



Appeal Decisions

Inquiry held on 7-10, 20-22, 27 and 31 March 2023

Site visit made on 10 March 2023

by M Hayden BSc, Dip TP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th October 2023

Appeal A Ref: APP/Z3825/W/22/3308455

Land west of Ravenscroft, Storrington, West Sussex RH20 4HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Rowena Ovenstone of A2Dominion against the decision of Horsham District Council.
 - The application Ref DC/21/2086, dated 9 September 2021, was refused by notice dated 22 April 2022.
 - The development proposed is described as *'Hybrid application consisting of full permission for the relocation and enhancement of the Ravenscroft Allotment site and outline planning permission for up to 78 homes with all matters reserved except access (excluding internal estates roads) from Ravenscroft, and new community parkland'*.
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Appeal B Ref: APP/Y9507/W/22/3308461

Land west of Ravenscroft, Storrington, West Sussex RH20 4EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Rowena Ovenstone of A2Dominion against the decision of South Downs National Park Authority.
 - The application Ref SDNP/21/04702/OUT, dated 9 September 2021, was refused by notice dated 22 April 2022.
 - The development proposed is described as *'Hybrid application consisting of full permission for the relocation and enhancement of the Ravenscroft Allotment site and outline planning permission for up to 78 homes with all matters reserved except access (excluding internal estates roads) from Ravenscroft, and new community parkland'*.
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Decision

1. Appeal A is allowed and full planning permission is granted for the relocation and enhancement of the Ravenscroft Allotment site and outline planning permission is granted for up to 78 homes with all matters reserved except access (excluding internal estates roads) from Ravenscroft, and new community parkland on land west of Ravenscroft, Storrington, West Sussex RH20 4EH, in accordance with the terms of the application, Ref DC/21/2086, dated 9 September 2021, subject to the conditions set out in the Schedule at the end of this decision and the S106 agreement and unilateral undertaking referred to below.
2. Appeal B is allowed and full planning permission is granted for the relocation and enhancement of the Ravenscroft Allotment site and outline planning permission is granted for up to 78 homes with all matters reserved except access (excluding internal estates roads) from Ravenscroft, and new community parkland on land west of Ravenscroft, Storrington, West Sussex RH20 4EH, in

accordance with application, Ref SDNP/21/04702/OUT, dated 9 September 2021, subject to the conditions set out in the Schedule at the end of this decision and the S106 agreement and unilateral undertaking referred to below.

Application for costs

3. At the Inquiry an application for costs was made by Horsham District Council against A2Dominion, which is the subject of a separate Decision.

Procedural Matters

4. The two appeals in this case relate to a cross-boundary development proposal on a single site, located within the South Downs National Park (SDNP) and Horsham District, which was the subject of identical planning applications submitted to the respective local planning authorities (LPAs). The main issues in dispute, set out below, are the same for both appeals. Therefore, to avoid duplication, I have dealt with the two appeals together as a single proposed development in this decision letter.
5. The site address in the SDNP Authority (SDNPA) decision notice refers to '*land east of Greyfriars Lane*', but relates to the same site as identified in the Horsham District Council (HDC) decision notice. To avoid confusion, in the banner heading above, I have used the same site address for both appeals, as listed in the application forms.
6. The planning applications are hybrid, submitted in detail for the proposed allotments and in outline for the remainder of the proposed development. For the outline component, matters relating to layout, scale, appearance and landscaping are reserved for subsequent approval. Access to the development and the scale, layout, landscaping and appearance of the allotments are the only detailed matters fixed for determination. I have dealt with the appeals on this basis.
7. The plans before me for determination are the same as those on which the LPAs made their decisions, except for the Landscape Plan for the proposed allotments, for which a revised plan was submitted with the appeal¹, showing the proposed location of shed bases, communal areas, water points and troughs. The revised allotments plan was omitted in error from the plans originally submitted to the LPAs, but it is common ground that the details contained in it were reflected in the Landscape and Visual Impact Assessment (LVIA) published with the applications². The revised allotments plan was made available to all parties before the deadline for the submission of proofs of evidence, and I have taken into account representations on it in reaching my decision. As such, I am satisfied that parties to the appeals were not prejudiced by the initial omission of the revised allotments plan.
8. A masterplan and parameter plan for the proposed development were submitted with the appeals, which the appellant confirmed are for illustrative purposes. I have taken these plans into account in so far as they indicate the broad extent of the proposed residential development, allotments and community parkland, and inform my assessment of the visual, landscape and heritage impacts of the proposal the subject of these appeals.

¹ Ravenscroft Allotments Landscape Plan (drawing no. 7288 LP.5.0 Rev B)

² Paragraph 2.2 of the Statement of Common Ground (SoCG) on the Allotment Plan

9. A legal agreement and unilateral undertaking (UU) under Section 106 of the 1990 Act were submitted by the appellant. They contain obligations intended to secure the provision of: affordable housing, the community parkland, open space and replacement allotments on-site; water neutrality mitigation measures both on and off-site; and a financial contribution for the provision of air quality mitigation measures off-site. The S106 agreement and UU were discussed with the main parties at the Inquiry and amended to clarify a number of points. The signed and executed Deeds were submitted after the close of the Inquiry and constitute material considerations, which I have taken into account in determining these appeals.

Development Plan and Main Issues

10. The relevant Development Plan policies for these appeals are contained within: the Horsham District Planning Framework (2015) (HDPF); the South Downs National Park Local Plan (2019) (SDLP); the Storrington, Sullington and Washington Neighbourhood Plan (2019) (SSWNP); and the West Sussex Joint Minerals Local Plan (2018) (WSJMLP).
11. The part of the appeal site which lies within the HDC boundary, and on which residential development is proposed, is allocated in Policy 2(ii) of the SSWNP for development for at least 35 homes and the relocation of the existing allotments on site. As a result of its allocation, this part of the site is located within the built-up area boundary (BUAB) for Storrington, as defined on the Policies Map Inset 1 in the SSWNP. The proposed new allotments and community parkland are situated on land which lies outside of the defined BUAB and within the South Downs National Park, wherein the policies of the SDLP apply.
12. It is common ground that HDC cannot demonstrate a 5 year supply of deliverable housing sites³, as is expected in paragraph 74 of the National Planning Policy Framework (the Framework). In such circumstances, footnote 8 of the Framework establishes that the policies of the development plan which are most important for determining the appeals are out-of-date. Therefore, paragraph 11(d) of the Framework applies in this case.
13. In view of this and having regard to everything I have read, heard and seen, the main issues in these appeals are:

Whether the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed, or whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, with particular regard to:

- the effect of the proposed development on the character and appearance of the landscape to the south of Storrington and on the setting, landscape and scenic beauty of the South Downs National Park;
- the effect of the proposed development on the setting and significance of nearby heritage assets, including the Storrington Conservation Area, St Joseph's Abbey Grade II listed building, and St Mary's Church Grade II* listed building;

³ Paragraph 6.7 of the SoCG on Planning Matters

- the effect of the proposed development on the integrity of the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites, with particular reference to water abstraction, taking account of the proposed water neutrality measures; and
 - the benefits which the proposed development may bring, including housing provision and other economic, social and environmental contributions.
14. In my opening remarks to the inquiry, I also identified as a main issue, whether the proposed development would be consistent with the policies of the development plan, in respect of its location partially outside the BUAB of Storrington. I deal with this as part of my reasoning below on landscape, heritage and the planning balance.
15. The absence of a legal agreement to secure affordable housing and contributions to infrastructure and other off-site improvements, formed part of the fourth reason for refusal in the HDC decision notice. However, the LPAs confirmed that this is no longer in dispute following the submission of the S106 agreement⁴.
16. The effects of the proposed development on traffic and highway safety, drainage and flood risk, local infrastructure and the living conditions of neighbouring properties were also raised in representations by interested parties. Although these matters did not form part of the reasons for refusal, nevertheless, I have considered them below in reaching my decision on these appeals.

Reasons

Landscape Character

17. The appeal site is located on the south side of Storrington, extending from the existing settlement edge, southwards into the SDNP. It lies to the north of Chantry Hill and to the north-west Sullington Hill, two locally prominent landmarks and viewpoints in the landscape of the South Downs' scarp slope.
18. The site comprises three main parts:
- the existing Ravenscroft allotments, which occupy the northernmost parcel of land, immediately to the south and east of existing residential development in Brown's Lane and Ravenscroft (the northern field);
 - a field of overgrown pasture, roughly rectangular in shape, located to the south of the allotments, and between Ravenscroft and Abbey Walk to the east and the grounds of St Joseph's Abbey to the west (the middle field); and
 - a series of fields further south, which are located within the SDNP, and consist of unmanaged grassland, scrub and marsh with the remnants of hedgerows and tree lines marking historic field boundaries, rising gently towards the foot of the slopes leading to the South Downs escarpment (the southern fields).
19. I set out below my assessment of the landscape and visual effects of the proposed development on the character and appearance of the landscape to the south of Storrington and on the setting, landscape and scenic beauty of the SDNP. In doing so I have been informed by the relevant landscape character

⁴ Paragraph 1 of the Closing Statement on behalf of the LPAs (CD 10.28)

- and capacity studies, the Landscape and Visual Impact Assessment⁵ (LVIA) submitted with the appeals, and the evidence of the expert landscape witnesses for both parties. I have also viewed the site and surroundings, including from the identified viewpoints.
20. For clarity, I deal separately with the effects of the proposed development on views of, and over, the appeal site land enjoyed by the residents of adjoining residential properties, including The Domain. My assessment of this is set out below under 'Other Matters'.
21. Whilst the evidence of the landscape witnesses differs somewhat in the methodologies used for the assessment of landscape and visual impacts and thereby in the final judgements reached, both are broadly consistent with the Guidelines for Landscape and Visual Impact Assessment (GLVIA3)⁶. Although the LVIA did not refer to the Horsham District landscape characterisation studies, it relied on the most up to date local character assessment at the time it was prepared⁷ and is consistent with the LPAs' evidence on the landscape character areas and types it identifies⁸. It is also common ground that the LVIA is based on GLVIA3. Accordingly, I am satisfied that the LVIA provides a reliable basis for assessing the landscape impacts of the scheme the subject of these appeals. However, I have also had the most recent landscape character and capacity assessments⁹ and the assessment of the LPAs' landscape witness to inform my conclusions on this issue.
22. In terms of its landscape character, the appeal site lies within the Scarp Footslopes of the South Downs. This is identified in both the West Sussex Landscape Character Assessment (LCA) (2003)¹⁰ and the Horsham District LCA (2003)¹¹. Whilst the relevant Character Area in the Horsham Study is called the Amberley to Steyning Farmlands (D1), the key characteristics are those of the Scarp Footslopes - a rolling landscape of low ridges and vales, comprising a varied patchwork of arable and pasture farmland, sunken lanes with high hedgebanks, and overlooked by the chalk escarpment to the south. In the South Downs LCA, which assesses the character of the landscape within the SDNP, the southern fields of the appeal site are included in the Arun to Adur Scarp Footslopes Landscape Character Type (J3), with similar characteristics identified.
23. The characteristics of the Scarp Footslopes are most clearly seen in the landscape of the southern fields, where the remnants of hedgerows reveal an historic pattern of irregular field shapes, the topography is more undulating and the sunken Greyfriars Lane forms a high hedgebank to the western boundary. However, the landscape of the remainder of the site is less typical. The character of the northern field is one of cultivated allotments, and this part of the site, including the middle field, is contained on three sides by the settlement edge of Storrington, rather than set within an open rural landscape.
24. I acknowledge that the presence of, and pressure for, development around the edges of larger settlements like Storrington is identified in the LCAs as a threat

⁵ Core Document CD 6.12

⁶ Guidelines for Landscape and Visual Impact assessment, Third Edition 2013, LI and IEMA (CD 6.1)

⁷ South Downs Integrated Landscape Character Assessment (ILCA, 2011) (CD 6.9)

⁸ Paragraph 3.1 of Nicola Brown's Proof of Evidence

⁹ South Downs: Landscape Character Assessment, September 2020 (CD 6.13) and the Horsham District Landscape Capacity Assessment 2021 (CD 6.15)

¹⁰ Core Document CD 6.8

¹¹ Core Document CD 6.14

to the landscape character of the Scarp Footslopes and the SDNP. The Planning Practice Guidance (PPG) also confirms that land within the setting of national parks often makes an important contribution to maintaining their natural beauty, and, where poorly located or designed, development can do significant harm¹². However, in the context of the appeal site, the urban edge of the settlement also forms part of the character of the existing landscape and the setting to the SDNP, which should be taken into account in determining the capacity of the landscape to accommodate the change proposed by the development the subject of these appeals. Whilst the openness of the middle field contributes to the setting of the SDNP and to the indented settlement edge of Storrington, the presence of urban development at its edges also has a strong influence on its overall landscape character. The LVIA identifies the landscape receptors as including 'a mosaic of landscape uses, rural, urban and peri-urban', which accurately reflects the mixed landscape character of the appeal site and its surroundings.

25. In terms of visual receptors, views of the appeal site from surrounding roads and footpaths are limited and there are no existing public rights of way (PRoW) into or across the site. The existing allotments and the middle field can be seen in localised, fragmented views from Ravenscroft and PRoW 2685 where it runs along the eastern side of the site. However, the southern fields are bounded on their western side by the high hedge and bank along Greyfriars Lane and by field hedgerows and trees on their eastern side. As such, there are only glimpsed views of the southern fields from Greyfriars Lane but, in the immediate approach to the settlement edge along this road, views are obscured by the steep embankment. There are views towards the site from PRoW 2685 as it crosses the field to the east (viewpoint 11 in the LVIA), but only partial and filtered views of the middle field are possible from here.
26. The key views of the appeal site are from the scarp slope of the South Downs. These are identified in the LVIA as viewpoints 9, 10 and 12, from where I was able to view the site and its landscape context. From Chantry Hill (viewpoints 9 and 12), there are clear views of the southern fields, which are seen as part of the woodland and farmland mosaic landscape within the Scarp Footslopes of the South Downs. Views of the existing allotments and middle field are more distant, partially filtered by trees and hedgerows, and seen against the backdrop of the settlement edge of Storrington. From Sullington Hill (viewpoint 10), the southern and middle fields can be identified, but views are more oblique and are filtered by the intervening landscape surrounding the site.
27. Dealing firstly with the landscape and visual effects of the residential component of the appeal scheme, the proposed housing would be contained within the northern and middle fields, with a landscape buffer along the southern boundary where it meets the SDNP. The northern field and the eastern part of the middle field are already allocated for residential development in Policy 2(ii) of the made SSWNP. The Examiner for the SSWNP concluded that the allocation would not unduly impact on the views and landscape of the National Park, due to the existing landscape screening on the southern boundary of the middle field, particularly on its eastern side, and the potential to supplement it¹³. Based on my own observations I agree with this assessment.

¹² PPG Paragraph: 042 Reference ID: 8-042-20190721

¹³ Paragraph 82 of Core Document CD 3.9

28. Extending the housing development across the whole of the middle field, as proposed in the scheme the subject of these appeals, would increase the amount of urban development within the setting of the SDNP. It would be seen in the panoramic views from Chantry Hill (viewpoints 9 and 12), to a lesser extent from Sullington Hill (viewpoint 10), and in partial, filtered views from PRoW 2685 (viewpoint 11). However, from these receptors the proposed residential development would be seen in the context of the existing settlement edge, as well as the farmland landscape of the Scarp Footslopes.
29. This is illustrated effectively in the Accurate Visual Representations (AVRs) from these four viewpoints in the LVIA¹⁴. Development would follow the line of existing housing to the east in Ravenscroft, where it abuts the SDNP boundary. Views of the proposed development would be fragmented and softened by the existing trees and hedgerows on, and close to, the southern boundary of the middle field, in the same way as the existing residential development is to the east. This would be true both on the eastern side of the middle field, as identified by the SSWNP Examiner, and on its western side, where the site is partially screened by one of the tree lines in the southern fields. Over time the proposed landscape buffer would further soften and fragment views of the residential development from the south. Whilst the proposed housing would infill this part of the urban boundary of Storrington, the indented character of the settlement edge would still be evident within the wider viewshed from the South Downs. As such, it would not appear out of place or uncharacteristic of the existing settlement edge of Storrington, which, in this location, forms a key part of the setting of the SDNP within views from the South Downs.
30. Applying the GLVIA3 based appraisal methodology set out in the LPAs' evidence¹⁵, I consider that the proposed residential development would have no more than a slight adverse effect in terms of the significance of its landscape effects. I reach this conclusion on the following basis. Although the northern and middle fields have a high landscape value as part of the setting of the SDNP, their varied rural, urban and peri-urban landscape features mean the proposed housing would not be out of character with the landscape context in this location, indicating a low level of landscape susceptibility. In combination, a high landscape value and low susceptibility to the proposed change, equate to a medium level of landscape sensitivity¹⁶, which is consistent with the degree of landscape sensitivity accorded to the site in the Storrington Conservation Area Appraisal¹⁷. With regard to the magnitude of landscape effects, whilst the proposed residential development would result in the loss of a pasture field, this would be relatively minor within the overall farmland mosaic of the Scarp Footslopes, and would introduce an urban feature that would not be uncharacteristic of the settlement edge of Storrington. As such, it would have a low adverse magnitude of effect on the landscape¹⁸.
31. Taken together, a low magnitude of effect within a landscape of medium sensitivity to change, would amount to a slight adverse effect overall in terms of the significance of landscape effects¹⁹. The definition of a slight adverse effect¹⁹, where the proposal would cause a perceptible but small deterioration in

¹⁴ Electronic pages 99-110 of LVIA (CD 6.12)

¹⁵ Appendix 2 to Nicola Brown's PoE

¹⁶ Table 7 of Appendix 2 to Nicola Brown's PoE

¹⁷ Map 5 of CD 6.16

¹⁸ Using the ranking in Table 4 of Appendix 2 to Nicola Brown's PoE

¹⁹ Based on the matrix and descriptions in Table 8 of Appendix 2 to Nicola Brown's PoE

the landscape resource, which is unlikely to be a determining issue in its own right, but would contribute to other landscape effects, aptly describes the degree of landscape effect arising from the residential element of the scheme the subject of these appeals.

32. In terms of the visual effects of the residential component, the key receptors from which the site can be seen are recognised views within the designated landscape of the National Park. However, I have confirmed above that the setting to the SDNP within the middle and northern fields has a low susceptibility to the proposed housing, which also applies to the assessment of visual effects, given the proposed development would be seen in the context of the existing settlement edge of Storrington. The high value of the visual receptors combined with a low susceptibility of those views to the proposed change, amounts to a medium level of visual sensitivity associated with the residential component of the scheme the subject of these appeals²⁰. The magnitude of visual effect would be low, given that views of the proposed housing would be fragmented by existing and proposed landscaping, and would represent a relatively minor change in, and component of, the wide scale panoramic views from Chantry Hill and Sullington Hill. Taken together, a low magnitude of visual effect and a medium level of visual sensitivity calibrates to a slight adverse effect overall in terms of the significance of visual effects arising from the proposed residential development²¹. I consider this is representative of the visual effects of this component of the appeal proposals on the setting and landscape of the SDNP.
33. Paragraph 176 of the Framework expects development within the setting of a National Park to be sensitively located and designed to avoid or minimise adverse impacts. The PPG recognises this is especially the case where long views from or to the designated landscape are identified as important²². Whilst the proposed housing on the northern and middle fields within the setting of the SDNP would have a slight adverse effect on the landscape and visual qualities of the National Park, I am satisfied that it would be sensitively located within this setting and, subject to appropriate conditions, that its detailed layout and the landscaping buffer could be designed to minimise adverse impacts and enable the significance of landscape and visual effects to reduce to a minimal adverse level over time. As such, it would be consistent with national policy in this respect.
34. Turning secondly to the landscape and visual effects of the proposed allotments, these would occupy the north-western quadrant of the southern fields, adjacent to Greyfriars Lane and the gardens to The Domain and St. Joseph's Abbey. This part of the site lies within the SDNP, and its landscape is more open and rural, with an irregular pattern of smaller pasture fields, marked by the remnants of hedgerows and tree lines. The allotments would be laid out within two of the fields, including shed bases, access tracks, a waste compound and a hardstanding area for a communal building or seating area. A native hedge is also proposed along the south and east boundaries of the site, which would offer some screening of the allotments in localised views.
35. Although the open pasture in these fields would be replaced by a combination of cultivated plots, small built structures and surfaced paths, the existing hedgerows and tree lines would be retained and enhanced with supplementary

²⁰ Based on the matrix in Table 7 of Appendix 2 to Nicola Brown's PoE

²¹ Using the matrix in Table 8 of Appendix 2 to Nicola Brown's PoE

²² PPG Paragraph: 042 Reference ID: 8-042-20190721

planting. Importantly, this would preserve and reinforce the historic field pattern and the presence of mature hedgerows in the landscape, which are key characteristics of the Scarp Footslopes landscape character type²³. The protection and enhancement of these features, which could be secured by condition, would also help to integrate the allotments into the National Park landscape, and filter views of them from the South Downs, as illustrated in the AVRs.

36. In those views, the allotments would be seen in the context of the wider landscape, which includes other urban fringe uses, such as the settlement edge of Storrington, and industrial and business complexes on Greyfriars Lane and Chantry Lane. Whilst these uses should not be regarded as setting a precedent for the introduction of more urban and peri-urban features into the landscape of the SDNP, their presence does form part of the landscape baseline against which the proposed allotments should be considered. Allotments may not be part of the landscape within the boundary of the SDNP in this location, but they have been considered appropriate elsewhere in the National Park and are common features in urban fringe landscapes. Accordingly, I do not consider that the proposed allotments would be out of character with the surrounding SDNP landscape in this location.
37. With regard to the special landscape qualities of the SDNP, although there would be some loss of pastureland on site, the diverse, inspirational landscapes and breath-taking views from the South Downs would otherwise be conserved and enhanced. As to any effect on the tranquillity of the SDNP, I have seen little substantiated evidence that allotments create more noise and disturbance than would normally be experienced at the edge of a settlement. Furthermore, the baseline position under the SSWNP allocation, which has already been agreed by the Council, would see the allotments relocated to the adjacent middle field, where any effect on the tranquillity of the southern fields would be comparable with that in the location now proposed. The allotments would also provide enhanced opportunities for recreation and learning, contributing to another of the special qualities of the SDNP. It is common ground that an acceptable lighting scheme to support the proposed allotments could be secured by condition, avoiding any adverse impact on the International Dark Skies Reserve within the SDNP, to ensure consistency with Policy SD8 of the SDLP.
38. In quantifying the landscape and visual effects of the allotments, the receiving landscape of the SDNP and the key visual receptors on the scarp slopes, from which the site can be seen, undoubtedly have a high value. But for the reasons given above, I consider that the landscape would have a low susceptibility to the change proposed by the allotments. The retention and enhancement of key visual attributes in the landscape would reinforce its historic character and filter views, with very minor negative consequences due to the loss of pasture. According to the GLVIA3 based methodology²⁴, the combination of a high landscape and visual value and a low susceptibility, indicates that the landscape and visual receptors would have no more than a medium level of sensitivity to the introduction of the proposed allotments. Again, this is consistent with the degree of landscape sensitivity accorded to this part of the site in the Storrington Conservation Area Appraisal.

²³ Page J-16 of the South Downs LCA, September 2020 (CD 16.13)

²⁴ In Table 7 of Appendix 2 to Nicola Brown's PoE

39. I consider the magnitude of landscape and visual effects arising from the allotments to be low adverse. This is because the loss of pasture would be relatively small scale within the extent of farmland landscape in the Scarp Footslopes, the allotments would not be uncharacteristic in an urban fringe location amongst a varied mosaic of urban, peri-urban and rural landscape elements, and the change in view would be minor within the wide scale panoramic views from Chantry and Sullington Hills across the landscape of the Scarp Footslopes, the settlement of Sullington and the Low Weald beyond. Taken together, a low magnitude of effects within a landscape of medium sensitivity to change, would amount to a slight adverse effect overall in terms of the significance of both landscape and visual effects²⁵. Again, as a sense check, in my judgement, the definition of a slight adverse effect²⁶, where the proposal would cause a perceptible but small deterioration in the landscape resource or visual appearance, appropriately describes the degree of landscape and visual effects which would arise from the proposed allotments.
40. Finally, I turn to the landscape and visual effects of the proposed community park, which would occupy the remainder of the southern fields. This element of the appeal proposals is in outline, and therefore details of the access, appearance, layout and landscaping of the community park are not before me for determination. However, sufficient illustrative material and supporting evidence has been submitted to enable me to assess its likely effects on the landscape and scenic beauty of the SDNP and, thereby, its consistency with paragraph 176 of the Framework.
41. The community park is intended to function as a natural greenspace²⁷, which is described in the HDC Open Space, Sport and Recreation Review (OSR) (2021)²⁸ as a site providing wildlife conservation, biodiversity and environmental education and awareness. The typology can include grassland, scrub and wetlands, which are the habitats that the southern fields comprise. The illustrative material in the Design and Access Statement²⁹ indicates the majority of the land being retained as open pasture, rather than a manicured landscape, with new areas of wildflower grassland and native species scrubland habitat created towards the southern boundary, and the historic field boundaries and hedgerows re-established. Public access would be provided via pedestrian gates from Greyfriars Lane and PRow 2685, and a footpath connection from the proposed housing.
42. There was some debate at the Inquiry about the impact on the natural landscape of the SDNP of any paths, signage, interpretation boards, litter/dog waste bins and play areas, which may be necessary to meet the quality and accessibility standards for this type of open space in the OSR. However, footpath signs, bins and interpretation boards could be located at the entrances to the community park, where they would be filtered in the key views by the existing boundary landscaping. The play area is illustrated as a natural feature, up against the western boundary of the park, where it would be unlikely to be visually intrusive. Equally it could be located on the eastern side of the park in the north facing corner of the field or within the landscape buffer closer to the proposed residential development, where its visibility from the scarp slopes would be filtered by trees and hedgerows.

²⁵ Based on the matrix in Table 8 of Appendix 2 to Nicola Brown's PoE

²⁶ In Table 8 of Appendix 2 to Nicola Brown's PoE

²⁷ Paragraph 3.4 of Claire Brockhurst Rebuttal evidence

²⁸ Paragraph 64 of Core Document CD 3.10

²⁹ Core Document 9.11

43. With regard to paths, it is common ground that the proposal would provide improved connectivity to the PRow network³⁰. Whilst the illustrative material shows the route indicatively as a mown pathway, the OSR standards would expect the main path to be laid in tarmac or resin to provide access for people with disabilities to as much of the site as possible. However, with good design it should be possible to incorporate hard surfaced paths in locations where their visual impact on the landscape would be minimised, such as along field edges, where existing and proposed hedgerows could help to filter and fragment views from higher ground to the south. The LPAs would have control over the design, landscaping and management of the community park through reserved matters conditions and through the obligations in Schedule 5 of the S106 agreement. As such, there is little persuasive evidence before me to demonstrate that the proposed community park could not be provided in line with the OSR standards for natural greenspace, whilst retaining the natural qualities of the existing landscape.
44. Applying the GLVIA3 based methodology³¹, whilst the landscape of the southern fields and its visual receptors have a high value, the proposed community park would not be out of character with the open and natural character of this landscape, which would be able to accommodate the change in use, with any negative consequences arising from new paths likely to be very minor. As such, the landscape would have a low susceptibility to this change and, therefore, a medium visual and landscape sensitivity to the proposed community park³². The magnitude of landscape effects would be minimal adverse to low beneficial given that there may be very minor alterations to the existing natural grassland areas to provide accessible paths, along with improvements to hedgerows and field boundaries. By careful design it should be possible to ensure that any changes in the landscape would be very small scale and barely discernible in views from the scarp slopes, such that the magnitude of visual effects would be minimal. A medium level of landscape and visual sensitivity, combined with a minimal change in the magnitude of effects, would result in no more than a minimal adverse effect in terms of the overall significance of effects arising from the community parkland, which the methodology suggests can be regarded as 'de minimis' and therefore neutral³³. Given the landscape improvements that the community park would also offer, I consider this to be a fair assessment of its visual and landscape effects.
45. Overall, I consider that the scale and extent of the proposed development within the SDNP, comprising the allotments and community park, would be limited, in accordance with paragraph 176 of the Framework. Despite the slight adverse effects arising from the housing and allotments, the proposed development would support the special qualities of the SDNP. It would respect its diverse, inspirational landscape and breath-taking views, and not cause harm to its tranquillity. By increasing the number of available allotment plots and giving the local community access to the community park and land within the SDNP for recreation, it would provide great opportunities for recreational activities and learning experiences. The community parkland would also increase the diversity of landscapes and the variety of wildlife and habitats. Taken as a whole, therefore, I conclude that the proposed development would conserve and enhance the landscape and scenic beauty of the SDNP in line with paragraph 176 of the Framework.

³⁰ Paragraph 6.20 of the Planning SoCG

³¹ In Appendix 2 of Nicola Brown's PoE

³² Based on the matrix in Table 7 of Appendix 2 to Nicola Brown's PoE

³³ See Table 8 of Appendix 2 to Nicola Brown's PoE

46. In accordance with the requirements of the National Parks and Access to the Countryside Act 1949, I have had regard to the purposes for which the SDNP was designated. These are to conserve and enhance natural beauty, wildlife and cultural heritage and to promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public. Based on my assessment above, I find that the appeal proposals taken together would meet and support these purposes for the National Park.
47. With regard to the relevant policies of the development plan, the proposal would comply with Policies SD4, SD5 and SD6 of the SDLP and Policies 25, 26 and 30 of the HDPF in that it would integrate with, conserve and enhance the landscape character of the SDNP, and preserve its visual and scenic quality, including the key views from the scarp slopes, with only slight adverse effects, which would reduce to minimal over time. It would not harm the tranquillity of the SDNP and therefore satisfy Policy SD7 of the SDLP.
48. Policy 30 of the HDPF only supports developments close to protected landscapes, such as the SDNP, where there are no adverse effects on their natural beauty or public enjoyment of them. However, this exceeds the expectation of paragraph 176 of the Framework, which states that development with the setting of National Parks should be sensitively located and designed to avoid or minimise adverse impacts. I have concluded that the appeal proposals would be consistent with paragraph 176 of the Framework. Overall, therefore, I find that the landscape and visual effects of the proposed development would satisfy the relevant policies of the development plan and the Framework.

Heritage

49. The submitted evidence identifies three heritage assets as relevant to the appeal site and proposals³⁴:
 - Storrington Conservation Area, which adjoins the north-western boundary of the appeal site;
 - St. Joseph's Abbey, a grade II listed building, which lies within the Conservation Area, and the grounds and curtilage of which abut the appeal site on its north-western side; and
 - The Parish Church of St. Mary the Virgin, a grade II* listed building of medieval origins, located in Greyfriars Lane, to the north-west of the appeal site, and within the Conservation Area.
50. Although none of the heritage assets are within the appeal site, each has a degree of intervisibility with the site. As such, the site forms part of the setting of these heritage assets, which the Glossary in the Framework defines as the surroundings in which heritage assets are experienced. Paragraph 200 of the Framework establishes the need to consider the impact of development within the setting of designated heritage assets, including conservation areas. I also have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of listed buildings, in determining these appeals.

³⁴ Page 11 of Built Heritage Statement, RPS, October 2020 (CD 7.1)

51. I consider below the contribution of the appeal site to the setting and significance of each of the three heritage assets and the effects of the proposed development on their significance.
52. The Conservation Area covers the historic core of Storrington and a number of other character areas within the village, which are identified in the Conservation Area Appraisal and Management Plan (CAAMP)³⁵. The special interest of the Conservation Area is derived primarily from the surviving buildings, street layout and townscape that reveal the historic development of the village through the post-medieval and industrial periods. It is clear that these elements of the character and appearance of the Conservation Area would be preserved, given the location of the appeal site outside of its boundary.
53. The character of the Conservation Area is also influenced by its landscape setting. It is common ground³⁶ that the landscape fringes on the southern side of the Conservation Area make a contribution to its heritage significance, as part of the transition from the settlement to the rural surrounds, illustrating the historic rural context of the southern side of the Conservation Area. The appeal site falls within the south-eastern landscape fringe and therefore contributes to the heritage significance of the Conservation Area through setting.
54. The principle of housing within the middle and northern fields of the appeal site has already been established through the SSWNP allocation. The proposed development would result in housing being closer to the boundary of the Conservation Area at this point. However, with sensitive design and landscaping to this boundary, which the illustrative masterplan shows the potential for and which can be controlled by condition, I am satisfied that the proposed housing would not cause additional harm to the heritage significance of the Conservation Area through setting.
55. The southern fields of the appeal site are adjacent to the Greyfriars Lane Character Area within the Conservation Area. The CAAMP identifies the distinctive rural character of this Area, where the village flows into the countryside and the SDNP along Greyfriars Lane. Whilst the existing farmland landscape of the southern fields contributes to the rural character of Greyfriars Lane, through setting, this is limited to glimpsed views of the fields through the roadside hedge and above the embankment, as described above.
56. The placement of the proposed allotments within the north-western quadrant of the southern fields would only have a very minor effect on the visual perception of the existing rural character of Greyfriars Lane, due to the height of the embankment at this point. For the reasons given above, I do not consider that the type of activity taking place on the proposed allotments would materially harm the baseline levels of rural tranquillity experienced on this edge of the settlement. With the proposed allotments and the community park, the southern fields would still contribute to the transition from the historic settlement to rural surrounds. As such, whilst there would be a change in the appearance and use of the southern fields, the effects of this on the rural character of the southern fringe would be minor. The resulting harm to the heritage significance of the Conservation Area through setting would be less than substantial.

³⁵ Map 9 of Storrington Conservation Area Appraisal and Management Plan, January 2018 (CD 7.13)

³⁶ Pages 5-6 of the Heritage SoCG

57. St. Joseph's Abbey was originally built as a Rectory to the Church of St. Mary. The current building was constructed in the 1870s, in a Gothic revival style, replacing an early 17th century Rectory. It became a convent and boarding school in the 1950s, and was converted and subdivided in the early 21st century into its current residential use. The architectural, historic and archaeological elements of its physical presence that have been preserved, comprise its primary heritage significance as a grade II listed building. The surrounding setting of St. Joseph's Abbey also contributes to its significance, including its gardens and grounds, and the historic and visual relationships with the Church of St. Mary and the Old School.
58. The appeal site lies beyond the existing grounds of St. Joseph's Abbey, but forms part of the wider landscape setting in which the Abbey sits and from where it can be experienced. However, the intervisibility between the appeal site and the Abbey is limited to filtered views to and from the middle field and PRow 2685 to the east, and private views to and from the southern fields. The most significant features in the views from the Abbey to the south are of the South Downs escarpment. Within this context the contribution of the appeal site to the landscape setting of the Abbey is relatively minor. Although old Tithe survey mapping shows that parts of the appeal site had an historic functional association with St. Joseph's, as glebe land to the former Rectory, the physical evidence for this has been lost, and is no longer experienced as part of the setting.
59. My assessment of the effects of the proposed housing on the heritage significance of St. Joseph's are as for the Conservation Area. Namely that the principle of housing within the middle and northern fields of the appeal site has already been established through the SSWNP allocation. Whilst the residential development proposed in these appeals would bring housing closer to the boundary of the grounds to St. Joseph's, with sensitive design and landscaping which could be controlled by reserved matters conditions, in filtered views the proposed housing would not cause additional harm to the heritage significance of St. Joseph's Abbey through setting.
60. The proposed allotments would in part be visible from south facing windows and the roof terrace of St. Joseph's, but filtered by the intervening landscaping within the gardens and grounds of the Abbey. The change in the landscape from pasture fields to cultivated allotments would alter the view, but to a minor degree, and the heritage asset would still retain its historic relationship with the wider panoramic landscape of the SDNP. The allotments would not be co-visible with St. Joseph's in the glimpsed views from Greyfriars Lane. In views within the southern fields, from the proposed allotments and community park, the Abbey would still be appreciated as an historic residence on the edge of the historic core of Storrington. Accordingly, the harm to the heritage significance of St. Joseph's Abbey through the change to its setting in the southern fields, would be less than substantial.
61. The Church of St. Mary, as a grade II* listed building, is a designated heritage asset of the highest significance. It is common ground that the heritage significance of the Church is derived primarily from the architectural, historic and archaeological interests of its physical presence, but also that its setting makes a contribution to its significance³⁷. The Heritage SoCG confirms that the

³⁷ Page 3 of the Heritage Statement of Common Ground, January 2023

- most important elements of the Church's setting are its immediate surroundings within the village. These include the churchyard, St. Joseph's Abbey as the original Rectory to the Church, the Old School buildings to the west, and the topography that gives the Church and its tower a visual prominence above other buildings in this part of the settlement.
62. However, the contribution of the appeal site itself to the setting and significance of the Church is much less evident. The Built Heritage Statement (BHS) assesses the pasture fields of the appeal site as making a moderate contribution to the setting and significance of the Church, due to their '*role in the continued legibility of the historic extent of Storrington village and the traditional rural character space from which the Church is approached from the south*'³⁸. However, for the following reasons, I find this assessment unconvincing.
 63. Whilst the appeal site may define the south-eastern limits of the historic parts of Storrington, this is relevant to the setting of the Conservation Area, rather than the Church. Furthermore, although there are fragmented views into the southern fields of the appeal site from Greyfriars Lane, the Church is not co-visible in these views. Therefore, whilst the rural character of the appeal site may contribute to the experience of travelling along Greyfriars Lane to the south of the village, I am not persuaded that it makes any contribution to the setting of the Church along this route.
 64. There are glimpsed views of the Church tower from the southern and middle fields, which contribute to an appreciation of the Church as an historic landmark within Storrington. However, these views are not publicly accessible and, as such, their value in terms of the heritage interest and significance of the Church is limited. The proposed allotments and houses on the appeal site would be seen in these views, but would not diminish the visibility of the Church, or its historic landmark significance.
 65. On this basis, I find that there would be no material harm to the heritage significance of the grade II* listed Church of St. Mary the Virgin arising from the proposed development. This is consistent with the LPAs' decisions on the applications, which did not reference the effects of the proposed development on the Church as part of the reasons for refusal.
 66. Overall, therefore, whilst the proposed allotments would alter the landscape setting to the Storrington Conservation Area and St Joseph's Abbey, the change would be minor in the wider landscape context. The resulting harm to the heritage significance of the designated assets through setting would be less than substantial. Paragraph 202 of the Framework expects that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal. I consider this below as part of the overall planning balance, where I also deal with the consistency of the proposal with the heritage policies in the development plan.

Water Neutrality

67. Water supply to Horsham District is provided by Southern Water from its Sussex North Water Resource Zone (WRZ). There are several supplies within the WRZ, one of which is a groundwater source at Hardham near Pulborough, in the River

³⁸ Page 15 of CD 7.1

Arun and Western Streams catchment, approximately 3.8 kilometres (km) to the west/north-west of the appeal site. The River Arun and its floodplain contain habitats and species of international importance, recognised within the Arun Valley Special Area of Conservation (SAC), the Arun Valley Special Protection Area (SPA), and the Arun Valley Ramsar site.

68. The position of Natural England (NE)³⁹ is that it cannot with certainty conclude that water abstraction within the Sussex North WRZ is not having an adverse effect on the integrity of the Arun Valley designated sites. This is because there would be a likely significant effect resulting from reduced water levels and flow within their wetland habitats, which could lead to an adverse effect on the integrity of these sites. Accordingly, NE advises that further developments within the WRZ must not add to existing impacts, and that one way of achieving this is to demonstrate water neutrality.
69. It is common ground between the main parties⁴⁰ that the proposed development, without mitigation, would increase water abstraction within the Sussex North WRZ, resulting in a likely significant effect on the integrity of the Arun Valley SAC, SPA and Ramsar sites, either alone or in combination with other plans and projects. Accordingly, the parties agree that mitigation or avoidance measures are required to ensure the appeal scheme would be water neutral.
70. In view of the potential impact of the proposal on the conservation objectives of those qualifying features that would be affected, I am required by Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) ('the Habitats Regulations') to undertake an Appropriate Assessment (AA) of the implications of the proposed development for these sites. In doing so I am required to have regard to the representations of NE as the statutory nature conservation body, and to the manner in which it is proposed the development should be carried out, in terms of any conditions or restrictions, such as legal obligations, to which it is proposed a permission should be given.
71. The LPAs undertook an AA at the application stage⁴¹ and the appellant submitted a shadow Habitats Regulations Assessment⁴² (HRA) with the appeal, in line with the requirements of Policy 31 of the Horsham District Planning Framework (2015) (the HDPF). I have taken these into account in carrying out my assessment of the proposal, as the Competent Authority under the Habitats Regulations, which is set out in the following paragraphs.
72. The Arun Valley SAC, SPA and Ramsar sites consist of the washlands of the Arun River floodplain, which support a series of wetland meadows, alluvial grazing marsh and former raised peat bog, all dissected by a network of ditches. Variation in soils and water supply lead to a wide range of ecological conditions and hence a rich and diverse flora and fauna.
73. The relevant qualifying features comprise: wildfowl and waterbird assemblages, including Bewick's swan, shoveler, teal and wigeon; wetland invertebrates, including the little whirlpool ramshorn snail, for which the Arun Valley is one of

³⁹ Natural England's Position Statement for Applications within the Sussex North Water Supply Zone September 2021 – Interim Approach (CD 8.9)

⁴⁰ Paragraph 3 of the SoCG on Water Neutrality, 24 February 2023

⁴¹ Horsham District Council HRA Screening Matrix and Appropriate Assessment, November 2021 (CD8.7)

⁴² Revised Shadow Habitats Regulations Assessment for Land west of Ravenscroft, Storrington, Jan 2023 (CD 8.11)

only three main population centres in the UK; as well as a range of rare flora, including duckweed, water-cress, milfoils, dropworts and pondweeds.

74. The conservation objectives for the SPA and SAC are to ensure the integrity of the sites by maintaining or restoring the extent, distribution, structure and function of the qualifying habitats and species, the processes on which they rely and the population and distribution of those species within the sites. The hydrology of the Arun River is the major factor affecting the quantity, depth and flow of water within the Arun Valley sites, which in turn contribute to achieving the favourable conservation status of their qualifying features. It follows that any groundwater abstraction that reduces water quantity in the River Arun, could affect water levels and flow within the Arun Valley sites, and thereby associated qualifying features.
75. Therefore, based on the evidence it is reasonable to conclude that, without mitigation, the appeal proposal would result in an adverse effect on the integrity of the Arun Valley sites, either alone or in combination with other plans and projects.
76. In order to achieve water neutrality, the appellant proposes to mitigate the increased demand for mains water from the proposed development through a combination of on-site water reduction measures and an off-site offsetting scheme. In terms of on-site measures, it is proposed to install water efficient fixings, and greywater recycling and rainwater harvesting systems into each dwelling. It is common ground that these measures would reduce potable water consumption from the residential development to 8,129.07 litres per day, subject to suitable management and maintenance to ensure they are effective⁴³.
77. The signed and executed UU contains obligations requiring an On-Site Water Neutrality Scheme to be submitted to, and approved by, the LPAs and implemented prior to first occupation, which would include a regime for the management and maintenance of greywater recycling and rainwater harvesting systems by a management company. I am satisfied this would provide a legally binding mechanism for the LPAs to ensure the long term effectiveness of the measures to reduce potable water use to the required level within the proposed residential development. This position was confirmed by the Council's witness in oral evidence at the Inquiry.
78. Taking account of the additional irrigation requirements for the proposed new allotments, of 669.2 litres per day, it is common ground that a residual balance of 8,798.3 litres per day of mains water use would need to be mitigated through an offsetting scheme⁴⁴ to achieve water neutrality.
79. The appellant seeks to rely on one of two alternative means of offsetting the residual water demand of the proposed development:
- payment of a fee or tariff into an LPA-led offsetting scheme for the Sussex North WRZ as a financial contribution towards an equivalent reduction in mains water demand elsewhere in the WRZ (the strategic offsetting scheme); or
 - installation of a rainwater harvesting scheme at a garden centre in Horsham that would deliver an equivalent reduction in mains water use (the site specific offsetting scheme).

⁴³ Paragraph 11 of the SoCG on Water Neutrality, 24 February 2023

⁴⁴ Paragraph 13 of the SoCG on Water Neutrality, 24 February 2023

80. The strategic offsetting scheme is not yet in place, but how it would operate is explained in the Mitigation Strategy prepared for the Sussex North WRZ⁴⁵. The first element of the Strategy is a programme being implemented by Southern Water to reduce water demand across the network by reducing leakages and household water consumption. This is expected to mitigate a large part of the increase in demand from committed and planned housing growth in the WRZ in the period 2021-2039.
81. The balance of the increased water demand is proposed to be mitigated through an LPA-led offsetting scheme, comprising a series of measures to reduce water demand in social housing and property under LPA control, which would be funded by a tariff on all new development per litre of mains water required to be offset. The most significant measure would be a programme for retrofitting flow regulators into existing social housing stock within the WRZ managed by local authorities or registered social landlords (RSLs), the effectiveness of which has already been demonstrated in trials.
82. Further work is required to implement the LPA-led offsetting scheme⁴⁶, in particular to establish the overall offsetting capacity and the rate at which it is likely to be available from the retrofitting of social housing, determine the prioritisation for development to access the scheme, establish the governing body, and set the charging rates. However, there is a clear momentum to put the strategic offsetting scheme in place as soon as possible to address the shortfall in housing delivery in the WRZ. HDC has confirmed that the scheme should be operational from January 2024⁴⁷ and the Mitigation Strategy states that offsetting capacity delivered by the SW demand reduction programme is likely to be available to contribute to water neutrality in new development proposals in 2025⁴⁸.
83. On the question of prioritisation, the Mitigation Strategy recommends that priority should be given to sites allocated in local plans or identified in the associated housing trajectories, such as through the allowance for windfall, albeit not strategic-scale windfall⁴⁹. In this case, around two-thirds of the proposed residential part of the appeal site is allocated for housing in the SSWNP. The housing proposed on the part of the site allocated for allotments would count as windfall provision, not at a strategic scale, for which an allowance is included in the housing trajectory for Horsham district from 2024/25 onwards⁵⁰. If allowed therefore, the appeal site should be a candidate for priority of access to water neutrality via a payment to the offsetting scheme, given that it forms part of the planned and projected housing growth in Horsham district.
84. I recognise that the governing body for the strategic offsetting scheme is likely to have choices to make in terms of an order of priority for permissions to access the scheme, particularly early on in its operation. However, if the appeal proposals were allowed, the appellant confirmed that they would not need to rely on the strategic offsetting scheme for a period of 18 months from the grant of planning permission, whilst reserve matters were dealt with, the allotments relocated and site infrastructure laid. By that time (early 2025), the LPA-led

⁴⁵ Part C of the Sussex North Water Neutrality Study, published in November 2022 (CD 8.1)

⁴⁶ Paragraph 10 of CD 8.1

⁴⁷ Paragraph 4.30 of Adrian Smith's Proof of Evidence

⁴⁸ Paragraph 119 of CD 8.1

⁴⁹ Page v of Executive Summary and paragraph 54 of CD 8.1

⁵⁰ Appendix 1 to Chapter 3 of Horsham District Council Authority Monitoring Report 2021-22 (CD 5.1)

offsetting scheme would have been operating for around 12 months and offsetting capacity from the SW programme is likely to be available to contribute to water neutrality in planned housing schemes. Furthermore, under the suggested standard time limit condition, the appellant would have up to 5 years from the grant of planning permission for the outline residential component of the proposed development to be implemented. By then (mid-2028), the strategic scheme would have been operating for over 4 years, with further offsetting capacity added to the scheme by both the LPA-led and Southern Water programmes.

85. Therefore, there is firm evidence that the proposed development would be able to access offsetting capacity within the strategic scheme to mitigate its residual water demand. However, case law establishes that in order for a competent authority to reach a conclusion under Regulation 63 of the Habitats Regulations that a project will not adversely affect the integrity of the European site, there must be no reasonable scientific doubt. In order to provide the necessary degree of certainty, the appellant has proposed a 'Grampian' condition and an obligation in the S106 UU, the effect of which would be to prevent implementation of the proposed development until a payment is made to HDC under the strategic offsetting scheme and water neutrality secured.
86. The PPG⁵¹ permits the use of negatively worded conditions in this way, provided they meet the six tests set out in paragraph 55 of the Framework. There is no dispute between the parties that the proposed 'Grampian' condition would be necessary and relevant to planning and the proposed development. In terms of its enforceability and precision, although the strategic offsetting scheme is not yet worked up, the wording of the condition is sufficiently precise, so as to enable the LPAs to take enforcement action, if required, to prevent the proposed development commencing until they have confirmed in writing that water neutrality has been secured.
87. The condition must also be reasonable in all other respects. The LPAs contend it would be unreasonable on a number of grounds. Firstly, because compliance with it is only within the Council's gift and outside of the appellant's control. However, the PPG permits the use of 'Grampian' conditions to deal with situations requiring works on land not within the applicant's control or that requires the consent of another body⁵², which is the case with the implementation of the strategic offsetting scheme. The PPG suggests the use of negatively worded conditions to prevent development until a specified action has been taken, in this case that water neutrality has been secured, as a way to address this. It must therefore be reasonable in this respect.
88. Secondly, it is argued that the 'Grampian' condition is unreasonable because it is unlikely that the proposed development will be able to access the strategic offsetting scheme during the lifetime of the permission. However, for the reasons given above, in my judgement the evidence supports the opposite view. Furthermore, the PPG states that negatively worded conditions should not be used where there are '*no prospects*' at all of the action in question being performed within the time-limit imposed by the permission. The Council's evidence is that there is a very slim, 5%⁵³ prospect of the appeal proposal being able to offset its water demand through the strategic scheme during the

⁵¹ PPG Paragraph: 005 Reference ID: 21a-005-20190723

⁵² Paragraph: 009 Reference ID: 21a-009-20140306

⁵³ Adrian Smith in response to cross examination on 10 March 2023

lifetime of any permission. A slim prospect does not amount to no prospect at all. Therefore, the condition would be reasonable in terms of the likelihood of access to the strategic offsetting scheme.

89. Thirdly, the LPAs are concerned that a permission based on this condition could set a precedent for other speculative, non-strategic proposals to access the strategic offsetting scheme and compromise the mitigation headroom for strategic developments in the emerging local plans. However, it is a core principle of the planning system that each application is determined on its own merits. In this case, I have established above that a large part of the residential component of the appeal site is included in the planned housing growth in Horsham District, and the remainder would contribute to the windfall allowance in the housing trajectory, both of which the Mitigation Strategy recommends should be priorities for the strategic offsetting scheme. Accordingly, the condition would not be unreasonable on this count either.
90. The PPG on AA also expects that any measures used to inform the decision about the effects on integrity need to be sufficiently secured and likely to work in practice⁵⁴. The Grampian condition would secure the measures by preventing development occurring until the mitigation measures were in place. The mitigation strategy also confirms that the LPA-led scheme can provide sufficient certainty that the growth planned in emerging local plans within the WRZ will be water neutral⁵⁵. This supports the view that its measures are likely to work in practice, once it is in place. The condition would therefore be reasonable in this respect as well.
91. With regard to the S106 UU⁵⁶, paragraph 1(a) of Schedule 1 requires a payment into the strategic offsetting scheme described in the mitigation strategy to secure water neutrality. In terms of the three legal tests for planning obligations⁵⁷ it is evident that the offsetting payment would be necessary to make the development acceptable in planning terms and directly related to it. The LPAs contend that without further information on the level of the tariff, it is not possible to determine whether such a payment would be fair and reasonably related in scale and kind, and thereby does not meet the third test. However, the mitigation strategy details the likely cost per litre of water of the proposed offsetting measures and illustrates the potential cost per dwelling under an LPA shared offsetting scheme. There is no suggestion in the strategy that tariffs based on these types of costs would be unsustainable or unviable for housing schemes of different sizes to finance.
92. In terms of its compliance with the provisions of Section 106 of the 1990 Act, paragraph 1(a) of Schedule 1 of the UU prevents the development of the site until HDC confirms that the payment into the strategic offsetting scheme has secured water neutrality. This '*restricts the development of the land in a specified way*' in accordance with Section 106(1)(a) and would be enforceable by the LPAs on the Appellant as the Owner, if the development were to commence prior to this date. Paragraph 1(a) also complies with the wording of Section 106(1)(d), in that the commencement of development is the '*specified date*' prior to which the payment must be made. Section 106(2)(c) does not require the sum of the payment to be specified in the planning obligation, but

⁵⁴ Paragraph: 004 Reference ID: 65-004-20190722

⁵⁵ Pages ix and x of Executive Summary of CD 8.1

⁵⁶ Core Document CD 10.26

⁵⁷ In Regulation 122(2) of the Community Infrastructure Levy Regulations 2010

allows that this may be '*determined in accordance with the instrument by which the obligation is entered into*'. In this case paragraph 1(a) of Schedule 1 of the UU requires the payment to be made into the District Council's offsetting scheme and confirmation from the District Council that the payment has secured water neutrality. The effect of this obligation is to require the payment to be sufficient to secure water neutrality under the terms of the offsetting scheme, which sets the benchmark by which the amount of the payment must be determined. As such, I am satisfied that the obligation under paragraph 1(a) also complies with Section 106(2)(c) of the 1990 Act.

93. NE's position⁵⁸ with regard to the strategic offsetting scheme remains that whilst the mitigation strategy is evolving, decisions on planning applications should await its completion or demonstrate water neutrality by other means. Whilst the advice of NE as the expert national agency on this matter carries significant weight, case law establishes that, as the competent authority, I may lawfully depart from this advice, provided I have cogent reasons for doing so⁵⁹.
94. In this case, there are cogent reasons to depart from NE's advice on the use of the strategic offsetting scheme. Firstly, the combination of the proposed 'Grampian' condition and the S106 UU obligations provide the necessary security to ensure that the appeal scheme could not proceed until water neutrality mitigation through the strategic offsetting scheme is in place, which would avoid an adverse effect on the integrity of the Arun Valley designated sites. Secondly, the timescale between the likely commencement of the strategic offsetting scheme in early 2024 and the implementation date for the residential development on the appeal site, some time between early 2025 and mid-2028, would allow for offsetting capacity to be created within the strategic scheme for the appeal scheme to purchase and proceed.
95. Turning to the site specific offsetting scheme, the appellant proposes to install a rainwater harvesting scheme at Hillier Garden Centre, which is located on the southern edge of Horsham, in the same WRZ as the appeal site. The garden centre currently uses mains water for the irrigation of plants. Although there is an existing tank on site, it was confirmed that this is mains water supplied⁶⁰. In order to achieve water neutrality, the harvesting scheme would need to collect and supply enough rainwater to reduce the use of mains water for irrigation by at least the amount required to offset the increase in mains water use arising from the appeal development.
96. The plans submitted by the appellant show in schematic terms how the scheme would work with above or below ground storage tanks. These show the location of tanks and drainage runs and the building roofs and outdoor surface areas from which rainwater could be collected. Although the final design of the scheme is not fixed, the appellant confirmed that it would involve a combination of both above ground and underground storage tanks⁶¹. A revised set of calculations were submitted with the appellant's rebuttal evidence setting out the rainwater yield potential of such a scheme⁶².

⁵⁸ Natural England's Position Statement for Applications within the Sussex North Water Supply Zone September 2021 – Interim Approach (CD 8.9)

⁵⁹ R. (on the application of Wyatt) v Fareham BC [2022] EWCA Civ 983, paragraph 9 (CD 10.2)

⁶⁰ Paragraph 2.20 of Karl Goodbun's Rebuttal Proof of Evidence

⁶¹ Paragraph 5.46 of Karl Goodbun's Proof of Evidence

⁶² Appendix 3 of Karl Goodbun's Rebuttal

97. The LPAs maintain that in the absence of a final, engineered design, it is not possible to be certain about the rainwater harvesting capacity of the proposed scheme and thereby its ability to offset the appeal proposal. However, I am satisfied that there is sufficient evidence on which to make an assessment of the rainwater yield of the proposed Garden Centre scheme. Moreover, NE has advised that if the competent authority is satisfied the surfaces proposed in the rainwater capture calculations are representative of the proposed offsetting site, and the mitigation measures are appropriately secured, then the proposal will not result in adverse effects on the integrity of the Arun Valley SPA, SAC and Ramsar sites⁶³.
98. Taking into account the evidence of both parties, there are three main questions to consider in order to establish, for the purposes of the AA, whether the site specific scheme is sufficiently secured and likely to work in practice to deliver the required offsetting capacity. The first is the amount of mains water used at the Garden Centre for irrigation. Based on corroborated water meter readings between 2019 and 2022⁶⁴, overall mains water use at the Garden Centre is shown to be 13,466.9 litres per day. The exact amount of water that is used for irrigation is not known, but the operator estimates the proportion to be 80-90% of total usage. The figure of 10,773.5 litres per day used in the evidence represents 80% of the total usage, which is at the precautionary end of the range. Whilst the Council does not consider this to be sufficient evidence, it accepts that the majority of water used at the Garden Centre is likely to be for irrigation purposes. Moreover, NE were consulted on the appellant's water neutrality evidence and did not raise concern about the 80% assumption in their final response⁶⁵. On the basis of the evidence, I am satisfied that the figure of 10,773.5 litres per day is a reliable estimate of the amount of mains water currently used for irrigation at the Garden Centre.
99. The second question is whether the rainwater harvesting scheme envisaged for the Garden Centre would be able to yield sufficient rainwater for reuse to offset the appeal scheme. A formula for calculating rainwater capture in the design of such schemes is provided in the British Standards for the design of rainwater harvesting schemes⁶⁶. The key variables in the calculation are the local rainfall pattern, the size of the collection surface, and the materials and run-off characteristics of the surface, for which a set of coefficients are provided to reflect the average yield of different surface materials⁶⁷.
100. The rainfall figure used in the appellant's evidence of 755.9 mm/year is based on Met Office data for recorded average rainfall within 5 km of the Garden Centre for the period 2015-2022. As the lowest of the available figures, this represents a precautionary input. The seasonality of the rainfall would be addressed by providing suitably sized tanks to store sufficient rainwater for irrigation during a 35 day drought period. The submitted plans show how and where this could be achieved for both above and below ground storage options.
101. The sizes of the collection surfaces are based on survey evidence for the Garden Centre site. The figures used in the different options presented by the appellant vary according to the extent of the roof and surface areas included. However,

⁶³ Natural England response to consultation on the appeal scheme, dated 14 March 2023 (CD 10.16)

⁶⁴ Appendix J of Water Neutrality Statement, dated 24 January 2023 (CD 8.14)

⁶⁵ Natural England response to consultation on the appeal scheme, dated 14 March 2023 (CD 10.16)

⁶⁶ BS EN 16941-1:2018 On-site non-potable water systems – Part 1: Systems for the use of rainwater

⁶⁷ Table 2 on page 19 of BS EN 16941-1:2018

the surface areas used in the rainwater capture calculation in the appellant's rebuttal evidence represent a precautionary figure for the collection surfaces, given that they do not include the full extent of the outdoor surface areas available within the Garden Centre ownership⁶⁸.

102. In terms of the surface materials and their run-off characteristics, the buildings at the Garden Centre are of varying age, but most have pitched roofs covered in profiled metal sheeting, for which the BS coefficient value is 0.9. The area of arched polythene sheet roofing over the covered outdoor display area and circulation route could also reasonably be assigned the same coefficient value as a pitched smooth surface roof. However, as a precautionary measure, the calculation in the appellant's rebuttal evidence uses the lower coefficient of 0.8, for pitched rough surface roofs, for all of the roof areas included.
103. For outdoor surface areas, the appellant has used coefficients of 0.8 and 0.5 for sealed and non-sealed areas respectively, in line with the BS coefficient values. Based on these, the scheme could deliver a rainwater yield of 13,634.9 litres per day, sufficient to replace the full amount of mains water used for irrigation at the Garden Centre and 54% more than would be required to offset the residual mains water use of the proposed development. Although parts of some of the outdoor surfaces are covered with plant displays and stored materials, which would be likely to reduce run-off efficiency, not all of the sealed surfaces on site are included in the calculation, so there would be scope to increase the collection areas by a proportionate amount to compensate for this in any final design, if necessary. Whilst some surfaces may need to be re-engineered to create drainage channels and increase fall gradients, this could easily be incorporated into the final scheme design.
104. Having visited the Garden Centre, I am satisfied that the coefficients used in the appellant's rainwater capture calculation reflect the nature of the roof and outdoor ground surfaces proposed and available to be included in the scheme. Together with the precautionary approach built into the calculation and the headroom in the rainwater yield above the volume required to be offset, this supports the conclusion that a rainwater harvesting scheme at the Garden Centre based on the plans submitted is likely to work in practice to deliver the required offsetting capacity to mitigate the residual mains water demand of the scheme the subject of these appeals.
105. The third question is whether the scheme is sufficiently secured given that neither the Garden Centre land owner nor operator are signatories to the UU. I have no reason to doubt the appellant's explanation for this being due to lease renewal negotiations between the two parties, nor to conclude that this casts doubt on the viability or delivery of a rainwater harvesting scheme, given the obvious financial and environmental benefits it would realise. The UU provides for a Supplemental Deed to be signed by the Garden Centre owner and operator, which would bind them into the obligations under S106 to implement the rainwater harvesting scheme. Clause 7.2 of the UU would prevent the appellant from commencing development until the Supplemental Deed has been provided.

⁶⁸ In Appendix 3 of Karl Goodbun Rebuttal, a figure of 3,708 m² is used for Catchment Type A Sealed Areas, but the total of those areas on the accompanying site plan is 5,547 m².

106. There would be sufficient time within the lifetime of any planning permission granted for the appeal scheme, as discussed above, for the Supplemental Deed to be completed and a detailed engineering design for the rainwater harvesting scheme to be drawn up and implemented. The proposed 'Grampian' condition would prevent any development at the appeal site which would result in an increase in mains water usage, until the site specific offsetting scheme at the Garden Centre set out in the UU has been implemented and the LPA has confirmed water neutrality has been achieved.
107. I was referred to a number of other appeal decisions, in relation to the use of 'Grampian' conditions and the use of strategic and site specific offsetting schemes for water and nutrient neutrality, within Horsham district and elsewhere⁶⁹. However, the relevant details of each case were different to those in these appeals, and none of the decisions sets an irresistible precedent for the determination of this issue. It is a core principle of the planning system that each application is determined on its own merits, which I have done in this case.
108. Overall, the evidence before me demonstrates that the strategic and site specific offsetting schemes are likely to work in practice, to deliver the required reduction in mains water usage to offset the proposed development, within the lifetime of the planning permissions sought. The S106 UU and Grampian condition would act to prevent development proceeding until one of the offsetting schemes is in place, and, therefore, the mitigation is sufficiently secured. As such, there is no reasonable scientific doubt that the proposed development would be water neutral. Whilst this is a high bar, case law establishes that this test does not require absolute certainty and decisions are often necessary on the basis of imperfect evidence⁷⁰.
109. Accordingly, taking account of the proposed mitigation, I conclude that the appeal proposal would not result in an increase in water abstraction in the River Arun and Western Streams catchment of the Sussex North WRZ. Therefore, it would not adversely affect the integrity of the Arun Valley SAC, SPA and Ramsar sites. Consequently, it would be consistent with Policy 31 of the HDPF and Policy SD9 of the SDLP, which seek to protect the hierarchy of designated sites and habitats. The resulting absence of any likely significant effects on these designated sites would also comply with paragraphs 179-181 of the Framework.

Other Matters

Housing supply and affordable housing

110. It is common ground that HDC can only demonstrate a 3-year supply of deliverable housing sites, amounting to a substantial shortfall of 1,987 dwellings in the supply of housing against 5 years' worth of the District's housing requirement⁷¹. The proposed development would provide up to 78 additional dwellings, which I am satisfied could be delivered within the next 5 years, making an important and timely contribution towards meeting the housing needs of Horsham District.
111. In addition, 27 of the proposed new homes would be affordable, amounting to 35% of the total, with a tenure split of 70% affordable rented units and 30%

⁶⁹ Including: APP/Z3825/W/21/3283823 - Land at Duckmoor, Billingshurst; APP/K2610/W/22/3296253 - Land off Wood Dalling Road, Reepham; APP/Z3825/W/21/3283648 - Woodfords, Shipley Road, Southwater; and APP/Z3825/W/21/3281411 - Coppice Hanger, Church Hill, Pulborough.

⁷⁰ WWF-UK Ltd and RSPB v SoS Scotland C.M.L.R. 1021 [1999] Env LR 632.

⁷¹ Paragraphs 6.3 and 6.4 of the Planning SoCG

shared ownership, in accordance with the provisions of Policy 16 of the HDPF. The availability of these homes for local households in housing need would be secured through planning obligations in the signed S106 agreement.

112. Evidence provided by the Appellant, and agreed by the Council at the Inquiry, shows a substantial shortfall of approximately 1,700 dwellings in the number of affordable housing completions against the annual need for affordable homes in the District in the period 2016-2022⁷². It is also common ground that there were 766 households on HDC's housing register, of which 156 were in Storrington at December 2022. Given the extent of the shortfall, I consider that the provision of 27 affordable homes would make an important contribution towards the unmet need and demand for affordable housing both in Storrington and the District as a whole. Overall, given the shortfall in the delivery of both market and affordable housing in the District, I attach substantial weight in the planning balance to the contribution the proposed development would make to both.

Economic benefits

113. It is common ground that the proposed development would deliver economic benefits for the local economy. In the short term, these would arise from the supply of goods, services and jobs in the construction of the development, and in the longer term from the increased demand for local goods and services in the area from its new residents⁷³.
114. The parties dispute the weight to be given to these benefits in favour of the scheme, with the Appellant stating it would be substantial, and the LPAs that it would be moderate due to the modest scale of the proposed development. Paragraph 81 of the Framework states that significant weight should be placed on the need to support economic growth. The proposed development would result in the growth of the local economy. Accordingly, I attach significant weight to the combination of short and long term economic benefits it would generate.

Provision of open space

115. Within the residential scheme two areas of open space are shown on the illustrative masterplan in a central green and at the northern end of the layout, totalling 1,420 square metres (sqm)⁷⁴. For the number of units proposed, the OSR standards require 1,086 sqm of amenity space, and 169 sqm of play/social interaction space for children and young people⁷⁵. The standard for the children's play area would be a Local Area of Play (LAP), given that the appeal site is within 400 metres of a Local Equipped Area of Play (LEAP) in Meadowside. The role of the two open spaces illustrated is not specified as part of the outline proposals. However, it is clear that the residential parcel is large enough to accommodate open spaces of sufficient size for each function in line with the standards, along with housing plots, estate roads and drainage features, as part of a detailed layout that could be conditioned for agreement at reserved matters stage.
116. The community park would be approximately 7,687 hectares in area, significantly in excess of the OSR standard of 4,549 sqm for natural and

⁷² Table 9 at paragraph 5.106 of David Neame's proof of evidence

⁷³ Paragraph 6.20 of the Planning SoCG

⁷⁴ Section 4.12 of the Design and Access Statement, July 2021 (CD 9.11)

⁷⁵ Listed in the response of HDC's Parks and Countryside Officer (Appendix D to Giles Holbrook PoE)

semi-natural open space for up to 78 dwellings, and large enough to rectify the existing deficiency of this type of open space in Storrington. In my view this would also offset the absence of any formal parks and gardens space within the proposed development, which the OSR standards would otherwise expect.

117. I have determined above in relation to landscape impacts, that the community park could be provided in line with the OSR accessibility and quality standards for natural and semi-natural greenspace, whilst respecting the natural qualities of the existing landscape. The park would also increase access to open space within the SDNP and provide new opportunities for the local community and visitors to experience views of the South Downs. As such, the community park would represent a significant public benefit.
118. The proposed allotments would replace the existing Ravenscroft allotments, and increase the overall provision of allotments in Storrington, beyond that required in the OSR standards for the number of dwellings proposed. Given that the existing allotments are oversubscribed, the additional provision would meet a recognised local need. Accordingly, the allotments would also constitute a significant recreational and social benefit to the local community.
119. Overall, therefore, the proposed development would meet and exceed its open space requirements set out in the OSR and Policy 43 of the HDPF. The elements within the SDNP would comply with Policy SD43 of the SDLP in meeting a local need in Storrington for allotments and natural and semi-natural greenspace, and in terms of their accessibility. The proposal is also supported by the Storrington and Sullington Parish Council, indicating that there has been community engagement in line with criterion 1(c) of Policy SD43.
120. With regard to Policy SD25 of the SDLP, whilst the proposed allotments and community park would be located in the SDNP outside of the BUAB of Storrington, I have established above that they would respond appropriately to their landscape context by retaining and enhancing the historic field boundaries and increasing the diversity of habitats. In addition, they would provide community infrastructure for which there is a proven need in Storrington that could not be met elsewhere, in line with criterion (c) of Policy SD25. The site allocated in Policy 2(ii) of the SSWNP would not be large enough to provide the number of allotments proposed or to address the deficit in natural and semi-natural open space, which the proposed development would deliver. On this basis, the proposals would comply with Policy SD25 of the SDLP.

Transport and Highway safety

121. The appeal site is in a location where it is accessible by sustainable modes of transport. It is within convenient walking distance of a wide range of shops and services in Storrington village centre, including the local surgery, and Storrington primary school, which is just to the north of the centre. Bus services with a regular frequency to other settlements in the district and county, where there are higher order facilities, run from stops at the village bus station or on Manley's Hill, which are both within a 10-minute walk of the site. As such, there would be a genuine choice of transport modes available to future residents of the site, that would help in minimising the need to travel. Therefore, in respect of sustainable transport, the proposed development would comply with Policy 40 of the HDPF and Policy SD19 of the SDLP, and be consistent with paragraph 105 of the Framework.

122. Vehicle and pedestrian access to the proposed residential development would be from two new junctions to be formed onto Ravenscroft⁷⁶. It is common ground between the Appellant and West Sussex County Council, as the Highway Authority, that the design of both junctions has been informed by an independent Stage 1 Road Safety Audit, and that they would be safe and suitable to serve the development⁷⁷. Access to the proposed allotments would be gained via the residential scheme, the design and layout of which is a reserved matter that would be subject to control by the LPAs and Highway Authority via conditions.
123. Traffic entering and exiting the site would do so via Ravenscroft and Meadowside onto Manley's Hill, and via Brown's Lane into Church Street and High Street. There are existing pinch points within that network, which traffic from the proposed development would add to. These include: Brown's Lane, where it narrows to a single vehicle width in the approach to the junction with Church Street; at the junction of Meadowside and Manley's Hill; and at the mini roundabout junction of Manley's Hill, High Street and School Hill.
124. The traffic modelling data contained in the Transport Assessment submitted with the appeal shows the volume and distribution of trips predicted to be generated by the proposed development. Although the baseline traffic surveys used in the modelling were undertaken during the period of the COVID pandemic, when there was less traffic on the roads, they were re-based and uplifted to a pre-COVID scenario by suitable margins.
125. The re-based modelling shows an estimated trip generation from the proposed development of a maximum of 40 two-way vehicular trips in the morning peak hour, and 36 two-way trips in evening peak hour. The majority of the trips are predicted to exit the estate via Meadowside onto Manley's Hill, with only one extra trip via Brown's Lane in the morning and evening peak hours. Whilst it is predicted that the additional vehicle trips would result in increased delays at the Meadowside/Manley's Hill junction, and at the Manley's Hill/High Street mini-roundabout, the increases of 2.5 and 6 seconds per vehicle, respectively, would not be significant. None of the junctions were predicted to operate above their theoretical capacity.
126. Whilst I acknowledge the concerns expressed by a number of local residents about the impact of additional traffic on an already busy road network in Storrington, paragraph 111 of the Framework states that development should only be prevented on highways grounds if there would be an unacceptable impact on highway safety or a severe impact on the operation of the road network. The proposed development would not give rise to such levels of highway impact. It would therefore be consistent with the Framework and comply with the requirements of Policies 40 of the HDPF and SD19 of the SDLP in these respects.

Air quality

127. An Air Quality Management Area (AQMA) is designated for parts of Storrington village centre, including sections of Manley's Hill, due to exceedance of the NO₂ annual mean objective. The appeal site is located around 250 metres from the AQMA, and emissions from traffic generated by the proposed development have the potential to add to the existing poor air quality within the AQMA.

⁷⁶ As shown on drawing nos. ITL11290-GA-002 and ITL11290-GA-003

⁷⁷ Paragraph 4.4 of the Transport SoCG (CD 4.7)

128. The Air Quality Assessment submitted with the appeal⁷⁸ predicts negligible impacts at all existing sensitive receptors in the village, with the exception of a slight adverse impact on NO₂ concentrations at one monitoring location in the High Street. However, in accordance with the Air Quality and Emissions Mitigation Guidance for Sussex (2020), the air quality impacts of the proposed development overall would be 'not significant'.
129. The location of the proposed development close to local services and facilities in Storrington and its accessibility by sustainable modes of transport would help to minimise vehicle emissions. However, in order to mitigate its impacts on air quality, in accordance with Policy 24 of the HDPF, the S106 agreement includes a financial contribution of £35,425, to be used for measures identified in the Storrington Air Quality Action Plan. This would meet the tests for planning obligations in paragraph 57 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2010, and ensure the effects of the proposed development on air quality would be neutral.
130. Any dust or pollution arising during the construction phase of the proposed development would be mitigated by means of a Construction Management Plan, which could be secured by condition. This would also manage the safe routing of construction vehicles to and from the site.

Other infrastructure

131. Policy 37 of the HDPF expects the provision of high-speed broadband access for new homes, which could be secured by condition. No evidence has been submitted to indicate a requirement for the mitigation of impacts on other forms of local infrastructure, such as education or healthcare facilities. However, the development would be liable for a payment under HDC's Community Infrastructure Levy Charging Schedule, which would contribute to the improvement of local infrastructure. This would comply with the expectations of Policy 39 of the HDPF.

Other Ecology Matters

132. The appeal site is located approximately 10 kilometres (km) from the Mens SAC, which comprises one of the largest tracts of Atlantic acidophilous beech forest in the south-eastern part of the habitats UK range. One of the qualifying features of this international site is the population of Barbastelle bats that it supports. In order to avoid the potential impacts of development and land use changes on the flightpaths and feeding areas of Barbastelle bats, a 12km 'bat sustenance zone' around the SAC has been identified, within which supporting habitat, such as hedgerows and trees, play an important role in maintaining the populations of this species.
133. The appeal site lays within this zone and contains such functionally linked habitat. Bat survey work undertaken in 2021 shows that Barbastelle bats use the appeal site in low numbers for foraging and commuting purposes. Therefore, there is potential for the proposed development to result in the loss, interruption or diminution of the ecological value of the routes used by these bats to reach their foraging grounds. In turn this could undermine the achievement of the conservation objectives of the Mens SAC with regard to this species of bat.

⁷⁸ Air Quality Assessment, February 2022 (CD 9.14)

134. A range of mitigation and compensatory measures are proposed in the Ecological Impact Assessment (EcIA) and shadow HRA submitted with the appeal. These include: the retention of existing trees and hedgerows wherever possible; restoration of hedgerows within the proposed community parkland; new hedgerows around the proposed allotments; and a sensitive lighting scheme, including dark corridors and no artificial lighting at the new allotments. These are measures which could be secured by condition for detailed design at the reserved matters stage. Subject to appropriately worded conditions, I am satisfied that the proposed development would not give rise to an adverse effect on the integrity of the Mens SAC.
135. The Ebernoe Common SAC is also considered in the shadow HRA as having similar qualifying features for protected bat species. However, the appeal site is located approximately 15.6km from it and therefore outside of the 'bat sustenance zone'. Therefore, the shadow HRA records that there would be no likely significant effects in respect of the Ebernoe Common SAC.
136. The EcIA submitted with the appeals confirms that other protected species were identified during Phase 2 habitat surveys of the site, including great crested newts, nesting birds and reptiles. The site was also found to be suitable for hedgehog and Brown Hairstreak butterfly. Measures are identified in the EcIA which could mitigate the potential for harm arising from the proposed development. These include habitat creation and enhancement, particularly within the community parkland. The details for this could be submitted as part of the reserved matters. Subject to conditions requiring these measures to be agreed and implemented, the proposed development would be able to mitigate or compensate for any potential harm to these protected species and/or their habitats.
137. It is common ground that the proposed development would deliver biodiversity enhancements⁷⁹. The appellant's evidence calculates that net gains of 44% would be achievable for habitats and 20% for hedgerows within the community parkland, which is significantly above the forthcoming national requirement of a 10% biodiversity net gain (BNG). Again, this could be secured by condition, with reference to the provisions of the EcIA. The extent of BNG proposed would be a significant environmental benefit.
138. On this basis, the proposed development would comply with Policy SD9 of the SDLP in respect of biodiversity, Policy SD10 with regard to the integrity of the Mens SAC, and Policy SD11 in respect of the protection of trees and hedgerows on site. It would also satisfy the terms of Policy 31 of the HDPF with regard to the protection of international sites and biodiversity enhancement. Consequently, the proposals would be consistent with paragraphs 179-181 of the Framework in protecting habitat sites and enhancing biodiversity.

Flood risk and drainage

139. The Flood Risk Assessment (FRA) submitted with the appeals shows that the appeal site is located within Flood Zone 1 for fluvial flooding⁸⁰, which is at the lowest risk of flooding. It also confirms that the site is at low risk of surface water and groundwater flooding. Accordingly, the proposed development would satisfy the sequential test in paragraph 162 of the Framework and comply with Strategic Policy 38 of the HDPF and Policy SD49 of the SDLP.

⁷⁹ Paragraph 6.10 of the Planning SoCG

⁸⁰ Appendix G to the Flood Risk Assessment and Drainage Strategy, November 2020 (CD 9.10)

140. The Appellant's Flood Risk and Drainage Statement⁸¹ confirms that no existing watercourses, streams, brooks, ditches, drains or ponds would be removed as part of the proposed development. This should allay concerns that the development could cause the pond within the grounds of St. Joseph's Abbey to dry up. In addition, the existing Storrington flood relief scheme, and the retained wetland grassland and proposed drainage basin at the foot of the Scarp Footslopes, should alleviate surface water flooding and waterlogging in the southern fields.
141. The surface water drainage strategy proposes sustainable drainage techniques, such as permeable paving and attenuation basins with a restricted discharge to the existing watercourses, to control surface water run-off from the residential development. In terms of foul water drainage, there is an existing public sewer in Brown's Lane to which the housing development could be connected. Southern Water has indicated that additional sewer network reinforcement may be necessary to ensure there is sufficient capacity within this sewer to accept foul water flows from the proposed development, but this could be secured by condition.
142. Therefore, subject to the inclusion of pre-commencement conditions requiring the design and future management of drainage to be agreed, the proposed development would not increase the risk of flooding elsewhere. This would ensure compliance with Strategic Policy 38 of the HDPF and DM Policy 50 of the SDLP, and consistency with paragraph 167 of the Framework.

Minerals

143. The appeal site falls within a Soft Sand Mineral Safeguarding Area, as identified in the West Sussex Joint Minerals Local Plan (July 2018) (WSJMLP). Policy M9 of the WSJMLP expects that proposals for non-mineral development within these areas will not be permitted, unless the overriding need for the development outweighs the safeguarding of the mineral and it has been demonstrated that prior extraction is not practicable or environmentally feasible.
144. The Mineral Resource Assessment (MRA) submitted with the appeals shows that the sandstone resource lies predominantly beneath the northern and middle fields of the site, where housing is proposed. It concludes that the site would not be suitable for prior extraction, as the yield would not be cost effective against the operating costs, and due to its location adjacent to existing residential areas, which would limit the amount of possible extraction at the site, thereby making prior extraction commercially unviable.
145. West Sussex County Council, as the Minerals and Waste Planning Authority, requested detailed ground investigations to be undertaken to determine if the site is suitable for incidental mineral extraction of any soft sand resource. However, I am satisfied that, based on the evidence in the MRA, prior extraction is not practically feasible. This part of the site is also already allocated for housing in Policy 2(ii) of the SSWNP, for which there is an overriding need, given the shortfall in the housing land supply. Accordingly, the proposed development would comply with Policy M9 of the WSJMLP, and a condition to secure incidental mineral extraction prior to the commencement of the proposed development would not be reasonable in this case.

⁸¹ Appendix 2 to David Neame's Planning Proof of Evidence

Living conditions and visual amenity of neighbouring occupiers

146. I recognise that the relocation of the allotments to the north-western quadrant of the southern fields would alter the view from the south facing windows and rear garden of The Domain and St. Joseph's Abbey. However, case law establishes that whilst there may be a public interest in the protection of the character of an area, which may be affected by a development, the private view from a window is not of itself regarded as a planning matter⁸². Therefore, the effect of the proposals on the private views from these properties is not a matter which carries weight in the determination of these appeals.
147. The potential effect on the privacy of the occupiers of neighbouring residential properties, through overlooking, is a relevant planning matter. However, both the allotments and the proposed housing are shown to be set away from the northern and western boundaries of the site, which would enable appropriate separation distances to be maintained in order to avoid the potential for overlooking. This could be controlled by conditions requiring approval of the layout of the development as part of the reserved matters.

Planning Balance

148. Due to the absence of a 5 year supply of deliverable housing sites, the presumption in favour of sustainable development in paragraph 11(d) of the Framework applies in these appeals. This means granting permission for the proposed development unless:
- the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed; or
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
149. The policies in the Framework which protect National Parks, habitats sites, such as SPAs, SACs, Ramsar sites, and designated heritage assets, are included in paragraph 11(d)(i) under Footnote 7 of the Framework.
150. I have concluded above that the proposed development would be consistent with paragraph 176 of the Framework in respect of its effects on the landscape and scenic beauty of the SDNP. There is no reasonable scientific doubt that the proposed Grampian condition and the obligations in the S106 UU would ensure the proposed development is water neutral prior to occupation and/or commencement, and thereby that there would be no adverse impacts on the integrity of the Arun Valley SPA, SAC and Ramsar sites. The on-site biodiversity and landscape protection and enhancement measures proposed within the EcIA and shadow HRA, which can be secured by condition, would also ensure no adverse effects on the integrity of the Mens SAC, with regard to foraging habitats for Barbastelle bats.
151. The harm to the settings and significance of St Joseph's Abbey and the Storrington Conservation Area would be less than substantial. In such

⁸² Laura C and Others v London Borough of Camden and SoS for the Environment Transport and The Regions [2001] EWHC Admin 1116

circumstances, paragraph 202 of the Framework requires that the harm to designated heritage assets should be weighed against the public benefits of the proposals. Although the harm to heritage significance in this case would be less than substantial, paragraph 199 of the Framework expects that great weight should be given to the assets' conservation.

152. The public benefits of the proposed development, include the provision of up to 78 dwellings, including 27 affordable homes, to which I attach substantial weight, given the scale of the shortfall in the 5 year housing land supply and in the delivery of affordable housing against the housing needs in Horsham District. I also attach significant weight, respectively, to the recreational and social benefits of the proposed community park and the additional allotments that would be provided over and above the existing level of provision, significant weight the environmental benefits of the proposed level of BNG, and significant weight to the short and long term economic benefits of the proposed development.
153. Overall, I consider that the combination of the public benefits that the appeal proposals would bring are sufficient to outweigh the less than substantial harm to the designated heritage assets in this case. Consequently, there are no clear reasons for refusing the development proposed under paragraph 11(d)(i) of the Framework, in relation to policies in the Framework that protect areas or assets of particular importance, comprising the SDNP, habitats sites and designated heritage assets.
154. Turning to the so called 'tilted balance' in paragraph 11(d)(ii) of the Framework. Given that I find the proposed development would, taken as a whole, conserve and enhance the landscape and scenic beauty of the SDNP, this does not weigh against the appeal proposals. The effects of the proposed development on the operation and safety of the highway network, air quality, flood risk and drainage would all be acceptable with the mitigation measures proposed in place, and, therefore, carry neutral weight in the balance. The effects on the integrity of protected habitats would also be mitigated, and therefore likewise attracts neutral weight.
155. Although the less than substantial harm to the designated heritage assets does not provide a reason for refusing the appeal proposals under paragraph 11(d)(i) of the Framework, it is as an adverse impact to be weighed in the 'tilted balance'. However, given that I find the public benefits arising from the appeal proposals are sufficient to outweigh the heritage harm, it follows that, under paragraph 11(d)(ii), the adverse impacts of the proposed development would not significantly and demonstrably outweigh the benefits of the proposed development, when assessed against the policies of the Framework taken as a whole. Accordingly, under both limbs of paragraph 11(d) of the Framework, the appeal proposals benefit from the presumption in favour of sustainable development.
156. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Whilst under paragraph 11(d) of the Framework the most important policies for determining this appeal are deemed to be out of date, they still carry weight in assessing whether the proposal accords with the development plan.

157. The appeal site is located within the BUAB of Storrington and therefore complies with the spatial plan for the Parish in Policy 1 of the SSWNP. In totality, the proposed development delivers the requirements in Policy 2(ii) of the SSWNP for housing and replacement allotments accessed from Ravenscroft. Whilst the location of the proposed allotments would not strictly accord with criterion b of Policy 2(ii), they would be provided in an adjacent and equally accessible location. The opportunity to provide additional housing and allotments to meet the needs of the local community, by locating the allotments within the southern fields, justifies the limited policy breach.
158. The proposals are consistent with Strategic Policies 2, 3 and 4 of the HDPF in that the housing development would be located in Storrington as a defined settlement and the site is allocated in the SSWNP. I have also concluded above that they would comply with the development strategy for the SDNP in Strategic Policy SD25 of the SDLP, in respect of those elements of the proposed development located within the National Park.
159. I have found that the proposed development would satisfy Policies 25, 26 and 30 of the HDPF and Policies SD4, SD5, SD6, SD7 and SD8 of the SDLP in respect of its landscape effects. It would also be consistent with Policy 31 of the HDPF and Policies SD9, SD10, SD11 and SD17 of the SDLP with regard to the protection of designated international sites, habitats, trees and hedgerows, and the water environment.
160. In terms of heritage effects, I have applied the test in paragraph 202 of the Framework and concluded that the less than substantial harm is outweighed by the benefits of the proposed development in this case. Policy 34 of the HDPF and Policies SD12 and SD15 of the SDLP do not reflect this element of national policy. To the extent that the proposed development conflicts with their wording, the policies of the Framework are a material consideration that indicate the appeals should be determined otherwise than in strict adherence to Policies 34, SD12 and SD15.
161. Policies 32 and 33 of the HDPF would be met with respect to the design of the proposed allotments, and are capable of being met within the outline components, through reserved matters applications, which would be subject to the control of the LPAs via conditions. I have found that the proposals comply with Policies 38, 39, 40 and 43 of the HDPF and Policies SD19, SD43, SD49 and DM50, in respect of open space provision, transport and highway safety, flood risk and drainage, and the provision of infrastructure, and with Policy M9 of the WSJMLP in respect of mineral safeguarding.
162. On this basis, I conclude that the proposed development in these appeals accords with development plan when considered as a whole.

Conditions and Planning Obligations

163. The parties submitted a set of suggested planning conditions in respect of both appeals, which were discussed at the Inquiry. I have considered which conditions are required having regard to the tests contained in paragraph 56 of the Framework and the Planning Practice Guidance.
164. Conditions to specify the approved plans for the development to take place respectively in Horsham District and the SDNP are necessary for the avoidance of doubt and in the interests of good planning. A condition requiring

the vehicular access to be constructed in accordance with the approved plans in Horsham District is necessary for highway safety. It is also necessary to specify the reserved matters to be submitted for approval and the time limits for their submission and the subsequent implementation of the permissions in accordance with the requirements of the Act.

165. Conditions preventing the removal of existing habitats without a licence from Natural England or the relevant licensing body, and to require the submission of a biodiversity mitigation and enhancement plan, a lighting scheme and a landscape and ecological management plan as part of the reserved matters, are necessary and reasonable to conserve protected species and ensure compliance with duties under the Habitats Regulations and the Wildlife & Countryside Act 1981. Conditions requiring arboricultural method statements to be submitted, approved and implemented prior to commencement are also necessary to protect trees and hedgerows, which form part of the retained landscape features.
166. To preserve any archaeological heritage on site, a scheme of archaeological investigation and a programme of works is required to establish the presence or absence of archaeological remains and, where necessary, to preserve or record them before construction starts. Conditions to require the submission, approval and implementation of a drainage strategy prior to commencement are also necessary and reasonable to ensure surface and foul water from the development are properly drained and to ensure flooding is not increased elsewhere.
167. Conditions to require a construction and environmental management plan for controlling the movement and parking of construction vehicles, storage of materials, noise, dust, emissions and waste during the construction phase, and to control the hours of construction are necessary to safeguard the amenities of the occupiers of surrounding properties and ensure highway safety. Conditions requiring a preliminary risk assessment and investigation of any contamination on site, together with a subsequent remediation scheme if required, and to control any soils to be used on the site, are both reasonable and necessary to avoid risks of pollution to neighbouring land, future users, controlled waters and ecology.
168. A condition requiring the provision of infrastructure to support super-fast broadband within the proposed residential development is also necessary and reasonable to comply with the development plan.
169. Finally 'Grampian' conditions are included to prevent implementation of the proposed development until water neutrality has been secured under the strategic offsetting scheme or the site specific mitigation scheme set out in the S106 unilateral undertaking. These are necessary to avoid any adverse effects on the integrity of the Arun Valley SAC, SPA and Ramsar sites.
170. The permissions are also subject to the legal agreement, dated 27 April 2023, and the unilateral undertaking, dated 18 April 2023, under Section 106 of the 1990 Act, to secure the provision and management of 35% affordable housing, the community parkland, open space and replacement allotments on-site; the water neutrality mitigation measures both on and off-site; and a financial contribution of £35,425 for the provision of air quality mitigation measures off-site. The obligations accord with the development plan and are required to mitigate the impact of the proposed development. As such they

are necessary to make the development acceptable in planning terms. They are also directly related to the development and fairly and reasonably related in scale and kind to it. Accordingly, the deeds meet the tests set out in paragraph 56 of the Framework and in Regulation 122 of the CIL Regulations 2010 (as amended).

Conclusion

171. For the reasons given above, and having regard to all other matters raised, I conclude that both appeals should be allowed and planning permission granted, subject to the conditions specified in the attached Schedules, the S106 unilateral undertaking dated 18 April 2023 and the S106 agreement, dated 27 April 2023.

M Hayden

INSPECTOR

Richborough

SCHEDULE OF CONDITIONS FOR APPEAL A (APP/Z3825/W/22/3308455)

1. The development hereby permitted shall be undertaken in strict accordance with the following approved plans:

Existing Site Plan	RAS-CPL-ZZ-00-M2-A-10001 P2	09/09/21
Access to Ravenscroft	ITB11290-GA-002	09/09/21
Initial Site Access Arrangement	ITB11290-GA-003	09/09/21

2. (a) For the outline component of the scheme approval of the details of the layout of the development, the scale of each building, the appearance of each building, and the landscaping of the development (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
- (b) Plans and particulars of the reserved matters referred to in condition (a) above, relating to the layout of the development, the scale of each building, the appearance of each building, and the landscaping of the development, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.
- (c) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission.
- (d) The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
3. No development, or the removal of existing habitat features, shall in any circumstances commence unless the Local Planning Authority has been provided with either:
 - (a) Licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorizing the specified activity/development to go ahead; or
 - (b) 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.
4. No development shall commence, including demolition pursuant to the permission granted, ground clearance, or bringing equipment, machinery or materials onto the site, until an Arboricultural Method Statement detailing all trees/hedgerows on site and adjacent to the site to be retained during construction works, and measures to provide for their protection throughout all construction works, has been submitted to, and approved in writing by, the Local Planning Authority. The development shall be implemented and thereafter carried out at all times strictly in accordance with the agreed details. Any trees or hedges on the site which die or become damaged during the construction process shall be replaced with trees or hedging plants of a type, size and in positions agreed by the Local Planning Authority.

5. No development shall take place until a programme of archaeological work has been secured in accordance with a Written Scheme of 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 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.
6. No development shall commence until a drainage strategy detailing the proposed means of foul and surface water disposal has been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.
7. No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the details shown on drawing number ITB 11290-GA-002 and ITB 11290-GA-003.
8. The development hereby approved shall not commence until a Construction and 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 (to include details shown on a plan), including the 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. The anticipated number, frequency and types of vehicles used during construction;
 - v. Details regarding parking of site operatives and visitors, deliveries, and storage (to include details shown on a plan);
 - vi. The method of access and routing of vehicles to and from the construction site;
 - vii. The impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders);
 - viii. Locations and details for the provision of wheel washing facilities and dust suppression facilities (to include details shown on a plan)
 - ix. Details of the hours of works and other measures to mitigate the impact of construction on the amenity of the area and safety of the highway network;
 - x. Details of any floodlighting, including location, height, type and direction of light sources, hours of operation and intensity of illumination; and
 - xi. Details pertaining to the protection of gas-pipeline infrastructure.The construction shall thereafter be carried out in accordance with the details and measures approved in the CEMP for the related phase.

9. 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 be 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; and
 - potentially unacceptable risks arising from contamination at the site.

The following aspects (b) – (c) 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, based on (a) 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 a verification plan providing details of what data will be collected in order to demonstrate that the remedial works are complete.

The scheme shall be implemented as approved prior to the commencement of development above ground-floor slab level. Any changes to these components require the consent of the Local Planning Authority.

10. A Biodiversity Mitigation and Enhancement Strategy for protected and Priority species shall be submitted to, and approved in writing by, the Local Planning Authority. The content of the Biodiversity Mitigation and Enhancement Strategy shall be in broad accordance with the details contained in the Ecological Impact Assessment (The Ecology Co-Op, December 2021) and shall include the following:

- a) purpose and conservation objectives for the proposed measures;
- b) detailed designs and/or working method(s) to achieve stated objectives;
- c) locations of proposed mitigation and enhancement measures by appropriate maps and plans;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the mitigation and enhancement measures; and
- f) details of initial aftercare.

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter. 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.

11. A lighting design scheme for biodiversity shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.
12. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to occupation of the development. The content of the LEMP shall include the following:
 - a) Description and evaluation of features 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.
 - e) Prescriptions for management actions.
 - f) Preparation of a work 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 LEMP 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 LEMP 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 will be implemented in accordance with the approved details.
13. Prior to the first occupation of each dwelling, the necessary in-building physical infrastructure and external site-wide infrastructure to enable superfast broadband speeds of 30 megabytes per second through full fibre broadband connection shall be provided to the premises.
14. No soils shall be imported or re-used within the development site until the developer has submitted details of the chemical testing and assessment of the soils which demonstrates the suitability of the soils for the proposed use. The assessment shall be undertaken by a suitably qualified and competent person and full details shall be submitted to, and approved in writing by, the Local Planning Authority. Prior to the first occupation (or use) of any part of the development hereby permitted, a written verification report shall be submitted which demonstrates only soils suitable for the proposed use have been placed. The verification report shall be submitted to, and approved in writing by, the Local Planning Authority.

15. No works for the implementation of the development hereby approved shall take place outside of 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays nor at any time on Sundays, Bank or public Holidays
16. No development shall commence that results in an increased use of potable water when compared with the existing baseline water usage at the site until either:
 - (1) Water neutrality mitigation has been secured via the Council's adopted Offsetting Scheme (in line with the recommendations of the Sussex North Water Neutrality Study: Part C – Mitigation Strategy, Final Report, December 2022) as set out in the Planning Obligation that accompanies this planning permission and this has been confirmed in writing by the Local Planning Authority; or
 - (2) The site specific Water Neutrality Mitigation Scheme set out in the Planning Obligation that accompanies this planning permission has been implemented in accordance with the requirements set out in the Planning Obligation and the Local Planning Authority has given its written confirmation of the same.

Richborough

SCHEDULE OF CONDITIONS FOR APPEAL B (APP/Y9507/W/22/3308461)

1. The development hereby permitted shall be undertaken in strict accordance with the following approved plans:

Existing Site Plan	RAS-CPL-ZZ-00-M2-A-10001 P2	09/09/21
Ravenscroft Allotments Landscape Plan	7288.LP.5.0 B	20/02/23

2. (a) For the outline component of the scheme approval of the details of the layout of the development, the scale of each building, the appearance of each building, and the landscaping of the development (hereinafter called "the reserved matters") shall be obtained from the National Park Authority in writing before any development is commenced.
- (b) Plans and particulars of the reserved matters referred to in condition (a) above, relating to the layout of the development, the scale of each building, the appearance of each building, and the landscaping of the development, shall be submitted in writing to the National Park Authority and shall be carried out as approved.
- (c) Application for approval of the reserved matters shall be made to the National Park Authority before the expiration of 3 years from the date of this permission.
- (d) The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
3. No development, or the removal of existing habitat features, shall in any circumstances commence unless the local planning authority has been provided with either:
 - (a) Licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorizing the specified activity/development to go ahead; or
 - (b) 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.
4. No development shall commence, including demolition pursuant to the permission granted, ground clearance, or bringing equipment, machinery or materials onto the site, until an Arboricultural Method Statement detailing all trees/hedgerows on site and adjacent to the site to be retained during construction works, and measures to provide for their protection throughout all construction works, has been submitted to, and approved in writing by, the National Park Authority. The development shall be implemented and thereafter carried out at all times strictly in accordance with the agreed details. Any trees or hedges on the site which die or become damaged during the construction process shall be replaced with trees or hedging plants of a type, size and in positions agreed by the National Park Authority.
5. No development shall take place until a programme of archaeological work has been secured in accordance with a Written Scheme of Investigation which has

been submitted to, and approved in writing by, the National Park 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 and that provision for analysis, publication and dissemination of results and archive deposition has been secured and approved by the National Park Authority in writing.

6. No development shall commence until a drainage strategy detailing the proposed means of foul and surface water disposal has been submitted to, and approved in writing by, the National Park Authority. The development shall be carried out in accordance with the approved scheme.
7. The development hereby approved shall not commence until a Construction and Environmental Management Plan (CEMP) has been submitted to, and approved in writing by, the National Park 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 (to include details shown on a plan), including the 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. The anticipated number, frequency and types of vehicles used during construction;
 - v. Details regarding parking of site operatives and visitors, deliveries, and storage (to include details shown on a plan);
 - vi. The method of access and routing of vehicles to and from the construction site;
 - vii. The impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders);
 - viii. Locations and details for the provision of wheel washing facilities and dust suppression facilities (to include details shown on a plan)
 - ix. Details of the hours of works and other measures to mitigate the impact of construction on the amenity of the area and safety of the highway network;
 - x. Details of any floodlighting, including location, height, type and direction of light sources, hours of operation and intensity of illumination; and
 - xi. Details pertaining to the protection of gas-pipeline infrastructure.

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

8. 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 be submitted to, and approved in writing by, the National Park 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; and
- potentially unacceptable risks arising from contamination at the site.

The following aspects (b) – (c) 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, based on (a) 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 a verification plan providing details of what data will be collected in order to demonstrate that the remedial works are complete.

The scheme shall be implemented as approved prior to the commencement of development above ground-floor slab level. Any changes to these components require the consent of the National Park Authority.

9. A Biodiversity Mitigation and Enhancement Strategy for protected and Priority species shall be submitted to, and approved in writing by, the National Park Authority. The content of the Biodiversity Mitigation and Enhancement Strategy shall be in broad accordance with the details contained in the Ecological Impact Assessment (The Ecology Co-Op, December 2021) and shall include the following:
- a) purpose and conservation objectives for the proposed measures;
 - b) detailed designs and/or working method(s) to achieve stated objectives;
 - c) locations of proposed mitigation and enhancement measures by appropriate maps and plans;
 - d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
 - e) persons responsible for implementing the mitigation and enhancement measures; and
 - f) details of initial aftercare.

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter. 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.

10. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the National Park Authority prior to occupation of the development. The content of the LEMP shall include the following:
- a) Description and evaluation of features 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.

- e) Prescriptions for management actions.
- f) Preparation of a work 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 LEMP 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 LEMP 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 will be implemented in accordance with the approved details.

11. No soils shall be imported or re-used within the development site until the developer has submitted details of the chemical testing and assessment of the soils which demonstrates the suitability of the soils for the proposed use. The assessment shall be undertaken by a suitably qualified and competent person and full details shall be submitted to, and approved in writing by, the National Park Authority. Prior to the first occupation (or use) of any part of the development hereby permitted, a written verification report shall be submitted which demonstrates only soils suitable for the proposed use have been placed. The verification report shall be submitted to, and approved in writing by, the National Park Authority.
12. No works for the implementation of the development hereby approved shall take place outside of 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays nor at any time on Sundays, Bank or public Holidays
13. No development shall commence that results in an increased use of potable water when compared with the existing baseline water usage at the site until either:
 - (1) Water neutrality mitigation has been secured via Horsham District Council's adopted Offsetting Scheme (in line with the recommendations of the Sussex North Water Neutrality Study: Part C – Mitigation Strategy, Final Report, December 2022) as set out in the Planning Obligation that accompanies this planning permission and this has been confirmed in writing by the National Park Authority; or
 - (2) The site specific Water Neutrality Mitigation Scheme set out in the Planning Obligation that accompanies this planning permission has been implemented in accordance with the requirements set out in the Planning Obligation and the National Park Authority has given its written confirmation of the same.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITIES:

Noemi Byrd, of Counsel	instructed by Horsham District Council (HDC)
Nicola Brown BA(Hons), BLand Arch, Cert UD, CMLI	Director, Huskinsson Brown Associates
Adrian Smith BA(Hons), MA, MRTPI	Major Applications Team Leader, HDC
Sean Rix BA, MSc, IHBC	Senior Conservation Officer, HDC
Giles Holbrook MSc, LLB(Hons)	Senior Planning Officer, HDC

FOR THE APPELLANT:

Heather Sargent, of Counsel	instructed by Neame Sutton Ltd
James Bevis MSc(Eng), CMILT, MCIHT	Partner, i-Transport LLP
Timothy Wood BEng, CWEM, MCIWEM	Technical Director, Stuart Michael Associates
Clare Brockhurst BSc(Hons), Dip LA, FLI	Director, Leyton Place Ltd
Karl Goodbun BSc(Hons), MCIEEM	Director, Ecology Solutions Ltd
Gail Stoten BA(Hons) MCIfA FSA	Heritage Executive Director, Pegasus Group
David Neame BSc(Hons), MSc, MRTPI	Director, Neame Sutton Ltd

INTERESTED PARTIES:

Mr Sean Stephens	Local Resident
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DOCUMENTS SUBMITTED AT THE INQUIRY

- CD 10.1 R. (on the application of Hudson) v Windsor and Maidenhead RBC [2019] EWHC 3505 (Admin)
- CD 10.2 R. (on the application of Wyatt) v Fareham BC [2022] EWCA Civ 983
- CD 10.3 Errata to Landscape Proof of Evidence (PoE) of Nicola Brown for the LPAs
- CD 10.4 LPAs' Rebuttal PoE on Water Neutrality
- CD 10.5 Review to Environmental Health Officer comments on Air Quality, Wardell Armstrong for the Appellant (26/11/21)
- CD 10.6 Amended Mineral Resource Assessment for Land West of Ravenscroft, Storrington - Wardell Armstrong (March 2022)
- CD 10.7 S106 Unilateral Undertaking for Land at Duckmoor, East of Billingshurst relating to Appeal Ref: APP/Z3825/W/21/3283823 (21/12/22)
- CD 10.8 Schedule of Appeal Plans (30/3/23)
- CD 10.9 Appellant's opening statement (7/3/23)
- CD 10.10 Opening Statement on behalf of the Councils, including Annex Note on Appropriate Assessment (6/3/23)
- CD 10.11 Application for Costs on behalf of Horsham District Council (6/3/23)
- CD 10.12 Map of locations of Viewpoints A to D in Appellant's Landscape Evidence Volume 2, Appendix LP5 (March 2023)
- CD 10.13 Draft Suggested Conditions for the appeal scheme (9/3/23)
- CD 10.14 Draft S106 Agreement for the appeal scheme (6/3/23)
- CD 10.15 Map entitled Information for unaccompanied site visit (Drawing No. 912-HBA-PI-002 Rev: B) showing location of viewpoints A-C, the appeal site and relevant listed buildings (28/2/23)
- CD 10.16 Updated response from Natural England on appeal applications (14/3/23)
- CD 10.17 Email dated 14/3/23 from Mr Sean Stevens providing response to revised Allotment Landscape Plan (Ref. 7288.LP.5.0/Rev B)
- CD 10.18 Revised Draft Suggested Conditions (submitted 21/3/23)
- CD 10.19 Draft Revised S106 Agreement (submitted 21/3/23)
- CD 10.20 Draft Revised S106 Unilateral Undertaking (submitted 21/3/23)
- CD 10.21 Advice from Kings Chambers to Horsham District Council regarding proposed Grampian condition (dated 18/3/23)
- CD 10.22 Final version of Suggested Conditions (dated 30/3/23)
- CD 10.23 Final S106 Unilateral Undertaking (dated 30/3/23)
- CD 10.24 Final S106 Agreement (dated 30/3/23)

DOCUMENTS SUBMITTED FOLLOWING THE CLOSE OF THE INQUIRY

- CD 10.25 Appellant response to LPA's claim for costs (dated 17/4/23)
- CD 10.26 S106 Unilateral Undertaking – signed and certified (dated 18/4/23)
- CD 10.27 S106 Agreement – signed and certified (dated 27/4/23)
- CD 10.28 Closing statement on behalf of the Councils (dated 19/4/23)
- CD 10.29 Closing submissions on behalf of the Appellant (dated 24/4/23)
- CD 10.30 Appellant's Response to the Legal Advice submitted on behalf of the LPAs (dated 24/4/23)
- CD 10.31 Council's Reply to the Appellant's Costs Response (dated 24/4/23)

Richborough



Costs Decisions

Inquiry held on 7-10, 20-22, 27 and 31 March 2023

Site visit made on 10 March 2023

by M Hayden BSc, Dip TP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th October 2023

Costs application in relation to Appeal Refs: APP/Z3825/W/22/3308455 and APP/Y9507/W/22/3308461

Land West of Ravenscroft, Storrington, West Sussex, RH20 4EH

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Horsham District Council for a partial award of costs against A2Dominion.
 - The Inquiry was in connection with the above linked appeals against the refusal of planning permission for Hybrid applications consisting of full permission for the relocation and enhancement of the Ravenscroft Allotment site and outline planning permission for up to 78 homes with all matters reserved except access (excluding internal estates roads) from Ravenscroft, and new community parkland.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) states that costs may be awarded against a party at appeal, where that party has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Claims can be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal.
3. The Council's claim, in respect of both appeals, is procedural and, in summary, is made on two grounds:
 - (a). That the Appellant did not submit their full case on water neutrality with the appeals, delayed the provision of key information on their revised water neutrality strategy until 31 January 2023, and presented information on rainwater yield coefficients in an inaccurate and misleading way, leading Natural England and the Council to misinterpret the case, and the Council to incur unnecessary and wasted expense in terms of counsel's advice and officer time redrafting its evidence.
 - (b). That the Appellant did not clarify in their statement of case (SoC) the basis of their challenge to the Council's housing land supply (HLS) evidence, and did not indicate that this challenge would be withdrawn until 4 weeks after the publication of the Council's 2022 Annual Monitoring Report (AMR), resulting in wasted officer time in preparing a proof of evidence on HLS which was not necessary.

4. I have considered the Council's claim in the light of the evidence and processes for the related appeals, the Appellant's response to the claim and the Council's final comments on it.

Ground (a)

5. The Council's claim of unreasonable behaviour on the part of the Appellant with regard to their evidence on water neutrality revolves around three main points, which are summarised in paragraph 15 of the Council's claim. I consider each point in order below.
6. Firstly, the Council states that the Appellant failed to provide their full case on water neutrality with their SoC. However, it is apparent from the evidence before me that, at the time of submitting the appeals on 6 October 2022, the Appellant's water neutrality mitigation strategy relied upon retrofitting water efficiency measures into existing housing stock in their ownership elsewhere in the Sussex North Water Resources Zone (WRZ). This is clearly set out in their SoC, and therefore complied with the guidance on making appeals and the content of SoCs contained in the Procedural Guide¹. As such, the Appellant did not fail to provide their full case on water neutrality, as it existed at the time they submitted the appeals.
7. However, the Council subsequently published proposals for a strategic offsetting scheme to achieve water neutrality for new development in the Sussex North WRZ, on 25 November 2022². This changed the evidence base for water neutrality relevant to the appeals. In response, the Appellant informed the Council on 9 December 2022 that they would be relying on the strategic offsetting scheme, together with on-site water reduction measures, to ensure water neutrality for the proposed development. The Council subsequently published their SoC on the appeals on 14 December 2022, in which they stated that, for a number of reasons, the strategic offsetting scheme could not be relied upon to provide certainty of water neutrality for the proposed development.
8. Whether or not the strategic scheme was sufficiently far advanced to be relied upon for mitigation, is a substantive matter that went to the heart of the evidence on the water neutrality strategy in these appeals, on which I have reached my decision separately. However, it was reasonable in procedural terms for the Appellant to notify the Council at that stage in the appeal process of their intention to alter their strategy for water neutrality, based on detailed evidence of a forthcoming strategic offsetting scheme that had not been published at the time the appeals were submitted.
9. The Appellant informed the Case Management Conference (CMC) on 20 December 2022 that they were preparing an alternative water neutrality strategy to that on which the applications were determined. The purpose of the CMC is to provide an early opportunity for the Inspector to discuss with and give directions to the main parties on the presentation and preparation of evidence to the Inquiry. Therefore, I consider that the CMC was a reasonable stage, early on in the appeal process, for the Appellant to discuss the intended change to their case on this main issue.

¹ Procedural Guide: Planning appeals – England, Planning Inspectorate

² Sussex North Water Neutrality Study Part C – Mitigations Strategy, November 2022 (CD 8.1)

10. The alternative strategy included a rainwater harvesting scheme at a local garden centre, as a second limb to the mitigation strategy, rather than the original housing stock retrofitting scheme, should the strategic offsetting scheme not be ready in time. Whilst the reasons for this were not stated by the Appellant, the issue for me to determine is whether it was reasonable for the Appellant to propose this change to their strategy during the appeal process.
11. Part 16 of the Procedural Guide provides guidance on amending a scheme once an appeal has been made, advising that the appeal process should not be used to evolve a scheme. Whilst this normally applies to the development proposal itself, the guidance is also relevant to changes to other aspects of the appeal proposals; in this case a mitigation strategy. The guidance does not rule out amendments, but advises that where they are proposed, exceptionally, during the appeal process, the Wheatcroft Principles should be applied to ensure parties to the appeal are not prejudiced.
12. Taking account of the Wheatcroft Principles, a timetable and process was agreed at the CMC for the Appellant to submit their alternative strategy to the Council, and allow time for Natural England to be reconsulted, before the deadline for submission of proofs of evidence. That timetable was confirmed in my CMC notes, with details of the alternative strategy to be provided by the appellant by 6 January 2023, and a SoCG on water neutrality and proofs of evidence to be submitted by 7 February 2023. I am satisfied that this process applied the Wheatcroft Principles and that the actions of the Appellant in putting forward an alternative water neutrality strategy were timely and reasonable, in the circumstances of important new evidence emerging after the appeals had been submitted.
13. Secondly, the Council claims that the Appellant behaved unreasonably by delaying the provision of key information on their revised water neutrality strategy until 31 January 2023. From the evidence submitted, the chronology of submissions and exchanges between the Appellant and the Council is as follows:
 - On 6 January 2023, the Appellant submitted details of the proposed alternative water neutrality strategy in line with the agreed timescale. This comprised a Water Neutrality Statement (WNS)³ and a revised shadow Habitats Regulations Assessment⁴ (sHRA), which explained the two limbs of the strategy, namely the strategic offsetting scheme and the off-site rainwater harvesting scheme at a local garden centre. The details submitted included calculations for the residual water consumption of the proposed housing development with on-site water efficiency measures installed, the existing potable water consumption of the garden centre, the roof area of its buildings and the rainwater yield based on average rainfall data. It also proposed the use of a Grampian style condition and S106 obligations to secure the proposed off-setting measures and to prevent commencement and occupation of proposed development until the mitigation measures were agreed and in place.
 - On 19 January 2023, an email from the Council to the Appellant requested further evidence of the existing baseline consumption at the appeal site, queried elements of the calculation of the residual water consumption of the proposed development, and requested the wording of the Grampian style

³ Water Neutrality Statement, Stuart Michael Associates, dated 05/06/2023 (in error) (CD 8.13)

⁴ Revised Shadow Habitats Regulations Assessment, Ecology Solutions, January 2023 (CD 8.11)

conditions. The Council also indicated that the proposed offsetting mitigation solutions remained the key areas of dispute on water neutrality.

- On 31 January 2023, the Appellant submitted an updated WNS⁵, which amended the existing baseline and residual water consumption figures using revised and more precautionary data, and provided details of the management and maintenance regime for the proposed on-site water reduction measures, in response to the Council's email. It also provided further detail for the off-site rainwater harvesting scheme, including the identity and location of the garden centre, revised more precautionary rainfall data for that location, plans of the buildings and ground surface areas that could be used for rainwater capture, and revised calculations for the rainwater capture.
14. I recognise that the updated WNS contained significant new information on the Appellant's alternative water neutrality strategy, after the agreed deadline of 6 January. However, this was principally due to the fact that the location of the garden centre could not be confirmed at that time, which the Appellant has explained was due to ongoing commercial discussions with the garden centre owners. I accept that as a reasonable justification for the delay.
15. I also acknowledge that the Council and Natural England would have had to review their position on the alternative water neutrality strategy in the light of the revised WNS. However, this is not unreasonable or unexpected during an appeal process, where there is an emphasis on parties reaching common ground on evidence as far as possible before proofs of evidence are submitted.
16. It should have been clear from the CMC, and my notes and directions arising from it, that I wanted to allow time for the parties to reach agreement on the alternative water neutrality strategy, with the potential that any remaining differences could be dealt with via a round table discussion at the Inquiry. To that end, I do not regard the time and work required for parties to review their cases in the light of exchanges of evidence, in order to achieve common ground, to be wasted or unnecessary. To allow time for that dialogue to take place on the revised WNS, I agreed an extension of time for the completion of the SoCG on Water Neutrality until 22 February 2023, which the Council and Appellant agreed to.
17. Thirdly, the Council's claim that the Appellant presented information on rainwater yield coefficients in an inaccurate and misleading way, leading Natural England and the Council to misinterpret the case, is not supported by the evidence. The Appellant explained that some of the figures in tables 7 and 8 and Appendix N of the revised WNS were included in error. These were corrected in the rebuttal proof of evidence of their Ecology witness, where the use of rainwater yield coefficients for different surface areas at the garden centre was further clarified, to the satisfaction of Natural England in their response of 14 March 2023. Making errors does not constitute unreasonable behaviour, particularly where these are acknowledged and clarified in written evidence.
18. In their final comments on the costs claim, the Council raised a number of other instances of what they regard as unreasonable behaviour in relation to the Appellant's water neutrality case. The wording of the Grampian style conditions was not provided by the Appellant until the opening day of Inquiry. Whilst this

⁵ Water Neutrality Statement, Stuart Michael Associates, dated 24 January 2023 (CD 8.14)

is not encouraged, it is not uncommon that suggested conditions are submitted at this point in appeal proceedings. There was adequate time for the Council to consider their position on the suggested wording before evidence on water neutrality began on the third day of the Inquiry. A separate round table session (RTS) was also programmed for the penultimate sitting day to discuss the suggested conditions. Therefore, this did not amount to unreasonable behaviour.

19. The removal of the garden centre owners and operators from the S106 unilateral undertaking (UU) was explained during the Inquiry. I have dealt with this point in the appeal decisions. Finally, the need for the changes to the S106 UU and Grampian style conditions to prevent the commencement of development until water neutrality mitigation has been secured by payment into the strategic offsetting scheme was discussed and agreed at the RTS on these matters on 27 March 2023. Although the final wording was not submitted by the Appellant until 30 March 2023, there was opportunity for the Council to cross examine the Appellant's planning witness about the changes on the final day of the Inquiry, and to deal with it as part of their closing submissions.
20. Accordingly, I do not consider that the Appellant behaved unreasonably or caused the Council to incur unnecessary or wasted expense, with regard to the preparation and submission of evidence on water neutrality.

Ground (b)

21. There are two main points to the Council's claim of unreasonable behaviour on the part of the Appellant in respect of their case on HLS. Firstly, that the Appellant did not clarify in their SoC the basis of their challenge to the Council's HLS evidence. However, paragraphs 5.12-5.18 of the Appellant's SoC make clear the reasons why the Appellant disagrees with the Council's calculation of a 4 year HLS for Horsham District. In paragraphs 5.12-5.14, they point out that the HLS calculation in the 2020/21 AMR was based on the 2021 Local Housing Need (LHN), which had since been updated, and that when the 2022 LHN is applied, the supply reduces to 3.78 years. They also argue in paragraph 5.15 that the water neutrality issue is likely to have further reduced the supply of sites in the District. So, at that stage, based on the evidence available, the Appellant clearly stated that both the housing requirement and land supply would be addressed in their evidence to the appeals.
22. Secondly, the Council considers it was unreasonable that the Appellant did not indicate their challenge to the HLS evidence would be withdrawn until 4 weeks after the publication of the Council's 2022 AMR. Having considered the accounts of both parties, I make the following observations on this point of the claim:
 - (i). The Council published the 2021/22 AMR, on 23 December 2022, the Friday before Christmas. The Appellant has confirmed that their planning witness was on annual leave the following week, which is not unreasonable or unexpected, at that time of the year.
 - (ii). From 3 January 2023, the day after the New Year public holiday, until 17 January 2023, when the Appellant confirmed their agreement to the revised HLS position, was a period of 2 weeks. That was not an unreasonable length of time for the Appellant to take to review the HLS data in the AMR and agree that evidence on this issue would not need to be debated at the Inquiry.

- (iii). The Appellant confirmed their agreement to the revised HLS position as part of the Planning Matters statement of common ground (SoCG). The 17 January 2023 had been identified in the timetable set out in my CMC notes, as the date by which any SoCG on HLS should be submitted. Therefore, it was a reasonable date to target for evidence on HLS to be agreed.
- (iv). In the timetable for the submission of documents in my CMC notes, three weeks had been allowed, between 17 January and 7 February 2023, for proofs of evidence to be completed following the first deadline for SoCGs. Given that the Council had just published its most up to date evidence on HLS within the 2021/22 AMR, and that the preparation of a SoCG on HLS had been agreed at the CMC, any further evidence which the Council might have needed to prepare on HLS, could reasonably have awaited completion of the SoCG.
23. I am not persuaded, therefore, that the Appellant's actions or statements in respect of HLS evidence, were unreasonable or caused the Council to incur unnecessary or wasted expense.

Conclusion

24. Overall, therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and an award of costs is not warranted in this case.

M Hayden

INSPECTOR