would also meet, in this respect, with the associated requirements of Policy 31 of HDPF.

Planning Agreement

36. The UU provides for a number of different obligations. In terms of the affordable housing contribution, a minimum of 35% (29 units) would be

provided. This is necessary to meet with the requirements of Policy 16 of the HDPF. The sustainable travel contributions, including vouchers towards local bus services, to assist occupants to purchase a bicycle, to surface a section of the public right of way (1941) and to provide the cycle parking spaces, are necessary to help meet air quality requirements, encourage alternative travel modes other than the private car and to meet the requirements of Policies 24, 40 and 41 of the HDPF and the Framework.

37. The Air Quality scheme obligation would provide air quality mitigation and support initiatives underway by the County Council and is linked to the sustainable travel contributions and would help the scheme to comply with Policy 24 of the HDPF.
38. Part of the UU obligates the provision of four custom/self-build plots. This would add to the overall type of housing proposed and meet with the Framework which highlights the requirements for Councils in the Self-Build and Custom Housebuilding Act 2015.
39. The detailed and wide ranging obligations to secure a water neutral development are necessary to meet the Habitat Regulations for the reasons explained above.
40. The obligations with regard to the managed land are important and necessary for the long term management of the various listed elements, including the open amenity space. They are all integral parts of the proposal, necessary to meet planning policies and to provide a high quality development for the site. The Management Company obligations are necessary to ensure management of the open spaces and other elements such as the water neutrality schemes. The Farm's obligations are essential to ensure that the owners of this land implement, manage and maintain the off-site water neutrality measures to ensure that the scheme accords with the Habitat Regulations.
41. The various listed inspection and/or monitoring fees, including for the open space, bike stands and footpath, are necessary, meet with the best practice undertaken by the Council and are important to ensure delivery and maintenance of these facilities.
42. Consequently, I am satisfied that each planning obligation, alone and in combination, is necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. The planning obligations would meet with the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and I attach them full weight.

Other Matters

43. I have taken into account all the objections to the scheme, both at the application and appeal stages, including those from local residents, Billingshurst Parish Council, CPRE Sussex and Devine Homes PLC.
44. I have examined some of the main issues above. Other issues which have been raised include the effect of the vehicular access through Dadswell Drive. I appreciate that this road was originally permitted to serve just the existing development and I saw the layout and positioning of properties at my site visit. The County Highway Authority do not raise objection to the additional traffic from the development passing through Dadswell Drive on highway safety

grounds. Also the Council did not refuse the application because of the effect of the traffic movements or other impacts on the living conditions of local residents. With the relationship of properties to the road in Dadswell Drive and the likely level of traffic movements from the proposed dwellings I have found no reason to disagree with the findings of the Councils on these matters.

45. I have carefully considered all the submissions, including those from local residents and CPRE Sussex, on nature conservation grounds. The application was accompanied by an Ecological Assessment (December 2020). This investigated the site for flora and fauna, including detailed individual species surveys, and made recommendations. The assessment concluded that the design of the proposed development with the implementation of mitigation measures as recommended in the Report would ensure that no adverse effects would result on any designated sites or protected species as a result of the development. I am satisfied that the Report has looked at the appropriate matters and, subject to suitable conditions attached to any approval, that there would not be a material adverse effect on important nature conservation interests.
46. I am further satisfied that the development has and could be arranged with a layout that minimises the loss of trees and that those trees that are required to be removed to accommodate the vehicular access into the site and movements through to the fields are reasonable and acceptable as part of the overall scheme.
47. Any permission can also be made subject to conditions which control the hours of construction work and ensure that there is space on site for materials etc to minimise the effect of the building works on neighbouring residents.
48. Concerns with drainage issues have been raised. The application was accompanied by a Flood Risk Assessment and Outline Drainage Strategy (December 2020). This sets out a strategy to address any threats from flooding and an approach for the provision of a surface water scheme. I am satisfied that at the reserved matters stage a suitable and practical drainage scheme could be devised to address any issues in this respect.
49. Concerns with local services, such as access to doctors and dentists, and provision of school spaces, has been raised. The case is made that the existing situation is not satisfactory and that permitting further residential units in the area would make matters worse. I raised this at the hearing and the Council explained that the original permission for the expansion of housing to the east included various facilities such as an extension to the Doctors' surgery. That extension has been provided and I was told that with the school, the Educational Authority now considers this is not required in terms of its school planning and pupil numbers. Infrastructure contributions can be sought either specifically as part of a planning application where that is justified and/or more generally as part of a Community Infrastructure Levy in accordance with a charging scheme.
50. The Council has sought various contributions which form part of the UU, which I have found to be justified, and the Council has a Community Infrastructure Levy Charging Scheme in place. I have not been provided with clear evidence that further obligations would be necessary to make the development acceptable in planning terms and, therefore, while I understand the matters

raised by local residents, they are not matters that I consider would justify withholding planning permission in this case.

51. The site is within the bat sustenance zone (Impact Risk Zone) for both The Mens SAC and Ebernoe Common SAC. A qualifying feature of The Mens SAC are Barbastelle bats and for the Ebernoe Common SAC qualifying features include both Barbastelle and Bechstein's bats. The Ecological Assessment (December 2020) undertook bat surveys and recommendations, including a lighting strategy such that dark flightlines would be retained across the northern, southern and eastern boundaries. Natural England has examined the report and the proposed measures and confirmed that it has no objection to this aspect of the development, providing all relevant mitigation is secured in any planning permission.
52. The recommended mitigation measures in accordance with the Report, can be made the subject of a suitably worded condition in any approval. Accordingly, the proposal, either alone or in combination with other schemes, would not have a significant or adverse effect on the integrity of The Mens SAC and/or Ebernoe Common SAC. When undertaking an appropriate assessment the scheme would accord with the requirements of the Habitat Regulations and with the associated requirements of Policy 31 of HDPF.
53. Finally, a number of appeal decisions have been referenced in the submissions including from the Council, appellant and local residents. I have had regard to them all, however, the specific circumstances of each appeal and the time when they were determined mean that the facts and the on-site situations differ from the present appeal. For instance, with the appeal at land north of Sandy Lane, Henfield³, which has been referenced, there was identified to be harm to designated heritage assets and this disengaged the presumption in favour of sustainable development. Consequently, these other appeals do not provide clear guidance for the determination of this appeal and I afford them limited weight.

Planning Balance

54. The proposed housing would be located outside the built-up boundary and would, as a matter of principle, conflict with policies for the location of new residential development. In particular, the proposal would conflict with Policies 2, 3, 4, 15 and 26 of the HDPF and Policy Bill 1 of the Neighbourhood Plan. Also the scheme would harm the character and appearance of the area and thereby conflict with Policies 25, 26, 31, 32 and 33 of the HDPF. As a consequence, the scheme would conflict with the development plan when considered as a whole.
55. It is accepted by the main parties that the Council is unable to demonstrate a five year supply of deliverable housing land. The information that was explained by the Council at the hearing is that it can demonstrate a supply of only about four years, which would be a reasonably significant level of shortfall. In these circumstances, policies related to the delivery of housing are deemed to be out-of-date and the presumption in favour of sustainable development as set out in paragraph 11d of the Framework is engaged. This indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

³ APP/Z3825/W/19/3227192 – Land north of Sandy Lane, Henfield, West Sussex BN5 9UN – 7 October 2019

56. The finding that the scheme would be water neutral, and thereby would accord with the Habitats Regulations, does not therefore disengage the presumption in favour of sustainable development. For the avoidance of doubt, there are no policies in the Framework that protect areas or assets of particular importance that provide a clear reason for refusing the development proposed.
57. In terms of the benefits of the scheme, the provision of 83 additional residential units would provide a meaningful increase in units and accord with the Government's objective to significantly boost the supply of housing. This merits substantial weight in favour of the scheme. Additionally the Council accept that there is a significant need and recognised shortfall in the delivery of affordable housing across the plan area. The provision of a policy compliant 35% (29 units) of affordable housing is a significant benefit and I attach this benefit substantial weight in its own right.
58. Additionally, four units of residential accommodation would be provided as custom/self build plots. The Council recognise that there is a significant shortfall of such plots/permissions to meet the identified need. These units would contribute to meeting part of a different housing need in the area and should also be attributed substantial weight.
59. The appellant's submission details the economic benefits that would flow from the construction works on site and in the related supply chain, including with increased employment. There would also be economic and social benefits to the area from the subsequent occupation. I attribute these benefits significant weight.
60. The scheme would provide one field as open space, and other areas for landscaping and public access, adding to the green infrastructure of the area and complementing the other spaces available. I afford this benefit moderate weight. The scheme with the landscaping around the housing areas and with the provision of the managed open space in the adjoining field would, as proposed, be designed at the reserved matters stage to deliver at least a 10% increase in biodiversity. Because of the size of the areas, I attribute this benefit moderate weight.
61. In terms of the contributions that would result from the UU, I have mentioned some such as the affordable housing, the custom/self-build housing and the open spaces above. Other contributions, such as the air quality scheme and water neutrality, are neutral in the overall planning balance as they would mitigate the effects of the development. However, I consider that the improvements to the Public Right of Way and the bicycle stands would provide a wider benefit, as well as encouraging residents of the proposed housing to use alternative means of travel other than the private car. I attribute these benefits moderate weight in favour of approval.
62. Drawing these main benefits of the scheme together, collectively they are fairly considerable, wide-ranging and merit substantial weight in favour of approval.
63. On the other hand, there would be harm that would result from the scheme. There would be conflict with the development plan policies because the housing would be located beyond the built-up boundary of Billingshurst. However, because the Council is unable to demonstrate a five year supply of housing land, the planning strategy including it being based on the delivery of market housing within those built-up boundaries is not entirely effective. It is likely to

be necessary to look beyond those boundaries to deliver the required housing. In this case, the housing is proposed on land adjoining the edge of the settlement.

64. The residential development would be located at Billingshurst which is a second tier settlement in the development hierarchy as defined by Policy 3 of the HDPF. These settlements are described as having a good range of services and facilities, strong community networks and local employment provision, together with reasonable rail and/or bus services. Billingshurst is therefore one of a number of settlements that the HDPF directs development to and the scheme for 83 units would be appropriate in nature and scale to maintain the characteristics and function of the settlement in accordance with the hierarchy.
65. The location of this particular site would provide residents the ability to walk and/or cycle to some local services and facilities within Billingshurst, such as those within the High Street, and also to connect to the wider area by the public transport network. The housing would be a little further from the centre than the other recently constructed housing but not significantly so. It is therefore, in terms of its locational characteristics for Billingshurst, in a fairly accessible location. For these reasons, I attribute the conflict with the policies of the development plan that concern the provision of housing in this location beyond the built-up boundary⁴ limited weight.
66. I am conscious that the Neighbourhood Plan, through its settlement boundary and general approach, has sought to direct housing development to locations within the built-up boundary. However, the Neighbourhood Plan does not contain policies and allocations to meet its identified housing requirement and it is agreed by the main parties that paragraph 14 of the Framework is not engaged. Consequently, in the absence of a five year housing supply, the conflict with Bill 1 of the Neighbourhood Plan, in the circumstances of this case and the location of the proposed housing, carries limited weight.
67. I have also found that the scheme would harm the character and appearance of the area and therefore conflict with Policies 25, 26, 31, 32 and 33 of the HDPF. I am satisfied that these policies are, in the context of this appeal, generally consistent with the Framework and should carry full weight. I have explained how the scheme would cause harm to the visual, and in particular, the character of the area. However, the housing would be softened by the surrounding hedge and treed boundaries and the topography of the site and relationship to other groups of buildings on the edge of this part of Billingshurst would limit the impact of the proposal. The information at this stage indicates that the scheme has been well-considered and the indicative plans help to demonstrate that the layout and related details at the reserved matters stage should provide an effective transition from the urban context of Billingshurst to the open countryside beyond.
68. Nevertheless, harm would result to the character of the area which would come from the conversion of open undeveloped fields to a housing development. This harm would, however, because of the context and form of the site, be localised and modest. I attribute this harm and the resulting conflict with the related policies of the development plan moderate weight against the scheme in the overall planning balance.

⁴ Policies 2, 3, 4, 15 and 26 of the HDPF and Policy Bill 1 of the Neighbourhood Plan

69. Drawing all these matters together, the benefits of the scheme merit substantial weight. The harms and policy conflict are more limited and collectively weigh moderately against the proposal in the circumstances that I have identified. It is such that the adverse impacts of the scheme would not significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. As a consequence, the proposal would constitute sustainable development and this weighs heavily in favour of the proposal. Accordingly, I also conclude that the scheme would comply with Policy 1 of the HDPF which sets the broad parameters for sustainable development across the plan area.
70. For the reasons given above, material planning considerations, including that the scheme would constitute sustainable development, clearly indicate that a decision should be made otherwise than in accordance with the development plan.

Conditions

71. I have had regard to the conditions suggested by the Council, those discussed at the hearing and the advice in the Planning Practice Guidance. In addition to the standard outline time conditions, a condition requiring the development to be carried out in accordance with the approved plans is necessary in the interests of certainty.
72. Condition 4 is necessary to ensure that there are no risks to health from any contaminated land that may be on the site and to accord with Policies 24 and 33 of the HDPF. Conditions 5, 6, 7, 8, 11, 14, 17, 19 and 22, which concern construction management, landscape, archaeology, arboriculture and biodiversity matters, are necessary in isolation and in combination in the interests of the character and appearance of the area, to protect, manage and enhance biodiversity, to evaluate and protect archaeology, to protect individual and groups of trees, to protect species during construction and additionally for biodiversity conditions to meet the requirements of the Habitats Regulations and Policy 31 of the HDPF. Condition 21 requiring the off-site works at Dedisham Farm to be permitted before any works can take place is necessary for the reasons explained above and, in particular, to meet the requirements of the Habitat Regulations.
73. Conditions 9, 10 and 13 are necessary in the interests of providing effective drainage systems to protect the amenities of the area and local residents, to prevent flooding and to comply with Policies 35 and 38 of the HDPF.
74. Condition 12 is necessary to ensure road safety and to comply with Policy 40 of the HDPF. Condition 15, to provide high-speed broadband connections, is necessary to meet the needs of residents in the interests of sustainable development and to accord with Policy 37 of the HDPF. Condition 16 is necessary for the provision of fire hydrants in the interests of the fire safety of residents and to meet the requirements of Policies 33 and 39 of the HDPF.
75. Condition 18 is necessary to control the timings of construction activities in the interests of the amenities of local residents. Condition 20 is necessary to meet the recommendations in the Energy and Sustainability Statement (December 2020) and to ensure that the scheme meets sustainable development and Framework policy requirements.

76. It is necessary for conditions 4, 5, 7, 8, 9, 10, 21 and 22 to be pre-commencement conditions as it is considered that the details secured by the conditions should be approved before any development begins. This is because the details need to be designed, or works implemented, before any other works start on the site, or are of a nature that it would be impractical to consider after work has started.

Conclusion

77. For the reasons given above, I conclude that the appeal should succeed and planning permission be granted.

David Wyborn

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE APPELLANT

Mr Zack Simons	of Counsel
Mr Iain Painting	Barton Willmore now Stantec
Miss Poppy O'Flanagan	Barton Willmore now Stantec
Mr Matthew Chard	Barton Willmore now Stantec
Mr Neil Jaques	Motion
Mr Karl Goodbun	Ecology Solutions
Mr Andrew Munton	Reside Developments Ltd
Mr Matt Steinbrecher	Winckworth Sherwood
Miss Fay Goodson	Reside Developments Ltd

FOR THE LOCAL PLANNING AUTHORITY

Mr Matthew Porter	Horsham District Council
Mrs Inês Watson	Horsham District Council
Mr Adrian Smith	Horsham District Council

INTERESTED PARTIES

Mrs Fay Casey	Local Resident
Mr Colin Casey	Local Resident

DOCUMENTS SUBMITTED AFTER THE HEARING.

1. Schedule of agreed conditions.
2. Completed Unilateral Obligation dated 21 December 2022.

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 1000 PR REV A REDLINE PLAN
 - ITB15339-GA-001 PROPOSED SITE ACCESS - EXTENSION OF PARCEL H7 ACCESS
 - 1010 PR REV E LAND USE PLAN
 - 1011 PR REV D DENSITY PLAN
 - 1012-PR REV B BUILDING HEIGHTS PLAN
 - 1013-PR REV C MOVEMENT PLAN
 - 1014 PR REV C LANDSCAPE PLAN
 - 1015-PR REV A PHASING PLAN
- 4) No development shall commence until the following components of a scheme to deal with the risks associated with contamination, (including asbestos contamination), of the site has been submitted to and approved, in writing by the Local Planning Authority:
 - (a) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - Potentially unacceptable risks arising from contamination at the site.
 - The following aspects (b) – (d) shall be dependent on the outcome of the above preliminary risk assessment (a) and may not necessarily be required.
 - (b) An intrusive site investigation scheme to provide information for a detailed risk assessment to the degree and nature of the risk posed by any contamination to all receptors that may be affected, including those off site.
 - c) Full details of the remediation measures required and how they are to be undertaken based on the results of the intrusive site investigation (b) and an options appraisal.
 - (d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action where required.

The scheme shall be implemented as approved. Any changes to these components require the consent of the local planning authority.

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

- 5) The development hereby approved shall not commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of the following relevant measures:
- i. An introduction consisting of a description of the construction programme definitions and abbreviations and project description and location;
 - ii. Details of how residents will be advised of site management contact details and responsibilities;
 - iii. Detailed site logistics arrangements, including location of site compounds, location for the loading and unloading of plant and materials, site offices (including height and scale), and storage of plant and materials (including any stripped topsoil);
 - iv. Details regarding parking or site operatives and visitors, deliveries, and storage;
 - v. The method of access to and from the construction site;
 - vi. The arrangements for public consultation and liaison prior to and during the demolition and construction works – newsletters, fliers etc.;
 - vii. Details of any floodlighting, including location, height, type and direction of light sources, hours of operation and intensity of illumination
 - viii. Locations and details for the provision of wheel washing facilities and dust suppression facilities;
 - ix. Details of measures to manage biodiversity environmental impacts, including:
 - a. Risk assessment of potentially damaging construction activities;
 - b. Identification of "biodiversity protection zones".
 - c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d. The location and timing of sensitive works to avoid harm to biodiversity features.
 - e. The times during construction when specialist ecologists need to be present on site to oversee works.
 - f. Responsible persons and lines of communication.
 - g. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h. Use of protective fences, exclusion barriers and warning signs.

The construction shall thereafter be carried out in accordance with the details and measures approved in the CEMP.

- 6) The following approved works, within reserved matters applications pursuant to the outline planning application hereby permitted, to remove the scrub and hedgerow sections onsite shall not in any circumstances commence unless the local planning authority has been provided with either of the following in relation to that reserved matter:
- a) a copy of EPS licence for Hazel Dormice issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the specified activity/development to go ahead; or
 - b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.
- 7) No development approved within the reserved matters applications pursuant to the outline planning application hereby permitted shall commence until an Ecological Mitigation and Enhancement Strategy has been submitted to and approved in writing by the local planning authority, to be guided by appropriate surveys and good practice guidance. The Ecological Mitigation and Enhancement Strategy shall include the following:
- a) Purpose and conservation objectives for the proposed works;
 - b) Review of site potential and constraints with reference to any necessary Protected Species Licenses;
 - c) Detailed design(s) and/or working method(s) to achieve stated objectives;
 - d) Extent and location/area of proposed works on appropriate scale maps and plans;
 - e) Type and source of materials to be used where appropriate, e.g. native species of local provenance;
 - f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
 - g) Persons responsible for implementing the works;
 - h) Details of initial aftercare and long-term maintenance of the habitats;
 - i) Details for monitoring and remedial measures;
 - j) Details for disposal of any wastes arising from works;
 - k) Details of proposed external lighting scheme.
- The Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.
- 8) No development or preliminary groundworks shall commence until a programme of archaeological work secured in accordance with a Written Scheme of Archaeological Investigation which has been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall not be commenced until the archaeological site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under this condition and that provision for analysis, publication and dissemination of results and archive deposition has been secured and approved by the Local Planning Authority in writing.
- 9) No development shall commence unless and until details of the proposed means of foul water sewerage disposal including the proposals for the

associated off-site infrastructure improvements have been submitted to and been approved in writing by the local planning authority. Thereafter all development shall be undertaken in accordance with the approved details and no occupation of any dwelling shall take place until the approved works have been completed. The foul drainage system shall be retained as approved thereafter.

- 10) No development shall commence until a detailed surface water drainage scheme including a Surface Water Drainage Statement, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall be fully coordinated with the landscape scheme. The development shall subsequently be implemented prior to first occupation in accordance with the approved details and thereafter retained as such.
- 11) No part of the development approved at reserved matters applications pursuant to the outline planning application hereby permitted shall be occupied until a Landscape and Ecological Management and Maintenance Plan (LEMMP) has been submitted to, and been approved in writing by, the local planning authority. The content of the LEMMP shall include the following:
- a) Details of long term design objectives, including description and evaluation of features and all communal landscaped areas to be managed.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives, including management responsibilities, a description of landscape components, management prescriptions, maintenance schedules, and accompanying plan delineating areas of responsibility.
 - e) Prescriptions for management actions.
 - f) Preparation of a work / maintenance schedule (including an annual work plan capable of being rolled forward over a five-year period).
 - g) Details of the body or organisation responsible for implementation of the plan.
 - h) Ongoing monitoring and remedial measures.

The LEMMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details.

- 12) No part of the development shall be first occupied until such time as the site access arrangement has been provided TRANSPORT ASSESSMENT Date 17 Dec 2020 Ref: MG/GT/ITB15339-101 R by i-Transport in accordance with the approved planning drawings, and maintained as such thereafter.

- 13) Prior to the first occupation (or use) of any part of the development hereby permitted, a verification report demonstrating that the SuDS drainage system for that part of the development has been constructed in accordance with the approved design drawings that shall be submitted to and approved by the Local Planning Authority. The development shall be maintained in accordance with the approved report.
- 14) Prior to the first occupation of any part of the development hereby permitted, full details of all hard and soft landscaping works shall have been submitted to and approved, in writing, by the Local Planning Authority. The details shall include plans and measures addressing the following:
- Details of all existing trees and planting to be retained
 - Details of the Open Space and open amenity space
 - Details of all proposed trees and planting, including schedules specifying species, planting size, densities and plant numbers and tree pit details
 - Details of all hard surfacing materials and finishes
 - Details of all boundary treatments

The approved landscaping scheme shall be fully implemented in accordance with the approved details within the first planting season following the first occupation of any part of the development. Unless otherwise agreed as part of the approved landscaping, no trees or hedges on the site shall be wilfully damaged or uprooted, felled/removed, topped or lopped without the previous written consent of the Local Planning Authority until 5 years after completion of the development. Any proposed planting, which within a period of 5 years, dies, is removed, or becomes seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 15) Prior to the first occupation of each dwelling, the necessary underground infrastructure to enable connection to high-speed broadband internet (defined as having speeds greater than 24 megabits per second) shall be provided.
- 16) No part of the development hereby permitted shall be occupied until details of the proposed location of fire hydrant(s) to ensure all dwellings hereby permitted are within 150 metres of a fire hydrant for the supply of water for firefighting, have been submitted to and approved in writing by the Local Planning Authority. The approved fire hydrant(s) shall be installed, connected to a water supply with appropriate pressure and volume for firefighting, and made ready for use in consultation with the WSCC Fire and Rescue Service prior to the first or in a phased occupation of the development hereby permitted and shall thereafter be retained as such.
- 17) All ecological mitigation and enhancement measures and/or works shall be carried out in accordance with the details of the Ecological Impact Assessment (Ecology Solutions, December 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed

person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

- 18) Hours of demolition and construction activities (including deliveries and dispatch) shall not take place other than between the hours of 08.00 – 18.00 on Mondays to Friday, 09.00 – 13.00 on Saturdays and shall not take place at any time on Sundays or Bank or Public Holidays.
- 19) All works shall be executed in full accordance with the approved Arboricultural Impact Assessment/Method Statement titled:- ARBORICULTURAL IMPLICATIONS REPORT Dec 2020 Ref: SJA air 20518-01 by SJA trees Arboricultural Planning Consultants
- 20) The new dwellings shall not be occupied unless and until a scheme has been submitted to and approved in writing by the Local Planning Authority to demonstrate that the new houses will incorporate decentralised, renewable and/or low carbon energy supply systems. The approved scheme shall be installed prior to occupation of the dwellings and any approved renewable/low carbon energy supply systems shall thereafter be permanently retained and maintained in good working order thereafter.
- 21) No development approved pursuant to the outline planning permission hereby permitted shall commence until planning permission for the works required to deliver the off-site water neutrality measures at Dedisham Farm as set out in the Motion Technical Note TN03 dated 21 October 2022 (subject of planning application DC/22/1947) has been permitted.
- 22) No development shall commence until a scheme to secure a 10% Biodiversity Net Gain has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and maintained in accordance with the approved details.

End of Schedule