



Appeal Decision

Inquiry Held on 3-6 and 16 October 2023

Site visit made on 5 October 2023

by Stephen Wilkinson BA BPI DIP LA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th November 2023

Appeal Ref: APP/P1425/W/22/3313204

Land opposite Bishops Close, Ringmer, RH14 9GN

- 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 Thakeham Homes Limited, against the decision of Lewes District Council.
 - The application Ref LW/21/0694, dated 23 August 2021, was refused by notice dated 4 August 2022.
 - The development proposed is erection of 68 dwellings with associated access, drainage, parking, landscaping and infrastructure works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 68 dwellings with associated access, drainage, parking, landscaping and infrastructure works at land to the north of Bishops Lane, Ringmer, RH14 9GN in accordance with the terms of the application, Ref LW/21/0694, dated 23 August 2021, and the plans submitted with it, subject to the conditions included in the schedule attached to this decision.

Application for costs

2. An application for costs was made by Thakeham Homes Limited against Lewes District Council. This application is the subject of a separate decision.

Procedural Matters

3. The application form did not include a specific site address. I have used the address used by both main parties during the processing of the planning application.
4. As the Council had difficulties in securing a venue for the whole period of the Inquiry, it was held both as a face-to-face event on 3-4 October and as a virtual event on 5-6 and 16 October 2023.
5. Ringmer Parish Council was granted Rule 6 party (R6 party) status at the Inquiry.
6. At the start of the Inquiry the R6 party alerted me to a change in the tenure distribution of affordable housing included in the appellant's evidence from that included in the Design and Access Statement which accompanied the

application. This reflects the outcome of negotiations between the Council and the appellant following the refusal of planning permission.

7. This does not involve changes to the total number of affordable properties, their location, or the layout of the scheme from that originally proposed but the tenure split and size of units do differ. Following consideration of the submissions made by both the appellant and the R6 party¹ during the Inquiry I find that interested parties may have been prejudiced by not seeing these changes following the Council's decision which may breach the Wheatcroft Principles.² Accordingly, my decision is made on the basis of the mix and distribution of units across the scheme on which the Council made its decision.
8. For the purposes of this appeal the Development Plan comprises the Lewes District Local Plan Parts 1 (LLP1 2016) and Part 2 (LLP2 2020) and the Ringmer Neighbourhood Plan (RNP 2015).
9. The appeal was accompanied by a draft S106 Agreement (S106). Following the Inquiry, I received a completed Agreement dated 23 October 2023.

Main Issues

10. The application was refused on 4 August 2022 for three reasons relating to landscape, design and highways. On 19 April 2023 the Council agreed not to maintain two reasons in respect of landscape and highways leaving only the issue of design between the parties.
11. In consideration of the evidence in advance of the Inquiry commencing, I informed the parties that the main issues would be:
 - Whether or not the location of the proposed scheme is acceptable having regard to both national and local policies, and
 - The design of the proposed scheme and its effects on the character and appearance of the area.

Reasons

Main Issue 1 - Location

12. The appeal site is a green field comprising 2.74ha Grade 3b agricultural land which has not been used for several years for arable farming. It is crossed by several PROWs³ and a permissive path. It is bounded by hedges on its southern and western edges along Bishops Lane and The Kiln although its northern boundary is open to surrounding arable fields. The site lies beyond the settlement boundary as identified in the local plan.
13. The Council's spatial strategy included in SP1 identifies a hierarchy of settlements within the District. Ringmer, is defined as a Rural Service Centre (RSC) given its frequent bus services and key services and facilities and is identified for growth.
14. Policy DM1 identifies that development should be within settlement boundaries. This policy has a dual purpose in defining where development will be permitted (subject to other policies), and the protection of the countryside with a

¹ ID7 and ID14

² Bernard Wheatcroft Ltd vs. SSE JPL 1987 and Holborn Studios Ltd vs. The Council of the LB Hackney EWCH 2017

³ Public Rights of Way

requirement that development proposed beyond settlement boundaries requires clear justification.

15. Policy RNP4.1 is ostensibly a landscape policy and references in supportive text identifies that the retention of countryside is important in maintaining a 'village feel' in Ringmer. However, unlike Policy DM1, Policy RNP4.1 would allow development in the countryside if it can be demonstrated that a proposal has other benefits and where it can be demonstrated that alternative sites have been considered. Whilst the scheme includes a range of benefits which are considered later in this decision the appellant has not sought alternative locations for the proposed scheme as required by RNP4.1; a point confirmed by the appellant⁴. With respect to just this aspect of the policy the appeal scheme conflicts with RNP4.1.
16. Policy CP10 requires that landscape assets should be conserved and enhanced.. The height of the buildings would be viewed in the context of development which surrounds the site on three sides. In this context the appeal scheme including the apartment buildings would not read as discordant features.
17. The appellant's LVIA⁵ concludes that any landscape impacts of the scheme would be largely localised which would reduce overtime through mitigation Whilst the R6 party alleges harm would arise in views from across the fields to the north towards the site this relationship would be similar to that between the PROWS within the site towards Clark's Croft. Furthermore, I am satisfied that the proposed mitigation planting, particularly along the site's northern boundary would reduce the impacts of the appeal scheme from these views.
18. No evidence of landscape harm from both the Council and R6 party is before me. This situation differs from a recent decision cited by the R6 party where the main parties presented evidence on landscape matters⁶. For this appeal I find that the appellant's evidence demonstrates that landscape harms arising from the scheme could be adequately mitigated.
19. I conclude that there would be no conflict with Policy CP10 but the location of the appeal scheme beyond the settlement boundary conflicts with Policies DM1 and RNP4.1.

Main Issue 2 - Design and character and appearance

20. Both the Council and R6 party object to the design of the scheme with particular regard to its scale, layout and the design of the affordable housing. They regard these matters as cumulatively conflicting with the design policies included in local and national policies. These matters are considered below.

Scale

21. Whilst the Council accept that a scheme for 68 dwellings is an appropriate size for a RSC⁷ the R6 party maintains its objection that the appeal scheme doesn't represent a 'village scale' of development required by Policy RNP6.3.
22. Supporting text to Policy 6.3 refers to a preference for new developments to be around 10-30 dwellings which would reflect an 'organic' pattern of growth

⁴ Ms Thom XX

⁵ Mr Self Landscape and Visual Impact Assessment

⁶ APP/P1425/W/22/32999940

⁷ Officers report to Committee and confirmed by Mr Dorfman in XX

allowing for the integration of new development with the existing settlement. This reflects similar points made by other interested parties.

23. No evidence was cited by the Rule 6 party to demonstrate how 68 dwellings would in some way harm the character of the village compared to up to 30 dwellings. Large scale development at Potters Field has been accepted as an allocation.
24. Whilst the R6 party referred to the level of infrastructure required to support the scheme this is not a design issue, and I have addressed this later in this decision. For the above reason I find that the scale of the appeal scheme does not conflict with Policy RNP 6.3.

Location and design of affordable housing

25. Development within the site would be located away from the eastern edge of the appeal site. This has been in part determined by the flood risk of this area and leading to the location of the LEAP⁸ and SUDS⁹. Within the developed area, affordable housing would be located towards its western part.
26. Given the size of the appeal scheme, the amount of affordable housing would be insufficient to create a sub district¹⁰ or ghetto¹¹. Its location reflects a 'clustering' within the site. This would accord with the Council's SPD¹². The proportion of First Homes and shared housing reflects that this sector is dynamic and could allow tenants to secure home ownership. It is likely that this would lead to the full integration of the affordable housing overtime as these homes are eventually purchased. Social integration as required by Policy DM25(9) with its reference to Building For Life¹³ criteria (BfL) would evolve in this part of the scheme.
27. Features including the detailing of fenestration, boxed eaves, string courses and arched brick headers are common throughout all tenures. In contrast to the examples cited by the R6 party, the proposed use of a common palette of materials and features common to the building types including the apartment buildings would help integrate the affordable housing into the wider scheme. The fact that the Council has not found a conflict with Policy CP1(4) is instructive in this regard.
28. Although the two apartment buildings have entrance doors facing parking courts this represents a logical design response to accommodate pedestrian movement into the building. The rear windows would allow surveillance of these courts. The footpath running to the front of these buildings would incorporate PROW16A but would be separated by defensible planting. There would be surveillance from front windows.
29. Many of the recently completed developments comprise similar building typologies to those found in the locality which in turn are characteristic of CA5. In this context I do not find that the appeal scheme conflicts with Policy RNP9.1.

⁸ Local Equipped Area of Play

⁹ Sustainable Drainage Scheme

¹⁰ Council closings

¹¹ Dr Kay oral submissions

¹² CD1.7

¹³ Building for Life 2015. A government endorsed industry standard for well designed homes.

30. Although the affordable dwellings do not have garage spaces the same is true of several of the market units. There is no marked difference between the tenures on this point.
31. For these reasons, the appeal scheme is broadly compatible with Policies CP2, CP11, DM25 and RNP9.1. Housing across the appeal scheme would be tenure blind.

Location of parking courts

32. Parking courts are integrated throughout the scheme. Whilst several of these lie away from their allocated dwellings there are only several instances where they are not in direct sight of them. This results in infringements of BfL¹⁴ criteria 10 leading to conflict with Policy DM25(9). However, given the small number of examples across the estate the harm arising is limited in extent.

Amenity space

33. Both the R6 party and Council object to the limited amount of private amenity space associated with the apartment buildings and their distance from the LEAP. The R6 party has a particular concern over the lack of amenity space for the two bed or family sized flats.
34. Whilst there is no dedicated amenity space designed for these two buildings they sit within landscaping areas which could allow for informal play. Furthermore, the LEAP¹⁵ lies around 230 metres from the apartment buildings requiring a walk of around three minutes. This is a reasonable distance for accompanied children to access the play facilities.
35. This space is located adjacent to PROW18 and is overlooked by two dwellings. I note the comments of the local police¹⁶ on the location of this space. I am satisfied however, that this space would have adequate surveillance to prevent anti-social behaviour and be safe for users.
36. I find no direct conflict with Policy DM25.

Other design matters

37. The routes of three PROWS¹⁷ have been incorporated into the layout of the appeal scheme across roads and pedestrian footways.
38. PROW15 located along the site's north-western edge behind these buildings would be separated from them by landscaping. It is unlikely that this would result in significant issues of safety and security for occupiers of these two buildings.
39. Whilst the R6 party and Council object to the character of these routes changing from one of rural footpaths to being part of an urban townscape this is an inevitable consequence of the proposed development. The integration of footpaths through recently completed sites at both Clark's Croft and Potters Field, two schemes supported by the Council and R6 party are similar in design.
40. For these reasons, I do not find conflict with Policy DM25(9) on this issue.

¹⁵ Local Equipped Area of Play

¹⁶ CD3.2

¹⁷ Public Rights of Way

Conclusions on this main issue

41. In summary the Council objects to a what it describes as a 'street organised layout'¹⁸ with particular regard to the degree of integration of affordable housing, the relationship of the apartment buildings to footpaths, limited surveillance over parking courts and limited public amenity space. Cumulatively, it considers there is conflict with Policies CP2, CP11, DM25 and RNP 6.3 and RNP9.1. These objections are mirrored in those of the R6 party which further objects to other matters such as the height of the apartment buildings.
42. Whilst the two apartment buildings would be higher than the other building types within the scheme and the wider area their design would limit the degree of harm arising. Their height is not incompatible with CA5.
43. The apartment buildings have landscaped areas which could allow for private amenity space and informal recreation. They are within easy walking distance of the LEAP.
44. There is no marked differentiation between the location of the parking courts and parking spaces across tenures which marks out the affordable housing as in some way so obviously different from the market housing that would give rise to a marked degradation in their environment and occupant's living conditions. The Council's space standards are not at issue between the main parties. The broad categories of affordable housing allow for the shift in tenure over time.
45. The scheme includes building typologies common throughout the recently completed development at Potters Field, Clark's Croft and Caburn Fields, cited by the Council and R6 party as acceptable.
46. I conclude that the appeal scheme does conflict with policies CP2, CP11, RNP6.3 and RNP9.1 Policy DM25 includes a range of design criteria which development is required to meet. Although there is conflict with the BfL criteria regarding the location of parking spaces this does not amount to conflict with this policy overall.

Other Matters

47. Interested parties raised several issues which I address below.

Mix of Affordable housing

48. Both the Council and Appellant agree that there is an acute need for affordable housing with annual housing need in excess of what is currently being provided. This has resulted in a worsening housing situation evidenced by the range of affordability indicators¹⁹.
49. Policy RNP6.2 includes a definition of affordable housing which pre-dates that included in the National Planning Policy Framework (the Framework). Within Ringmer Parish the number of completions is declining against target²⁰. This evidence undermines the R6 party's contention that Ringmer has already taken a disproportionate amount of affordable housing. The number of housing completions presented by the R6 party during the Inquiry could not be verified in contrast to those of the appellant.

¹⁸ Dorfman EIC

¹⁹ Statement of Common Ground – Affordable Housing

²⁰ LDC Monitoring Report 2021-22

50. Although the R6 party states that the mix of affordable housing included in the scheme would not actually meet local need the Council has no objection²¹. I am satisfied that the affordable housing included in the scheme complies with the definition of affordable housing included in the Framework and would meet the chronic undersupply which affects the district. It would meet requirements of Policy LLP1 CP1.
51. Whilst Policy RNP6.2 requires that the majority of new affordable units should comprise 2 or 3 bed houses the appeal scheme includes nineteen 2 and 3 bed affordable units of which 13 would be houses. This represents just under half of the total number of affordable units and is not a marked departure from this policy. The Council has no objection to the mix of units and I find that overall the provision of affordable units complies with Policy CP1.
52. I therefore conclude that the extent of need within the district would be partially addressed through the policy compliant amount of affordable dwellings included within the scheme.

Infrastructure

53. Policies RNP3.1, RNP3.2, RNP3.3 require that development is consistent with the size of Ringmer, should prevent out commuting and lead to the creation of a balanced and healthy community. These policies are consistent with Policy RNP6.3.
54. The County's Education Plan for 2022-26²² presents a varied picture of school and nursery capacity across the District which is consistent with the School Organisation Plan 2022-26²³. No objections have been received to the appeal scheme from the Education Authority. There is no evidence within this Plan that there is a currently under capacity in local provision which would be exacerbated by the appeal scheme leading to conflict with Policy RNP8.7.
55. Comments received from the Water Company, summarised in the officer's report²⁴, identify that capacity would be sufficient as network reinforcement works will be carried out within the next two years. Accordingly, there is no evidence before me that the appeal scheme conflicts with Policy RNP8.11.
56. Interested parties also raised concerns over the impact of the proposed scheme on local medical services. Whilst I acknowledge these, no evidence is before me from the Health Authority to support them.
57. For these reasons, the scale of the proposed development would not conflict with Policies RNP6.3, RNP8.7 and RNP8.11. I do not find conflict between the appeal scheme and Policies RNP3.1, RNP3.2 and RNP3.3.

Highways

58. The two main parties agree that the site is in a sustainable location. They further agree that the traffic generated from the scheme would not adversely impact on Earwig Corner and that Bishops Lane has capacity to accommodate the appeal scheme²⁵.

²¹ Officer's report to Committee

²² Dr Kay PoE Para 71

²³ CD5.28

²⁴ Officers report to Committee

²⁵ Highways SoCG

59. The site lies within 10 minutes walk of local services and facilities²⁶. This was confirmed by my site visit. Furthermore, the site lies within easy access to bus stops for services to local centres including Brighton and Lewes which provide a full range of shops and services.
60. I acknowledge the concerns of interested parties on this matter but no evidence is before me to demonstrate that these are warranted. A travel plan pack, designed to encourage a choice of transport modes would form part of the S106 if I was minded to allow this appeal. Concerns over access to /from the site by construction traffic can be addressed through the imposition of a suitably worded condition. There would be no conflict with Policy RNP8.1
61. The R6 party identifies that the proposed parking does not comply with RNP8.3 which requires the provision of 2 parking spaces for both 1 and 2 bed dwellings including for affordable housing.
62. The appeal scheme has been agreed by the County as Highway Authority. The R6 party contends that more parking is required but this would conflict with Policy DM35 which is designed to encourage sustainable travel. Census evidence²⁷ (2021) indicates that around 25% of local residents travel by sustainable means. I acknowledge that this evidence was unavailable when the RNP was adopted and that RNP8.3 may now not reflect the current situation with residents opting for a range of modal choice. Although there is conflict between these two policies those of the LLP2 prevail²⁸. For these reasons, the appeal scheme does not conflict with Development Plan.
63. I therefore conclude that there would be no conflict between the appeal scheme and policies CP13.

Planning Agreement

64. The Community Infrastructure Levy (CIL) Regulations 2010 and paragraph 57 of the Framework set a number of tests for planning obligations: they must be necessary to make the development acceptable in planning terms, be directly related to the development, and be fairly and reasonably related in scale and kind to the development.
65. The completed S106 Agreement includes covenants in favour of the County Council in respect of securing a travel plan and a financial contribution of £4,500 for its audit; this is based on the County's standard fee for such agreements. Other covenants include a financial contribution of £74,800 towards local public transport and Traffic Regulation Order for off site works to be completed under S278 of the Highways Act 1980. A covenant includes a contribution of £5,000 for administration of this agreement. Each of the covenants would be in line with the Policies CP7, CP9 and CP13 of Part 1 of the Local Plan.
66. Covenants in favour of the District Council include 27 affordable homes in line with Policy CP1 of Part 1 of the Local Plan. A contribution of £16,324 is included for 0.3 affordable dwelling.
67. Another covenant requires the delivery of a LEAP, orchard and landscape community open space. A commuted sum of £93,000 is included for landscape

²⁶ Mr Harrison PoE

²⁷ Mr Harrison PoE

²⁸ Paragraph 30 of the Framework

maintenance. These covenants are consistent with Policies CP7 and CP8 of the LLP1. Other financial covenants in favour of the Council include a contribution towards recycling of £1,292. This is in line with Policy LP7 of Part 1 of the Local Plan.

68. In respect of the body responsible for the management of open spaces around the scheme, a concern of the R6 party, this matter falls beyond my remit.
69. I am satisfied that the Covenants in favour of both the County and District Councils comply with Regulation 122 of the CIL Regulations and Paragraph 57 of the Framework.

Planning Balance and conclusions

70. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise.
71. However, both main parties acknowledge that there is an undersupply of housing land. In these circumstances there is a presumption in favour of sustainable development as defined by the National Planning Policy Framework (the Framework). The test included in Paragraph 11d)ii. of the Framework applies to this case in that any adverse impacts of the appeal scheme would have to significantly and demonstrably outweigh the benefits.
72. The fact that policies have to be considered as out of date does not mean that they carry no weight. To carry weight policies must be consistent with the Framework, as explained in Paragraph 219, which amongst other things, states that the closer that local policies are to policies in the Framework, the greater weight that may be given to them. As such it is perfectly possible for policies which are deemed out of date by reason of an inadequate land supply to still carry significant weight.
73. Policies CP2, CP10, CP11, DM1, DM25, RNP4.1 RNP6.3 and RNP9.1 are the most important policies for the purposes of this decision.
74. I recognise that Policies CP2, DM25 and RNP9.1 in seeking development of high quality are broadly consistent with Paragraph 130 of the Framework. However, whilst the scheme may result in some infringements of Policy DM25 (9) and the BfL criteria these are limited in scope and do not amount to a degree of cumulative harm which would warrant a refusal of planning permission.
75. Whilst Policies CP2 and RNP9.1 requires development to respond positively to character areas, CA5 is not defined by reference to a particular design character. The appeal scheme reflects the qualities of surrounding development. For these reasons, I find no conflict with Policies CP2 and RNP9.1 and Paragraph 130 of the Framework.
76. In respect of RNP6.3, I recognise that some of my Inspector colleagues²⁹ have accorded this policy weight but in this appeal there is insufficient evidence to demonstrate how the appeal scheme conflicts with this policy.
77. Whilst I find that the scheme conflicts with Policy DM1 and RNP4.1 both these policies are inconsistent with Paragraph 174 of the Framework in seeking to

²⁹ APP/P1425/W/22/3133436 & 3298993

impose tests on the protection of countryside. For these reasons, I accord the conflict between the appeal scheme and these policies only limited weight.

78. I recognise the importance which the Government attaches to Neighbourhood Planning. The strategic intent of the RNP is to ensure that employment provision addresses the needs of the local population to develop a sustainable community where out commuting is reduced. However, policies such as RNP8.3 conflict with more recently adopted ones. The RNP's employment focus has to be balanced against the chronic housing supply position which the appeal scheme would partially address. The scheme lies within the density range included in Policy RNP9.2 and would make an effective use of land as required by the Framework and LPP1 Policy CP11vii. The appeal scheme would not undermine the RNP's guiding principles.
79. This is a highly constrained district with around 56% of its land area included in the South Down National Park and with other areas designated as an AONB or SINCS and SSSI. Within this context it is clear that housing sites are at a premium with few alternative sites for housing. This is further demonstrated with reference to the SHLAA³⁰.
80. Furthermore, Ringmer is a RSC designated for growth. In this context the Interim Housing strategy is an important material consideration having been adopted by the Council in response to the revised housing targets which exceed those referred to in Policies LLP1 SP1 and SP2. All eight criteria included in the Statement would be met by this appeal scheme³¹.
81. Whilst the Framework supports the plan led process the Council acknowledges that adoption of a new plan is several years away³². In these circumstances the chronic state of housing need will only be met through the development of sites such as that before me.
82. Both main parties agree that the scheme would deliver social, economic and environmental benefits which include increased spend in local services from the new residents and improved BNG. I accord these matters significant weight in favour of the scheme.
83. The provision of market and affordable housing would address the Government's priority of delivering more housing. I accord these matters significant weight in favour of the scheme given the chronic undersupply across the district which even if I were to accept the Council's figures amounts to 2.73 years. The scheme's benefits outweigh any harms arising from the conflict with RNP6.2 and demonstrate benefits of this scheme required by Policy RNP4.1.
84. Paragraph 11d)ii. refers to the presumption in favour of development unless the adverse impacts of granting permission would significantly and demonstrably outweigh its benefits. I find that the appeal scheme includes a broad range of benefits which substantially outweigh the limited harms which would arise.
85. Overall, I conclude that the benefits of the appeal scheme would significantly and demonstrably outweigh the harm identified when assessed against the policies of the Development Plan, when taken as a whole. As such the proposed

³⁰ Strategic Housing Land Availability Assessment

³¹ Officer's report to Committee. This was not challenged by Mr Dorfman in XX

³² Mr Dorfman XX

development benefits from the Framework's presumption in favour of sustainable development.

86. Accordingly, I allow this appeal and grant planning permission.
87. I recognise that this outcome will be disappointing to those opposing the development. However, the views of local people, very important though they are, must be balanced against other considerations, including national and local planning policy. In coming to my conclusions on the various issues that have been raised, I have taken full and careful account of all the representations that have been made, which I have balanced against the provisions of the development plan, the National Planning Policy Framework and other material considerations. On balance though, the evidence in this case leads me to the view that the appeal should succeed.

Conditions

88. I have considered the suggested conditions in light of the discussion at the Inquiry and the advice in both the Framework and the Government's Planning Practice Guidance. The conditions and wording set out in the schedule below reflect that discussion, although I have amended a number to make them more concise, precise and enforceable. The numbers referred to below relate to the corresponding condition in the schedule. I am satisfied that the conditions are supported by the policies of the Development Plan.
89. In addition to the standard condition relating to time (1) it is necessary, in order to provide certainty, to identify the plans to which the decision relates (2).
90. Particular concerns were expressed by the R6 party and interested parties over the routing of construction vehicles to the site given concerns over highway safety along local roads including Bishops Lane; a preferred route was suggested. Whilst I acknowledge these concerns it is not within my remit to direct that access to the site should be over land which the appellant has no control. For this reason, I am not prescribing a route for construction vehicles. This matter can be addressed through the submission of details in response to the condition requiring a CEMP³³ (3).
91. Given the proposed location of the SUDS in an area liable to flooding I have imposed a planning condition requiring full detail of a SUDS scheme (4).
92. In terms of protecting the character and appearance of the area, I have imposed conditions requiring details of grading of the site with a photographic survey, a lighting design strategy and a detail landscape strategy for the whole site including maintenance, the materials used, refuse storage and tree protection (5, 8, 10, 11, 13, 18, 19, 20).
93. To protect the living conditions of future occupiers I have imposed conditions regarding the identification and remediation of any contaminated land (7, 15 and 22). Other conditions (6 and 17) require completion of an Archaeological Written Scheme of Investigation given the site's history related to the medieval pottery industry.

³³ Construction Environmental Management Plan

94. I have imposed conditions relating to highways, sight lines, garages and parking in order to ensure highway safety within the scheme and surrounding roads (12, 14, 23, 24, 25, 26 and 27).
95. Two other conditions are imposed required to protect and enhance the biodiversity of the site (9 and 28).
96. Finally, I have imposed conditions 16, 21 and 29 to ensure that the proposed development is resource efficient and addresses the Climate Change Emergency adopted by the Council. Whilst Condition 29 removes permitted development rights its rationale is embedded in adopted policy.

Stephen Wilkinson

INSPECTOR

Richborough

Schedule of Conditions

1. Timescales

The development hereby permitted shall be begun no later than 3 years from the date of this decision.

2. Approved Plans

The development hereby permitted shall be carried out in accordance with the following approved plans: 21402/1002 Block Plan, 21402/1001A Site Location Plan, 21402/5001F Proposed Planning Layout, 21402/3600B Proposed Street Layout, 21402/6002-1B-2H7 Floor Plans, 21402/6001-2B-FOG Proposed elevations, 21402/2B- FOG Elevations, 21402/6002-3B-2H7 Floor Plans, 21402/2B-2H7 Elevation Plans, 21402/6003-1B-2H8 Floor Plans, 21402/6002-4B-2H7 Proposed Elevations, 21402/6003-3C-2H8 Proposed Elevations, 21402/6003-2B-2H8 Proposed Elevations, 21402/6004-2B-3H9 Proposed Elevation Plans, 21402/6004/-1B-3H9 Proposed Flor Plans, 21402/6005-2C-3H10-Proposed Elevation Plans, 21402/6005-1B-3H10-Proposed Floor Plans, 21402/6006-1C-3H10/3H12 Semi floor plans, 21402/6005-4B-3H10 Proposed Elevations, 21402/6006-3C-3H12 Semi floor plans, 21402/6006-2C-3H10/3H12-Semi floor plans, 21402/6007/1B-3H15 Floor Plans, 21402/6006-5B-3H10/3H12 Semi Elevations, 21402/6006-4C-2H8/3H12 Semi Elevation Plans, 21402/6007-3B-3H12 Proposed Floor Plan, 21402/6007-2B-3H15 Proposed Elevations, 21402/6008-1B-4H1 Floor Plans, 21402/6007-4C-3H15 Proposed Elevations, 21402/6008-3B-4H1 Floor Plans, 21402/6008-2C-4H1 Proposed Elevations Plans, 21402/6009-1B-4H2 Floor Plans, 21402/6008-4B-4H1 Proposed Elevations, 21402/6009/3A-4H2 Floor Plans, 21402/6009-2C-4H2 Proposed Elevations, 21402/6010-1B-4H8 Floor Plans, 21402/6009-4B-4H2 Proposed Elevations, 21402/6010-3B-4H8 Proposed Floor Plans, 21402/6010-2C-4H8 Proposed Elevations 21402/6010-4C-4H8 Proposed Elevations, 21402/6021-1B-S2H4 Proposed Floor Plans, 21402/6021-2C-S2H4 Proposed Elevations, 21402/6021-4C-S2H4 Proposed Floor Plans, 21402/6022-2C-S3H4 Proposed Elevations, 21402/6022-1B-S3H4 Proposed Floor Plans, 21402/6022-3B-S3H4 Floor Plan, 21402/6022-4C-S3H4 Proposed Elevation, 21402/6031A Garages, 21402/6032-Sub Station Elevation and Floor Plan, 21402/6211C-Block 1 Floor Layouts, 21402/6201B Block 1 Proposed Elevations, 21402_6221B-Block 2-Floor Layouts 21402/6222B Block 2 Proposed Elevations.

3. Construction Management

No development shall commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the LPA. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The CEMP shall be written in accordance with the latest Institute of Air Quality Management guidance documents, BS 5228 Parts 1 & 2 and shall be approved in writing by the LPA

prior to commencement of any works on site. The CEMP shall provide details as appropriate including the following matters:

- a) construction work hours to be restricted to the hours of 0800 to 1800 Monday to Fridays and 0900 to 1300 on Saturdays and works shall not be carried out at any time on Sundays or Bank/Statutory Holidays,
- b) the anticipated number, frequency and types of vehicles used during construction,
- c) means of reusing any existing materials present on site for construction works,
- d) the method of access and egress routing of vehicles during construction, particularly construction vehicles,
- e) the parking of vehicles by site operatives and visitors, including a) construction vehicle waiting and idling on local roads limitations and b) workers' parking and travel plans,
- f) the loading and unloading of plant, materials, and waste,
- g) the storage of plant and materials used in construction of the development,
- h) the erection and maintenance of security hoarding,
- i) flood management during construction both on and off site [or via separate document,
- j) the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- k) details of public engagement both prior to and during construction works.
- l) mitigation of noise, vibration, odour and dust impacts arising out of the construction.
- m) details of the use of protective fences, exclusion barriers and warning signs,
- n) details of the location and appearance of the site offices and storage area for materials, including a bunded area with solid base for the storage of liquids, oils and fuel.
- o) details of any external lighting.
- p) risk assessment of construction activities potentially damaging to ecology and biodiversity
- q) identification of "biodiversity protection zones"
- r) the location and timing of sensitive works when specialist ecologists need to be present on site to oversee works
- s) responsible persons and lines of communication
- t) the role and responsibilities of an ecological clerk of works (ECoW) or similarly competent person, and

- u) a condition survey of the highways which lie immediately around the site (to be agreed with the local planning authority). Any damage caused to the highway as a direct consequence of the construction traffic shall be rectified at the applicant's expense.

4. SUDS

No development shall commence until details showing the following Sustainable Drainage details have been submitted and approved in writing by the LPA. These details should include:

- a) details of the proposed attenuation pond and how it connects into the water course. This should include cross sections and invert levels,
- b) details of the proposed surface water drainage to prevent the discharge of surface water from the proposed site onto the public highway and, similarly, to prevent the discharge of surface water from the highway onto the site shall be submitted to the Local Planning Authority for approval in consultation with the Highway Authority,
- c) details of an investigation into the condition of the ordinary watercourse which will take surface water runoff from the development. Any required improvements to this watercourse should be included in the submission and carried out prior to the construction of the outfall,
- d) details of how surface water flows exceeding the capacity of the surface water drainage features will be managed safely. This should include a plan showing the proposed routing of overland flow paths as evidence that there will be no increased risk of flooding as a result of the development,
- e) Details of the design of the attenuation ponds which should be informed by findings of groundwater monitoring between autumn and spring. The design should leave at least 1 metre unsaturated zone between the base of the ponds and the highest recorded groundwater level. If this can not be managed details of how impacts of high ground water levels will be managed should be provided.
- f) A maintenance and management plan for the entire drainage system should be submitted to ensure that the designed system takes into account the design standards of those responsible for maintaining the system. This should cover the following:
 - The plan should state who will be managing all aspects of the surface water drainage system, including the piped drains, and the appropriate authority should evidence that they are satisfied with the submitted details
 - Evidence that these arrangements will remain in place for the lifetime of the development should be evidenced to the authority.

The approved details should thereafter be retained.

5. Grading Details of the Site

No development shall commence, until details of earthworks have been submitted to and approved in writing by the LPA. These details shall include the proposed grading of land area including the levels and contours to be formed and showing the relationship to existing vegetation and neighbouring development. Development shall be carried out in accordance with the approved details.

6. Archaeology

No development shall commence until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

7. Contamination Remediation Strategy

No development shall commence until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing by the local planning authority.

- a) Additional site investigations scheme, based on preliminary investigations already undertaken to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- b) The results of the site investigation and the detailed risk assessment referred to in (a) above and based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- c) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (b) above are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

8. Tree Protection

No development shall commence, including any site clearance, until details of the protection of the trees to be retained has been implemented in accordance with the Tree Protection Plan drawing ref A007 within the Arboricultural Impact Assessment. The measures of protection should be in accordance with BS5837:2012 and shall be retained until the completion of the development and no vehicles, plant or materials shall be driven or placed within the Root Protection zones.

9. Ecological Design Statement

No development shall commence above slab level until an Ecological Design Strategy (EDS) addressing mitigation of impacts, compensation for the loss of habitat, and enhancement of the site for biodiversity in line with the recommendations in the Ecological Impact Assessment (The Ecology Partnership, August 2021) has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:

- a) description and evaluation of features to be managed,
- b) purpose and conservation aims and objectives for the proposed works,
- c) ecological trends and constraints on site that might influence management,
- d) detailed design(s) and/or working method(s) to achieve stated aims objectives,
- e) extent and location /area of proposed works on appropriate scale maps and plans,
- f) type and source of materials to be used where appropriate, e.g. native species of local provenance,
- g) prescriptions for management actions, together with a plan of management compartments,
- h) timetable for implementation demonstrating that works are aligned with the proposed phasing of development,
- i) details of the body or organisation responsible for implementation of the plan,
- j) details of initial aftercare and long-term maintenance (including an annual work plan capable of being rolled forward over a five-year period),
- k) details for monitoring and remedial measures, and
- l) details of disposal methods of any wastes arising from works so as to not attract foraging animals.

All ecological measures and/or works with respect to the protection of badgers, birds and great crested newts shall be carried out in accordance with the details contained in the Ecological Impact Assessment (The Ecology Partnership, August 2021) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

The EDS 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 plans shall also set out (where the results from monitoring show that conservation aims and objectives of the EDS 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.

10. Materials

No development above slab level shall commence until, details of all facing materials to be utilised in the development hereby permitted including bricks, contrast materials, mortar, windows, doors, roof materials and plant enclosure shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be built in accordance with these approved details.

11. Lighting Design Strategy

No development above slab level shall commence until a "lighting design strategy" has been submitted to and approved in writing by the local planning authority. Where off plot or street lighting is proposed, the strategy shall:

- a) identify those areas/features on site that are particularly sensitive for badgers, bats and hazel dormice and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places,
- c) The lighting strategy shall minimise light spill from the site affecting the setting or openness of the countryside.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the planning authority.

12. Visibility Splays

No part of the development shall be first occupied until pedestrian visibility splays of 2 metres by 2 metres have been provided either side of the proposed site vehicular access onto Bishops Lane in accordance with plans and details submitted to and approved in writing by the Local Planning Authority. These visibility splays shall thereafter be kept free of all obstructions over a height of 600mm.

13. Drainage Photographic Survey

Prior to occupation of a proposed dwelling, evidence (including photographs) showing that the drainage system relevant to that dwelling has been constructed as per the agreed detailed drainage designs should be submitted to and approved in writing by the LPA.

14. Parking Provision

No dwelling shall be occupied until parking areas have been provided for that dwelling in accordance with details which have been submitted to and approved in writing by the Planning Authority in consultation with the Highway Authority and the areas shall thereafter be retained for that use and shall not be used other than for the parking of motor vehicles.

15. Contamination Verification Report

No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall include any plan (a 'long term monitoring and maintenance plan') for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

16. Sustainability Assessment

No development above ground floor slab level of any part of the development hereby permitted shall take place until specific details of how the development and each individual unit will incorporate measures to reduce carbon energy use, facilitate renewable energy installations, and lower household water consumption, have been submitted to and approved in writing by the local planning authority. The approved measures shall be put in place prior to the first occupation of each of the residential units, and shall be retained as such thereafter.

17. Archaeological Evidence Statement

Prior to occupation of the proposed development an archaeological site investigation and post- investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) shall be submitted and approved in writing by the Local Planning Authority. The archaeological site investigation and post - investigation assessment will be undertaken in accordance with the programme set out in the written scheme of investigation approved under Condition 5.

18. Refuse and Recycling

Prior to occupation of a dwelling hereby approved the provision of storage for refuse and recycling shall have been provided for that dwelling in accordance with approved plans. These areas shall thereafter be retained.

19. Landscape Strategy

The landscape mitigation measures as shown on the Landscape Strategy plan ref CSA/5469/104 Rev B shall be implemented prior to occupation of the relevant phase of the proposal. These details shall thereafter be retained.

20. Landscape Strategy Method and Maintenance

Prior to first occupation a landscaping scheme(s) shall be submitted to and approved in writing for:

- a) details of hard surfacing
- b) details of all boundary treatments (including provision of mammal gates to allow for foraging animals to cross the site),
- c) details of all proposed planting, including numbers and species of plant, and details of size and planting method of any trees,
- d) details of all incidental and boundary public open space, (including play area; orchard and public spaces) outside private gardens,
- e) details of the ongoing and overall landscape maintenance and management regime,
- f) all hard landscaping and means of enclosure for each agreed phase of the development shall be completed in accordance with the approved scheme prior to first occupation of the development. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
- g) Landscape Ecological Management Plan: Prior to first occupation a Landscape Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority. This is for the ongoing management of semi-natural habitats and wildlife features including bird, bat and insect boxes and should include:
 - 1) description and evaluation of features to be managed;
 - 2) ecological trends and constraints on site that might influence management;
 - 3) aims and objectives of management;
 - 4) appropriate management options for achieving aims and objectives;
 - 5) prescriptions for management actions, together with a plan of management compartments;
 - 6) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period;
 - 7) details of the body or organisation responsible for implementation of the plan;
 - 8) 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 plans 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.

21. Cycle Parking

Dwellings shall not be occupied until cycle parking areas have been provided relevant to that dwelling, in accordance with details which have been submitted to and approved in writing by the Planning Authority in consultation with the Highway Authority and the areas shall thereafter be retained for that use and shall not be used other than for the parking of cycles.

22. Unexpected Contamination

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

23. Access Gradients

The completed access shall have maximum gradients of 4% (1 in 25) from the channel line, or for the whole width of the footway/verge whichever is the greater and 11% (1 in 9) thereafter.

24. Visibility Splays

The site access onto Bishops Lane shall not be used until visibility splays of 2.4m by 45m are provided in both directions and maintained thereafter.

25. Estate Roads

Prior to Commencement of Development, a plan showing the details of surfacing, materials, street furniture and construction of the Estate Roads and whether these are to remain private or are to be offered to the County Council for adoption under section 38 of the 1980 Act; are to be submitted and approved by the Local Planning Authority, in consultation with the County Council. The Estate Roads are to be constructed in accordance with the approved details.

Where the Estate Roads are to remain private, prior to occupation of the development, details of the maintenance regime and the Management Company are to be submitted and approved in writing by the Local Planning Authority, in consultation with the County Council. The Estate Roads are to be maintained in good and substantial repair and condition in perpetuity.

26. Size of Parking Bays

The proposed parking spaces shall measure at least 2.5m by 5m with an extra 0.5m to either or both dimensions where spaces abut a wall, fence, or hedge.

27. Garages

The proposed garages shall measure at least 3m by 6m (internally) and they shall be positioned at least 5.5m back from the edge of the highway with an inwards opening door in order that a vehicle may wait clear of the highway whilst the /garage door is being operated.

28. Biodiversity Management Plan

No part of the development shall be occupied until a Biodiversity Management Plan a minimum 10% net gain in biodiversity within a 30 year period as a result of the development has been submitted to and agreed in writing by the local planning authority. The net biodiversity impact of the development shall be measured in accordance with the DEFRA biodiversity metric as applied in the area in which the site is situated at the relevant time. The Biodiversity Management Plan shall include:

- a) proposals for the on-site biodiversity net gain and for off-site biodiversity net gain to achieve the required off-site net gain provision;
- b) a management and monitoring plan for onsite biodiversity net gain including 30 year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2,5,10,15,20,25 and 30 from commencement of development, demonstrating how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed;
- c) a management and monitoring plan for all offsite biodiversity net gain including 30 year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2,5,10,15,20,25 and 30 from commencement of development, demonstrating how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed;

The development shall be maintained in accordance with the requirements of the approved Biodiversity Management Plan.

29. Permeable Paving

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no works as defined within Part 1 of Schedule 2, Class F inclusive of that Order in relation to permeable paving, shall be undertaken on any dwellinghouse unless permission is granted by the local planning authority pursuant to an application for the purpose.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Z Simons KC assisted by Isabella Buono of Counsel	Instructed by Ms O Forsyth of Thakeham Homes Ltd
He called	
Ms T. Thon BSc (Hons), MSc MRTPI	Parker Dann
Ms A. Gingell BSc (Hons)MSc MRTPI	Associate Director, Tetlow King
Colin Pullan BA(Hons), DipUD,	Senior Director at Pegasus Group
Clive Self MA (Urb Des), DipLA, CMLI	Managing Director CSA
Richard Harrison BSc (Hons) CMILT, MCIHT	Associate Director, Odyssey
Mr R Newton-Sanders	Snr Associate Pinsent Masons Solicitors
Ms S Fawdry	Snr Planning Manager, Thakeham Homes Ltd

FOR THE APPELLANT:

Mr R. Clapp of Counsel	Instructed by Ms M. Thomson LLB, LARTPI , Solicitor LDC,
He called	
Mr M Dorfman	Snr Specialist Planning Officer
Ms J Stone	Principal Planning Solicitor

FOR THE RULE 6 PARTY: Ringmer Parish Council:

Dr S Kay BA, MA	Member of RPC
Ms A Grange	Member of RPC

INTERESTED PERSONS:

Rt Hon. Ms Maria Caulfield	Member of Parliament
Cllr E. O'Brien	Lewes District Council
Ms K Pettitt	Resident
Ms N Chaloner	Resident
Mr E Robins	Resident
Ms J Robins	Resident
Mr S Napier	Resident
Mr W Dorman	Resident

Inquiry Documents

ID1	Appellant's openings
ID2	Council's openings
ID3	R6 Openings
ID4	Statement from Ms M Caulfield MP
ID5	Statement from Ms K Pettitt Resident
ID6	Statement from Mr N Chaloner
ID7	Commentary from appellant on chronology of changes to affordable housing
ID8	Statement from Ms E Robins
ID9	Statement from Mr J Robins
ID10	Statement from Mr W Dorman
ID12	Highways note from Mr Harrison
ID13	Letter from Rt Hon Christopher Pincher MP
ID14	Commentary from R6 party on ID7
ID15	Case – Canterbury CC V. SoS CLG 2019 EWCA
ID16	Closings Council
ID17	Closings R6
ID18	Closings Appellant
	Documents received after the Inquiry
	Completed S106 Agreement, dated 23 October 2023