



Appeal Decision

Inquiry held on 24 - 26 February and 3 March 2026

Site visit made on 25 February 2026

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2026

Appeal Ref: APP/C3810/W/25/3374471

Land south of Ancton Lane, Middleton-on-Sea, Bognor Regis PO22 6NB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant planning permission.
 - The appeal is made by Kinsted Developments LLP against the decision of Arun District Council.
 - The application Ref is M/49/24/PL.
 - The development proposed is the demolition of agricultural buildings and development of the site to provide 67 No. dwellings with supporting infrastructure, storage units, public open space, landscaping, sustainable urban drainage, car and cycle parking and associated works.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the Appellant against Arun District Council. This application is the subject of a separate decision.

Preliminary Matters

3. Middleton-on-Sea Parish Council (MoSPC) were a Rule 6 Party to the Inquiry. During the appeal, the Middleton-on-Sea Neighbourhood Development Plan 2024-2041 (NP) was 'made', so the NP now forms part of the development plan for the district, and I have considered the NP in determining the appeal.
4. Before the Inquiry, the Appellant submitted amended plans to respond to matters raised by the Council and MoSPC. The changes principally relate to revisions to the proposed site layout, parking and recycling, Elm Farm Barns, landscaping, drainage and highway works to Ancton Lane. The changes were described by the Appellant¹ and the amended plans were subject to public consultation for 21 days prior to the Inquiry opening. I have had regard to the representations submitted by interested parties during this consultation along with representations submitted during the planning application and at other times during the appeal.
5. I have considered the comments of the three main parties having regard to the two tests to determine whether to accept the amended plans². Substantively, the amended plans do not fundamentally change where or how the proposal would be accessed, or the type, nature, scale, distribution and layout of the development proposed, save for minor alterations. With the public consultation that took place before the Inquiry, and as interested parties made oral points at the Inquiry and questioned witnesses based on the amended plans, I consider both tests are satisfied. I have determined the appeal based on the amended plans.

¹ Appellant letters dated 19 December 2025 and 9 January 2026

² Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

6. An interested party raised objection to the use of their land to facilitate the proposed widening of Ancton Lane. The appellant clarified the extent of the highway authority's boundary, and when this is compared to the proposed widening of Ancton Lane in front of their property, I can see that the proposal would only use the public highway to achieve the proposed works³.
7. The Council refused planning permission for nine reasons. Before and after the Case Management Conference (CMC), the Council reviewed its case. This led to the Council's withdrawal of reasons for refusal 1, 3, 4 and 6. MoSPC and the Appellant, however, remained in dispute about reasons for refusal 4 and 6. Considerable work was carried out by the main parties in the Statements of Common Ground, which helpfully narrowed the remaining areas of dispute insofar as reasons for refusal 2, 4, 5, 6, 7, 8 and 9. The dispute has, together with the points raised by interested parties, shaped the main issues set out below.
8. Notwithstanding the order and content of the provisional main issues set out in the CMC Summary Note⁴, I have altered or reordered the main issues based on the matters in dispute at the Inquiry and my findings.
9. A signed and dated agreement under s106 of the Act was submitted shortly after the close of the Inquiry (s106 agreement). The s106 agreement contains obligations in respect of affordable housing, Biodiversity Net Gain (BNG), secondary school education transport, improvements to the A259 Comet Corner junction, local highway improvement works and numerous monitoring fees.
10. Before the Inquiry resumed on 3 March 2026, a resident wished to submit a further representation. I did not accept that submission because it contained new material and it was received after the witnesses had given their evidence and answered interested parties' questions. I had also already advised interested parties at the Inquiry that closing submissions were not permitted.
11. After the Inquiry closed, West Sussex County Council (WSSCC) wished to submit points addressing questions that I had asked at the roundtable session on 3 March 2026 about the planning obligations sought by WSSCC. I declined to accept that correspondence, as the Inquiry had closed and there were no exceptional circumstances as to why it was not submitted sooner, especially as there was no highway representative for the WSSCC at the roundtable session to answer my questions. I have not considered the correspondence as part of my determination.
12. Interested parties wished to submit additional correspondence, but there were no exceptional circumstances provided to explain why this material should be accepted after the Inquiry had closed. Hence, I have not considered this material.
13. For clarity I used the following terms to express my opinion of the weight that different matters carry: very substantial, substantial, significant, moderate, limited, and neutral. They will be expressed either in the context of a harm or benefit.

Main Issues

14. The main issues are:

- 1) whether the proposal would accord with the spatial strategy in the development plan;
- 2) the effect of the proposed development on the Grade II listed buildings of Manor Farmhouse and Ancton House Hotel, and the non-designated heritage

³ ID12 Figures 1, 2 and 3

⁴ CD7.9

assets (NDHA) of Ancton Manor Historical Farmstead, Ancton Barn, Ancton Farm, Cottage Barn and Flint wall / Former Farmstead;

- 3) the proposal's effect on flooding and whether the proposed development would make adequate drainage provision;
- 4) the effect of the proposal on the provision of Best and Most Versatile (BMV) Agricultural Land;
- 5) whether occupiers of the proposed development would have reasonable access to shops, facilities and services;
- 6) the effect of the proposed development's layout on a protected tree; and
- 7) whether the proposal would make adequate provision for affordable housing, BNG, secondary school education transport, improvements to the A259 Comet Corner junction, local highway improvement works, a travel plan and a range of monitoring fees.

Reasons

Spatial strategy

15. The aim of the district's spatial strategy set out in Policy SD SP1a of the Adoption Arun Local Plan 2011-2031 (LP) is to maintain the district's unique character as a coastal location set against the South Downs whilst ensuring that the needs of the community are met through sustainable growth and the provision of suitable services. By 2031 the aim is to deliver 20,000 homes of an appropriate scale and tenure to meet the needs of the community. To achieve this, LP Policy SD SP2 confirms that the Built Up Area Boundary (BUAP) is defined for the main towns and villages in the district, with land outside of BUAP is countryside according to LP Policy C SP1. Here, land will be recognised for its intrinsic character and beauty, with development permitted subject to a list of criteria stated in the policy.
16. The site is outside the BUAP and in the countryside, but it abuts the BUAP. As housing development is not a listed criteria in LP Policy C SP1, the proposal would conflict with the spatial strategy set by LP Policies SD SP1a, SD SP2 and C SP1.
17. However, the Council cannot currently demonstrate a five-year housing land supply as required by paragraph 78 of the National Planning Policy Framework (the Framework). To tackle this The Arun District Council Interim Housing Statement (IHS) applies to greenfield and brownfield sites outside of but adjacent to settlement boundaries. The IHS does not contain new policy, but it asserts the Council's call for additional housing land supply and sets out the Framework's decision-making context. Sites should be of a scale and density appropriate to the adjoining settlement, and sites should be acceptable in all other respects.
18. But for the time being, the spatial strategy found in the LP is deemed out of date by virtue of the current housing shortfall below the minimum requirement. This means the BUAP is out of date although its broad thrust is consistent with Framework paragraph 187. However, the proposal would not be limited in scale due to the quantum of development proposed, although it would be adjacent to the BUAP and contained by Ancton Lane. As such, the proposal would not affect a settlement gap allocation, and Middleton-on-Sea would retain its character as a settlement. Further, the site's location would be near one of the district's main villages, thus responding to the aim of LP Policy SC SP1a.
19. However, these matters do not alter my conclusion that the proposal would conflict

with the spatial strategy in the development plan, and namely LP Policies SP SP1a, SD SP2 and C SP1 and NP Policy MOS1. However, due to the proposal's location next to the BUAP, the district's ability to deliver the necessary supply of housing, and the proposal's effect on the character of the settlement, moderate material harm would arise from this policy conflict, given that those policies are agreed to be out of date.

Heritage assets

20. There are several heritage assets to be considered. There are:

- a) Grade II listed building at Manor Farmhouse;
- b) Grade II listed building at Ancton House Hotel;
- c) Ancton Barn, Locally Listed - NDHA;
- d) Cottage Farm, Locally Listed - NDHA;
- e) Ancton Manor Historic Farmstead (Elm Farm Barns), NDHA;
- f) Ancton Farm, NDHA; and
- g) Flint Wall / Former Farmstead, NDHA

21. The location of the respective heritage assets is shown below:



22. I have a duty under section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 (as amended) (PLBCAA) that requires special regard to be paid to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

23. The appeal site is largely undeveloped and previously used for grazing pasture. Ancton Lane is next to the site's northern boundary. The site is generally level, but ground levels fall from the southern boundary towards Ancton Lane, with the western part of the site lower than the eastern end. Ancton Lane is lower than the site. Mature trees and hedgerows line the site's perimeters; some are protected with tree preservation orders (TPO). Two public rights of way (PRoW) extend along the site's boundaries. PRoW 161 links Ancton Lane and Elmer Road to the south and extends along the site's western boundary next to a ditch. PRoW 164 passes along the site's southern boundary, linking Ancton Lane with PRoW 161.

The significance of the heritage assets

24. The Framework defines what is meant by significance and the setting of a heritage asset. In forming my own view, I have had regard to the Heritage SoCG.
25. Manor Farmhouse – is a two-storey late 17th / 18th century house with a rectangular plan form with extensions to the south and east. The original building dates from 1677, and it has four bays in its front elevation. The building is built from flint flushwork with brick quoins, strings and dressings to the windows. The building's main entrance is set to the right, and it has a classical surround with Doric pilasters, a pediment, a semi-circular fanlight and a six-panelled door. Timber sash windows are fitted to the ground and first floors. Those on the ground floor have segmental arched openings, whilst those on the first floor have flat-arched openings on the first floor. The window and door openings typify the late 18th to early 19th century period. The house is set within landscaped grounds to the south, east and west that are enclosed by a flint wall with brick dressings. A tall hedge lines the northern boundary. These grounds form the immediate setting for the asset, together with the barn structures to the east and west on Ancton Lane.
26. The agricultural fields to the north and south (appeal site) form part of the asset's setting. There are historic ownership and functional ties between Manor Farmhouse and those fields. The length of PRoW 164 provides clear or filtered views of the site, Manor Farmhouse and its flint boundary wall. To the north, Manor Farmhouse is experienced in sequential views along the lane, together with Ancton Barn, Cottage Farm and Ancton House Hotel. I consider that the setting to the north, south and the sequential views along the lane make an equal contribution to the asset's setting, even though they change.
27. The significance of Manor Farmhouse is heavily influenced by its architectural and historic special interest because the built fabric and materials of the farmhouse are largely intact, the construction method and due to its age. It is an example of classical architectural detailing, particularly to its front elevation, but the overall character of the farmhouse is evident when viewed from the south also as the more recent rear extension is sunken and screened by the flint boundary wall.
28. The eastern barn of Ancton Manor Historic Farmstead abuts the low flint garden wall of Manor Farmhouse. The 1839 Tithe Map suggests that they were in the same ownership at this point. While they are now in separate ownership, the eastern barn is curtilage listed due to its age and as it formed part of the land of Manor Farmhouse before 1 July 1948. The eastern barn is experienced along Ancton Lane in either direction, and it contributes to the significance of Manor Farmhouse, as it reflects the historical land use due to the historic connection to Manor Farmhouse and the agricultural operations of the manorial estate as well as the local vernacular. Hence, the asset contributes to the understanding of the manorial complex, as the land holding used for pasture would have contributed to the manor's wealth and its self-sustainability.
29. Ancton House Hotel – the significance of this L-shaped two-storey building with an attic derives from its architectural and historic special interest because of its age, the condition of the built fabric and the method and materials used in the building's construction. The 18th-century building is rendered and painted white, with the principal elevation facing west. Its rear, east-west range appears to have older elements. A pitched roof has several elements with different ridge heights, but it is all covered with plain tiles, and there is a brick stack at the southern end. Windows in the principal elevation are 8/8 sashes, and other windows comprise a mix of

small paned timber sashes and casements. The listing does not describe the building's interior condition, but the original floor plan, circulation and features such as staircases, panelling, door furniture and fireplaces all contribute to the value of the building in illustrative and architectural terms.

30. The eastern part of the site has a historic link with the asset, but this functional link is no longer present. However, the wider field positively contributes to the asset's setting despite the vegetation next to the asset along Ancton Lane. The space afforded by the wider section of Ancton Lane in front of the asset provides clear views of the asset and its setting, which includes the appeal site, the asset's garden plot, and a group of outbuildings to the rear of the asset. There is also some intervisibility between the asset and Cottage Farm in their rural context.
31. Ancton Barn – comprises a group of rectangular barns laid out around a central courtyard. The northern and western ranges are built from coursed flint with brick, brick quoins, and either a hipped corrugated iron roof or a half-hipped tiled roof. A segmental door and two segmental windows face Ancton Lane in the western range, and a recessed central bay suggests that the barn was used for threshing. A coursed flint wall extends alongside Ancton Lane, and a curved section of flint wall defines the boundary of the garden plot. A stable block formed from red brick and a flat mineral fabric roof lies to the east of the plot, while the southern range is an open-sided barn with corrugated iron walls and roof, another more recent addition. However, the asset's significance is due to its architectural and historic special interest, which is derived from the fabric of the buildings and their historic use, with parts of the structures dating from the 17th century. The sections of flint wall positively contribute to the asset's significance, as they are typical of the local vernacular style. A small section of bungaroush walling survives on the western end of the northern range, a rare survival of a distinctive Sussex technique.
32. The barns were once in the same ownership as Manor Farmhouse. They have historic associative and group value from their relationship with the manorial estate, albeit these ties have been eroded by changes in ownership, the conversion of buildings into dwellings and the end of farming practices. They do however indicate that the success of the manorial estate justified their erection.
33. The asset is experienced in sequential views when travelling in either direction along the lane and as a group when passing along PRow 164. However, in both instances, vegetation or boundary walls screen the asset's lower parts and the visual appreciation of the asset's special interest. That said, a historical link existed between the site and the asset; hence, the site, through its historic association and open land context, forms a positive part of the asset's setting, along with the fields to the north where there is a historic trackway and a PRow. I consider the fields of equal importance given how the asset's significance is experienced from Ancton Lane and the PRow network with either the asset situated in between two sets of fields or with the asset viewed with a backdrop of the residential development along Ancton Drive and Ancton Close.
34. Cottage Farm – is a large two storey 18th century former farmhouse. The building is built of coarse flint with a hipped roof and a symmetrical front elevation of three bays and an end stack to the east side, but not on the western side owing to the red brick two storey extension. Solar panels occupy the southern and eastern roof planes, but the asset's significance relates to its historic and architectural special interest, as it illustrates local architectural techniques and the agricultural and economic prosperity of Middleton in the 18th and 19th centuries.

35. The appeal site does not share an ownership link with the asset, albeit a former stable block did prior to the current well-defined garden plot being formed and enclosed by low flint walls, bushes and trees. Cottage Barn does, nevertheless, sit within a rural context with open fields which is understood from PRow 164 and Ancton Lane as it curves around the asset. The asset's garden plot to the front cannot be understood from PRow 164. The landscaped boundary to the rear does screen the asset to some extent, but it does not visually sever the asset from the positive contribution that the site makes to the asset's setting through its rural context. That said, the stronger architectural value is to the front of the building. Thus, the site forms a moderate part of the asset's setting and makes a moderate positive contribution to its significance.
36. Ancton Manor Historic Farmstead (Elm Farm Barns) – forms part of the historic farm complex of Manor Farmhouse which is to the east. The farmstead consists of a cluster of barn ranges of various dates. Two rectangular barns are perpendicular to Ancton Lane and built in a range of materials, including coursed flint with red-brick quoins. Both have gabled slate roofs. Another barn range lies next to Ancton Lane. It is built from a mixture of coursed flint and concrete blockwork. They all seem to be of a similar age. The farmstead has a high flint wall to the south and a dense clump of mature trees, which screen the asset from the south and west. There are other modern buildings in the farmstead, such as the southern half of the central barn. The northern part of this building has had numerous interventions, so it has limited value.
37. The asset has architectural and historic interest. The barns are an example of the local vernacular style, though much repaired and altered. They have historic associative value from its historic connection to Manor Farmhouse and the agricultural operations of the manorial estate and the fields comprising the appeal site. This functional link has ceased, and the ownership has changed, but the fields provide a visual link to the agricultural function for which the buildings were built for, and thus, they positively contribute to the asset's historic significance. Aspects of the architectural significance can be appreciated in conjunction with the fields to the south, but the vegetation limits that. Overall, the fields to the south make a moderate positive contribution to the asset's significance and its historic function and relationship.
38. Ancton Farm – the main barn range positioned to the east of the plot has modern buildings on the north and south sides. The asset forms part of the farm complex of Ancton House Hotel. It is a three-sided loose courtyard farmstead with detached elements originating from the 19th century. The farmhouse is detached and to the side of the yard. The remaining sections illustrate a large historic farmhouse with a rural character due to its design and the materials used. Hence, the asset has architectural and historic interest and an association with Ancton House Hotel. The asset is principally experienced on approach along Ancton Lane or Kingsmead Road, but landscaping and nearby built form confine this to the area around Ancton House Hotel, or alternatively, from certain points on Kingsmead Gardens. The rural agricultural setting afforded by the appeal site makes a limited positive contribution to the asset's significance.
39. Flint Wall / Former Farmstead – comprises a coursed flint wall once associated with the boundary of a former farm building, shown on the 1839 Tithe Map as 'Barn and Yard'. Thus, the flint wall may date to the 18th century. There are sections of red brick walling that suggests varying periods of construction. But the asset's materials positively contribute to its significance as it reflects a historic rural

vernacular style consistent with nearby farm buildings, and its historic interest as a remnant of a former historic farmstead, to a limited degree.

40. The former farm building is no longer present, and the interior is overgrown. This affects the asset's visibility and people's understanding of it. The site illustrates its agricultural rural context and historic connection, but the latter has stopped. This reduces the positive contribution it makes to the asset's setting and thus to its limited significance.
41. Group value – the parties agree that there are at least two groups of heritage assets. The first consists of Manor Farmhouse, Ancton Barn and Ancton Manor Historic Farmstead (Manor Farmhouse Group) due to historic ownership and their functional agricultural link. Ancton Manor (Manor Farmhouse) was identified as a historic 17th century dispersed cluster farmstead in the West Sussex Historic Environment Record. The older barns within Ancton Manor Historic Farmstead followed the original building at Manor Farmhouse but form part of that dispersed cluster farmstead. The second group consists of Ancton House Hotel and Ancton Farm (Ancton Group) due to their historic connection.
42. However, the Council goes further and says that all the heritage assets form a single group. I disagree, as although they are experienced from various points, they are not part of the same planned group. Nor do they all have a historic relationship with each other, despite the agricultural commonality given how they were used and functioned in association with nearby land. There is also no architectural unity between all the assets due to their materiality, design and form. As such, they are not perceived as a single cohesive group. I therefore consider that there are two groups of heritage assets which share collective value.

The proposal's effect

43. The ground levels of the site are proposed to be raised, so the proposed dwellings would be on a higher ground level than the existing levels across the appeal site.
44. Manor Farmhouse – the appeal scheme would completely erode the asset's setting to the south through the introduction of dwellings across the site, its associated engineered infrastructure, sustainable drainage systems (SuDS), formalised public open space and a play area. The current experience of the asset along much of PRow 164 would also be lost or heavily affected due to the line of dwellings proposed along the site's southern boundary. The sequential views of the asset along Ancton Lane would remain, though the scale and extent of the development would form part of that experience for certain parts of that journey along the lane. Landscaping would screen other sections. In the immediate confines of the asset on Ancton Lane, its architectural and historic special interest would remain, but the proposal would not preserve the listed building or its setting and the special architectural and historic interest that it possesses.
45. The proposal is to retain the eastern barn at Ancton Manor Historic Farmstead as it currently is. There would still, however, be a harmful change to its setting brought about by works to the area around the eastern barn and the proximity of the dwellings to the barn that would introduce a modern urban character instead of the existing rural context within the farmstead or the appeal site.
46. I consider the proposal would result in less than substantial harm to this heritage asset at the mid to upper end of the spectrum. I reach this view because I disagree with the appellant's assessment about the contribution that the site makes to the asset's setting and thus its significance.

47. Ancton House Hotel – there would be a harmful effect on the setting that the site provides for the asset. Although efforts have been made to not place as many dwellings in the eastern portion of the site, the land would still have an engineered and manicured form and appearance. This would extend up to the site's boundary with Ancton Lane at the point where the asset is experienced in the wider section of the lane. However, due to the proposed alignment of the internal road and dwellings to the north and south of it, people would readily experience a modern housing estate near the asset. The proposal would not preserve the listed building or its setting and the special architectural and historic interest that it possesses.
48. The proposal would cause less than substantial harm to the significance of this heritage asset in the middle of the spectrum. The degree of harm on the spectrum is not as low as the appellant considers because the appeal site makes a wider contribution to the asset's setting in my view. But the degree of harm on the spectrum is not as high as the Council says because of the asset's orientation and the dense vegetation along the Ancton Lane boundary.
49. Ancton Barn – the proposal would, whether that be the dwellings at plots 64 to 67 or the associated works to the south of the asset, in tandem with the wider development of the appeal site, erode the asset's setting to the south. Instead that would be populated by a modern form of development with numerous residential dwellings. People's experience of the asset when passing along PRoW 164 would be lost or extremely confined to glimpsed views at best above the existing boundary treatment. Given this and the historic link between the appeal site and the heritage asset, I consider moderate harm would be caused to the asset's significance. The lack of change to the fields to the north does not alter my view.
50. Cottage Farm – the proposed layout would use the land between Cottage Farm and Ancton Barn, and dwellings would be relatively close to and obscure Cottage Farm when viewed from within the appeal site and for much of the time along PRoW 164. Plot 67 would also interrupt the existing punctuated flow of heritage assets and introduce modern development into the existing space that provides rural context to Cottage Farm. The area of landscaping and SuDS next to the proposed emergency access route would provide a degree of openness, but the engineered form of the SuDS and access road would still result in a significant change to how the asset is experienced from the south and southeast. Although the asset has been extended and modified with more recent additions, the change to the asset's setting would result in a limited to moderate harm to its significance due to the proximity, layout and scale of development proposed.
51. Ancton Manor Historic Farmstead (Elm Farm Barns) – vegetation would be cleared around the asset, and structural elements with little or no heritage value would be removed. The combination of both would better reveal the significance of the remaining parts of the asset. That would be a benefit, albeit a limited one. This, however, needs to be taken into consideration with the proposal's other effects. The extensive loss of the asset's rural context to the south due to the development of the appeal site would harm its significance given that the site makes a moderate positive contribution to the asset's significance and its historic function and relationship. Overall, therefore, I consider that the proposal's effect would result in a moderate degree of harm to the asset's significance.
52. Ancton Farm – although the appeal site makes a limited positive contribution to the asset's significance and the combination of landscaping and nearby built form constrains the intervisibility between the site and the heritage asset; I consider limited harm would be caused by the proposal due to the asset's association with

Ancton House Hotel, a designated heritage asset.

53. Flint Wall / Former Farmstead – given that vegetation would be cleared around the asset and its fabric repaired, I consider that the significance of the asset would be better revealed. Balanced against this would be the introduction of numerous dwellings in the vicinity of the asset instead of its agricultural rural context. Therefore, I consider, the proposal would have a neutral effect on the asset.
54. Group value – the proposal would affect the value of the Manor Farmhouse Group due to the fundamental loss of its setting by the development of the appeal site, which would extend close to the assets even if the proposed dwellings do not. As a result, the degree of harm that I have identified above is higher due to the proposal's effect on this group. The less than substantial harm to Manor Farmhouse consequently sits closer to the upper end of the spectrum. The moderate harms to the NDHAs of Ancton Barn and Ancton Manor Historic Farmstead increase to the top end of moderate.
55. The proposal's effect on the Ancton Group would be caused by the loss and/or change to its setting by developing the appeal site as proposed, but the degree of harm that would be caused would remain in the middle of the spectrum of less than substantial harm because of the efforts made to provide space and not site dwellings in its immediate vicinity. For the same reasons, the degree of harm that would be caused to Ancton Farm would remain unchanged.

Conclusions on this main issue

56. I conclude, on this issue, that the proposed development would not preserve or enhance Manor Farmhouse (including the curtilage listed eastern barn at Ancton Manor Historic Farmstead) and Ancton House Hotel or their settings and their features of special architectural or historic interest that they possess. The proposal would not therefore accord with section 66(1) of the PLBCAA. The degree of harm that would be caused by the proposal would be less than substantial, with that closer to the upper end and the middle of the spectrum, respectively.
57. I also conclude that the proposal would not conserve or enhance the NDHAs of Ancton Manor Historical Farmstead, Ancton Barn, Cottage Barn, Ancton Farm and Flint wall / Former Farmstead. The harm arising from that is at the top end of moderate, low to moderate harm, limited and neutral, respectively.
58. Although the harms to the designated and NDHAs are distinct judgements, they do jointly amount to a collective cumulative heritage harm. The proposal would conflict with LP Policies HER SP1, HER DM1 and HER DM2, albeit the proposal would comply with NP Policy MOS7 due to the beneficial works to two NDHAs. However, I shall consider any public benefits of the proposal in respect of the designated heritage assets and reach a balanced judgement on the NDHAs having regard to the scale of any harm or loss and the significance of those heritage assets. I shall come back to this later in my decision.

Flooding and drainage provision

Flooding

59. Framework paragraph 170 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

60. The site is elevated above Ancton Lane, and it is generally within Flood Zone 1, but there are areas of the site in Flood Zones 2 and 3, including Flood Zones 3a and 3b. The area of Flood Zone 3b relates to ditch running north-south across the site, but technical evidence submitted by the appellant, which the Council and the Environment Agency (EA) concur with, means that the ditch and the land next to it fall into Flood Zone 1. While a later update to the EA's mapping put the ditch back into Flood Zone 3, the EA's position is unchanged, and a formal flood map challenge is to be submitted because the ditch bed levels are above the level of Ancton Lane. Thus, I have proceeded on the basis that the ditch and its immediate confines are not, in practical terms, Flood Zone 3b and are instead Flood Zone 1.
61. Ancton Lane and parts of the site's northern and eastern boundaries lie within Flood Zones 2 and 3 due to their proximity to the local ditch network.
62. By 2111 the north and western half of the site would be in Flood Zone 3a due to predicted sea level rise. Therefore, the appellant proposes to raise the land on the appeal site so that all the proposed dwellings are situated outside of Flood Zones 2 and 3 in the future. The proposed levels assume a worst-case scenario and do not take account of sea defences. The land raising and minimum finished floor levels are agreed by the EA. To make up the forward horizon up to 100 years, the appellant confirmed that the proposed dwellings would not be affected by a further 14 years of sea level rise.
63. However, site specific modelling shows that the proposed main access and the initial stretches of the internal access roads and associated pavements, together with eight residential gardens would still be within future Flood Zone 3a in 2111. Part of the emergency access would also. The maximum flood depths at Ancton Lane would be roughly 600mm and 300mm at the emergency access. The EA has confirmed the use of the Aldingbourne Rife model from 2016 to be the appropriate and best available model for the site.
64. Flooding in the area has been experienced by the local community. MoSPC's Flood Watch Reports document these events and interested parties submitted photographs of them also. There is no doubt that the lane and the local area have experienced flood events, some of which were been severe. These emphasise the local community's genuine concerns about developing the site, and its bearing on flooding. The Flood Watch Reports record instances of flooding, but whilst informative, they do not confirm the extent of flooding, the depth of flood waters, or how long they remained present for example. Without such information, the observations only go so far, and the technical assessments are to be preferred.
65. MoSPC are concerned about groundwater and the proposal's effect on it. The Flood Risk Assessment considered groundwater, and a hydrological assessment was also undertaken. The latter stated that the site comprises River Terrace Deposits which vary between 1.8 to 5 metres in thickness that form a superficial aquifer of low permeability silty clayey soils, underlying structureless chalk (2.5 to 4.3 metres thick) with poor drainage characteristics and structured chalk at greater depth. Groundwater monitoring also suggests that elevated groundwater levels reflect the underlying bedrock aquifer rather than the superficial deposits with the upper soils acting as a relatively impermeable cap, and that groundwater within the upper soils responds principally to rainfall.
66. MoSPC contend, however, that the groundwater regime is not buffered as the appellant claims it is or evidenced. It is their view that the soil and superficial deposits are porous and permeable owing to a large fall in recorded groundwater.

Further, their observations of slowly receding pluvial flood events corresponds with the appellant's falling head tests in the putty chalk layer. MoSPC also say that the claimed groundwater recharge from the South Downs that would reduce the impact of sea level rises on groundwater levels is not substantiated, so it must therefore be assumed that sea level rises will cause rises in groundwater levels. MoSPC referred to the views of the global scientific community to support this point, but no such evidence was put before the Inquiry and in essence the concerns raised by MoSPC were not substantiated with technical evidence or evidence to support the assertions made by MoSPC. I therefore prefer the appellant's assessments.

67. The proposed SuDS would gather rainfall from across the site, with drainage measures included at low points within rear gardens of the dwellings to prevent surface water discharging onto nearby lower-lying land. The SuDS would provide attenuation and control the discharge of surface water flows. This would help manage shallow groundwater levels on the site.
68. The technical evidence before me leads me to concur with the appellant's view that, at worst, the proposal would have a neutral effect on groundwater flood risk and would more be more likely to reduce the risk of it. I note MoSPC's points, but in the absence of any technical evidence to support them, I cannot agree with them in the face of the technical evidence from the appellant.

Drainage provision

69. About 85% of the sewage from Middleton and Elmer flows by gravity or is pumped to Ancton Lane Pumping Station where it is further pumped to Lidsey Wastewater Treatment Works. MoSPC is concerned about the additional foul sewerage flows that the proposal would create, particularly during times of heavy or prolonged rainfall when the sewerage system can become hydraulically overloaded.
70. For context, land in the Willowbrook and Lodge Close area to the south of the site lies in a topographic depression which means waters can potentially pond here. But this catchment drains into a ditch at Willowbrook, which outfalls to a culvert that then merges with piped systems serving the western part of that catchment to the south of the site, before flows pass through a culvert which routes through the site from south to north and into the ditch on the northern side of Ancton Lane.
71. Although the existing culvert is undersized, its hydrologic performance is also affected, so it is proposed to clear and line the culvert to address this. This should improve existing flows and likely reduce the risk of flooding in the area, including along Ancton Lane.
72. The development of the appeal site in the manner proposed would not alter that drainage arrangement as surface waters from the appeal site would not discharge into that culvert. They would, instead be discharged from the appeal site through the SuDS at a greenfield QBar rate that would be considerably lower in a 1 in 5-year storm event than the existing uncontrolled runoff. The SuDS would also store surface water runoff up to the 1 in 100 year plus 45% climate change event. A management company would maintain all the on-site drainage infrastructure, ditch networks and the ditches and culverts between the site and Ancton Lane. While the riparian responsibility to clear and maintain the ditch on the north side of Ancton Lane would continue to lie with WSCC.
73. It is proposed to connect foul flows from the appeal site to MH9602 (manhole) in Ancton Lane opposite the Ancton Lane Pumping Station. Those flows would be

around 45,000 litres per day. Southern Water has not raised objection to the proposed development, and they have confirmed that there is sufficient capacity within the foul network for the proposed foul discharge rate. This assessment is based on the Dry Weather Flow (DWF) generated by the proposal, and the DWF is multiplied by six to calculate the peak discharge rate.

74. MoSPC are not concerned with the capacity of the foul network during DWF but are concerned about the capability of the system to take new flows when it becomes hydraulically overloaded, causing sewage flooding, which affects homes, roads, footpaths and recreational spaces. They point to 57 instances of this type of flooding between November 2022 and December 2025. However Southern Water's position accounts for peak discharge rates i.e. weather at all times of the year. The proposal could also remove existing point sources of groundwater and surface water from entering the foul sewage network. Southern Water explain that they affect the sewer's operation and the proposal would tackle this at source by ensuring such flows cannot enter the foul sewage network.
75. Upgrades are to be made to Southern Water's network in the future, but the proposal is not contingent upon them being delivered beforehand as the existing system is said to have sufficient capacity. Even so, a storage tank within the site is proposed to hold sewage for 24 hours prior to discharge if the foul sewer is hydraulically overloaded. An automatic shut off valve would stop discharge if this occurred. Given the events experienced by the community, this would be a prudent measure, and details of the proposed system could be secured by a planning condition. I note MoSPC's point that the tank would need to be larger than the 24 hours suggested by the appellant, but the actual storage volume of the tank could be determined using spill duration times, including data provided by the local community if it was supplemented by monitoring, and the occupancy rate of the appeal scheme. However, based on the reliable data before me, the proposed 24-hour tank would be suitable given the longest recorded spill event is 8 hours.
76. Storing sewage in a tank is a short-term practical solution. To alleviate potential odour issues due to sewage going septic, sealed manholes could be used along with a ventilation system. Such measures could be secured through a planning condition to address this potential harm. Likewise, the system could be designed so that it is not prone to damage from stored sewage.
77. I note interested party's concerns about the reliability of Southern Water's comments, but they have a statutory duty to provide capacity where planning permission is granted. There are also mechanisms whereby planning conditions and the s106 agreement can be enforced should a breach be identified. Moreover, the Council do not raise objection to the proposal on flood risk or drainage matters.

Sequential test

78. As built development would be located on an area at risk from future flooding, a sequential test is required so that new development is steered to areas with the lowest risk of flooding from any source. The updated Flood Risk Sequential Test lodged with the appeal widened the area of search to the whole of the district. This was appropriate given the type of development proposed and the need for new housing in the district. Furthermore, the three main parties agree that the list of sites considered are appropriate. I have no reason to disagree based on their knowledge and experience. Nor do I have any reason to disagree with their analysis that there are no reasonably available, sequentially preferable sites. Therefore, it would not be possible for the development to be located in an area

with a lower risk of flooding. Given that the proposal is for 'more vulnerable' development, the exception test needs to be applied, which I shall come to.

Exception test

79. In terms of Framework paragraph 178 b), the proposed dwellings would be raised above predicted future flood levels. Although there could be flood waters present in the emergency access, they would be at a level and velocity that would not prevent safe access for emergency vehicles. The EA and the Council agree with this assessment. Dry pedestrian access would be possible to the south onto Lucking Lane and the village. A Flood Risk Emergency Plan can be secured through a planning condition so that future occupiers know what to do in the case of an emergency. Flood plan compensation would also take place to respond to areas where there has been minor flood plain loss, resulting in a betterment. Overall, for the reasons explained, the proposal would be safe for its lifetime taking account of the vulnerability of its users, not increase flood risk elsewhere, and it would reduce flood risk overall.
80. The proposal, in terms of part a) of Framework paragraph 178, would provide wider sustainability benefits as it would improve existing local drainage infrastructure, culvert and drainage ditch maintenance would be carried out and secured by a management company, and surface water runoff from the site would be reduced compared to the current situation. Given the local flooding issues that have social, economic and environmental consequences, I consider the wider sustainability benefits outweigh the flood risk relating to the proposal. Part a) of Framework paragraph 178 is passed, and thus, the exception test is passed.
81. In reaching my findings, I note neither the EA or the Lead Local Flood Authority raised objection to the proposed development. The Council also withdrew its reason for refusal relating to flood risk following the submission of an acceptable sequential test. I conclude as a result, on this main issue, that the proposal would accord with LP Policies W SP1, W DM1, W DM2, W DM3 and ECC SP1; NP Policies MOS2, MOS3 and MOS4; and Framework paragraphs 170, 173, 174, 175, 177, 178, 179 and 181. Collectively these policies require development to be appropriately located and safe, taking account of flood risk now and in the future, without increasing flood risk elsewhere and reducing flood risk overall; to pass the sequential and exception tests; and include appropriate mitigation measures such as SuDS and appropriate flood warning and evacuation plans.

BMV

82. The Framework defines BMV as land in grades 1, 2 and 3a of the Agricultural Land Classification. Most of the appeal site is classified as subgrade 2, so the proposal would result in the loss of around 4 hectares of subgrade 2 BMV land, which is of a very good quality for crops and an important resource.
83. The loss of the BMV does, however, need to be viewed in the context of the district's overall provision, which comprises around 40% subgrades 1 and 2 and another 30% classified as subgrade 3a. Furthermore, some quantity of grade 1 to 3a land in the district will be needed to meet the existing housing shortfall and to maintain delivery after that. The Council recognises this point.
84. The proposal would result in the loss of a modest proportion of the district's overall extent of BMV land, and the site itself consists of small fields with a limited agricultural function. A planning condition could secure a soil resources plan to protect soil during construction and so that recycled soils are then reused in the

development. Therefore, the loss of 4 hectares of grade 2 BMV in the context of the district would not be significant given the need for new housing. It is, nevertheless, a harm and policy conflict that attracts moderate weight. Hence, I conclude that the proposal would have a harmful effect on the provision of BMV in the district and conflict with LP Policy SO DM1 and Framework paragraph 187 b).

Facilities and services

85. LP Policy T DM1 explains that new development must ensure ease of movement, prioritising safe pedestrian and cycle access to the green infrastructure network and access to public transport and community transport services where a need has been identified. Access to alternative modes of transport, including public transport services, the public right of way and cycle networks, must be available and accessible to all members of the community.
86. The main vehicular access to the site would be onto Ancton Lane, which is subject of a 20 mph speed limit. An emergency access would connect to Ancton Lane to the east of the site. This would also cater to cyclists and pedestrians and would be safe. A separate pedestrian connection would also be made to Ancton Lane that would provide for onward pedestrian journeys either along Ancton Lane or using the PRow network to the north of the lane. PRow 161, which extends from Ancton Lane to Elmer Road to the south, provides pedestrian connectivity, but it is not surfaced, lit or uniform in its width. It is also prone to being wet and muddy, and there are barriers near Elmer Road that mean the route is not accessible for everyone. Similar conditions apply to PRow 164 along the site's southern boundary, with a gate at the top of Lucking Lane preventing access for all.
87. The lack of a footway along Ancton Lane between the site and the roundabout to the west means that all road users share the unlit carriageway. Although this is a well-used recreation route, following Ancton Lane to Yapton Road to access the facilities and services available in the village would lengthen journeys for future occupiers. There is also no cycle lane on Ancton Lane or Yapton Road. I am, however, satisfied that the proposed works to Ancton Lane and the proposed access would provide safe and suitable for all. The amount of additional traffic generated by the proposal would not lead to an unacceptable impact on the road network or highway safety. Furthermore, the amount of parking provision proposed on the appeal site would be acceptable in my view given the site's location.
88. Although there are no recorded accidents along Ancton Lane in the last five years, a pedestrian connection is proposed from the south of the appeal site onto Lucking Lane. This would be secured through the s106 agreement with precise details to be agreed upon with the Council and WSCC, but this route could provide safe, unobstructed and convenient access for future occupiers to the village's facilities and services. The route would utilise the existing footways on Lucking Lane to Elmer Road. They are characteristically, unlit and wide enough for people, including those with mobility aids or pushchairs, to use, and there are no reported accidents relating to pedestrian use of Lucking Lane.
89. The proposed pedestrian connection would be a more inviting and shorter route for users to use compared to Ancton Lane. The route would also remain clear of any flood waters, thereby ensuring its usability. The addition of tactile paving and dropped kerbs where the footpath on Ancton Lane currently terminates would provide for safer pedestrian journeys.
90. The vegetation along the route of PRow 164 would be cut back to improve its usable width, which is at times restricted. These works would be carried out once,

so they would provide a short-lived improvement on the existing situation, but not a long-term remedy to vegetation growth.

91. Within 2km of the site are a range of facilities and services that future occupiers could access for their day-to-day needs. They would remain even if the village were cut off like in the 2012 flooding, offering provision in an emergency situation.
92. The services offered include bus service 63 from Elmer Road between Elmer and Bersted including Bognor Regis, and service 69 from near Sea Lane between Littlehampton and beyond Bognor Regis. The former has a frequency of one per hour; the other, four times daily. The 700 service also calls at Bognor Regis. All three services connect to the train station at Bognor Regis, which provides for rail journeys to London or further afield. Whilst the train station at Barnham is residents' preferred option for rail journeys and a vehicle is necessary to access this station, future occupiers could access facilities and services by a variety of transport modes to and from the appeal site.
93. MoSPC are concerned about the site's accessibility to St Richard's Hospital in Chichester. The 700 service does provide a link, but it is around a mile walk from the appeal site, and users need to cross the busy A259 which, together with connection times, means this is not a realistic option. The likelihood of future occupiers catching a bus to Bognor Regis and connecting to the hospital using a volunteer shuttle service also seems challenging. MoSPC are considering providing a volunteer shuttle bus, but this is at an early stage.
94. However, while journeys to and from the appeal site would still be made by car, the proposal would, in overall terms, ensure ease of movement; prioritise safe pedestrian and cycle access; access to public transport; and access to the public right of way network is available for everyone to use. The site is located within easy reach of established public transport services and pedestrian routes and makes provision for improved pedestrian facilities. Therefore, the proposal would comply with LP Policy T DM1 and NP Policies MOS10 and MOS14.
95. LP Policy SD SP1 was cited by the Council in refusing planning permission, but this policy is not directly relevant to this main issue, as it outlines the positive approach the Council will take to development proposals and the presumption in favour of sustainable development, a view on which is to be taken about a proposal overall, not on a discrete issue.

Protected tree

96. Tree T5/T23B lies outside of the site but near to it and PRow 164. The tree's canopy overhangs part of the appeal site. The tree is a mature Pendunculate Oak in a fair physiological and structural condition. Despite the potential mild physiological distress, which could be due to temporary issues or the existing environment, the tree has a lifespan of 20+ years. Therefore, the tree is a category B specimen and could recover in the future from the existing distress that it is experiencing if it has the right environmental conditions to do so given the growth on its southern side. These works were carried out before the TPO was made, which resulted in the tree having a temporary asymmetric form.
97. Minor pruning works are proposed for T5/T23B. The root protection area (RPA) is based on BS5837:2012 (the BS). These measures are intended by the appellant to retain the tree with the proposed layout while forming adequate garden space. Part of the tree's RPA would cover the rear gardens of plots 48 and 49. A planning condition would prevent construction works from encroaching into the RPA.

Despite the proposal being capable of adhering to the national minimum standard for protecting the growth circumstances of T5/T23B, The Arun Design Guide Supplementary Planning Document (SPD) sets out the need to retain and protect protected trees through a sensitive design approach, including a buffer zone⁵.

98. There is no set standard or guidance around how buffer zones are to be applied or how wide they should be in the SPD or in any other Council document. The SPD is not an adopted policy, but it is relevant guidance. The development plan does not require a buffer to ensure protected trees are not damaged or destroyed. Even so, a two-metre buffer is considered to be necessary by the Council.
99. The buffer would cover more of the residential gardens of plots 48 and 49, further reducing any land unaffected by the RPA and buffer. That said, there is no firm evidence that the topographical survey is inaccurate or any technical reason why the RPA, in accordance with the BS, could not be achieved on site. A margin of error is not therefore necessary. The buffer zone would provide the tree with additional space free from built form, and planning conditions could restrict permitted development rights for plots 48 and 49 and secure an alternative location of their bin and cycle stores so that they are not within the RPA or buffer.
100. The buffer zone is also about the land use being suitable for the tree to assist with its ongoing health and vitality. The Council's concerns here relate to the possible long-term risk of soil compaction, composting and horticultural treatments, and disturbance to the soil structure and its flora and fauna, which can affect the health of a tree. These concerns are not, however, a certain outcome, and protected trees are commonly found in or next to residential gardens. While the soil structure, together with its flora and fauna, makes for a healthy tree, neither party could point to any substantive evidence where residential land use and gardening activities linked with that have led to the death or loss of a protected tree, even if those activities were accidental. Thus, I do not agree with the Council's concerns.
101. I recognise that applications to fell or prune the tree may arise in the future because of shading, the condition of the tree or its oppressiveness, but the Council would have control in the future to decide on the merits of any pruning or felling applications. The inconvenience of having to deal with the applications or to manage the risk of them is not an appropriate rationale for a buffer, as those applications should be determined on their own merits.
102. In any event, the appellant's evidence shows that the gardens of plots 48 and 49 would receive an adequate level of sunlight, so there is unlikely to be pressure to prune or fell the tree, but if there were, the Council would have the ability to consider the merits of any application. I recognise there might be a residual risk, but I consider that, accounting for the two-metre buffer, the proposal would ensure T5/T23B is protected and not destroyed even if the tree grows further.
103. The SPD explains that trees can provide focal points for developments, adding legibility and enjoyment. T5/T23B is experienced along PRoW 164 and from Ancton Lane in between existing development and gaps in vegetation. The proposal's layout came about in the knowledge of the site's constraints, so it was a conscious choice, not a necessary one, to position plots 48 and 49 and their gardens next to T5/T23B. Consequently, the tree would be more obscured than it currently is from the north, but it is beyond the site's southern boundary, viewed against the backdrop of existing development and other trees around the periphery

⁵ This is also reflected in the Open Space, Playing Pitches, Indoor and Built Sports Facilities Supplementary Planning Document

of the site or next to it. The experience from PRow 164 would not alter.

104. Reference was made to the Council's approach elsewhere in terms of development's effect on protected trees, but this issue requires a case-specific judgement to be made given the proposed layout, the site, and the location and condition of the tree. I therefore conclude that the proposed development's layout would not harm the protected tree, and as such, the proposal would accord with LP Policy ENV DM4, NP Policy MOS6, the SPD and Framework paragraph 136, as the tree, which makes an important contribution to the character and quality of the area, would be retained, not damaged or destroyed by the proposal.

Planning contributions

105. The s106 agreement would secure a policy-compliant level of affordable housing on the site. This includes a suitable mix of unit types, and the affordable housing plan would mean that they would be indistinguishable from the market homes. The provision would accord with LP Policy AH SP2 and NP Policy MOS5, and it is a matter that weighs in favour of the appeal scheme.
106. A travel plan and auditing fee are necessary so that future occupiers are encouraged to use sustainable transport modes and to mitigate the proposal's effect on the highway network by helping to reduce the need to travel by car. Hence, the proposal would accord with LP Policies T SP1 and T DM1.
107. A proportionate contribution to the highway works at Comet Corner is necessary to mitigate the proposal's effect on highway safety. Future occupiers of the proposal would use this junction to the north of the site for travel to Bognor Regis or Littlehampton. Comet Corner has recently been allocated for works to improve the A259 Littlehampton–Bognor corridor as part of capital funding. A new road layout including a roundabout along with active travel and bus priority measures form part of those works. The proposal in this respect would accord with LP Policy T DM1.
108. Several off-site highway works, secured by the s106 agreement, are all necessary so that people can access the development safely, by a variety of transport modes, and so that people can access facilities and services. The works comprise the localised widening of Ancton Lane, the new vehicular access to the site, a pedestrian link between the site and Lucking Lane, a pedestrian link between the site and Ancton Lane and an emergency access route that could also be used by cyclists. The proposal would accord with LP Policy T DM1 and NP Policy MOS14.
109. The s106 agreement would secure a secondary school transport contribution until such a time when a new secondary school is built in the district and open to pupils; pupils need to be transported to their secondary school, as not every pupil can be accommodated in the district until the new school is provided. The transport costs therefore mitigate the additional demand placed by the proposed development on the existing provision. The contribution lasts for up to 16 years but is split into three parts, and a review will be carried out between each part to ensure the contribution is in scale and kind to the proposal's effect. As a result, the proposal would accord with LP Policies INF SP1 and IND SP2.
110. BNG and a BNG Monitoring Fee are secured by the s106 agreement. Hedgerow and watercourse habitats would see 12.51% and 19.77% increases on site, which would result in gains greater than the 10% required by legislation. There would be an 8.77-unit deficit of habitat units, but off-site credits would be purchased to offset the on-site losses. The s106 agreement would secure 30 years of BNG monitoring.

The proposal would therefore accord with LP Policy ENV DM5, the Act and The Environment Act 2021. Although the proposal would not achieve the aspiration target of 20% gains as set out in NP Policy MOS10, it would still comply with this policy, as at least 10% BNG would be achieved across the different habitat types.

111. The Council has justified the monitoring fee sought for the obligations based on the scale of the proposal and the number of financial and non-financial obligations.
112. The Council and WSCC have stated how each of the contributions have been calculated, the relevant policy justification and how the monies would be spent. They accord with the statutory tests set out in Framework paragraph 58 and in Regulation 122 of the CIL Regulations and are material considerations in this appeal. The proposal would accord with LP Policies AH SP2, T SP1 and T DM1, INF SP1, INF SP2 and ENV DM5; NP Policy MOS10; The Environment Act 2021; the Act; and Framework paragraphs 63 to 66, 100, 115, 118 and 187.

Other Matters

113. I have had regard to MoSPC's concerns about environmental impacts of sewage on Ryebank Rife, Lidsey Rife, Aldingbourne Rife and the Solent and Dorset Coast Special Protection Area, and the appellant's responses in their ecological notes. However, as the proposed development is unacceptable for other reasons, and I am dismissing the appeal, I have not considered this matter further.
114. Residents raise concern about the proposal's effect on other local infrastructure, but monies have not been sought to mitigate those by the Council or other bodies. Points are also made about the proposal's effect on ecology and ecological surveys; however, these matters have not been determinative to my assessment. Furthermore, numerous residents raise safety concerns about people and the proposed SuDS, but that concern is not supported by any substantive evidence.
115. In addition to heritage concerns, interested parties raise issues about the amount of development proposed and its effect on the character and appearance of the area. Many of these points correlate with my findings on heritage matters, but I do not share residents' concerns about the design of the proposed houses, the views of the South Downs, or about the houses being overbearing or unneighbourly. I am also not of the view that the proposal would cause overlooking, a loss of light, privacy, adverse noise disturbance or air pollution. Nor is there any substantive evidence to suggest the proposal would adversely affect community cohesion.
116. There are numerous suggestions about what the land should be used for, or how it could be developed for residential development, but I have considered the development proposed on its own planning merits. Residents also contend that listed building consent is required for aspects of the proposal, but as I am dismissing the appeal, I have not considered this matter further.

Planning Balance

The development plan

117. I have found moderate harm in respect of the proposal's conflict with LP Policies SP SP1a, SD SP2, C SP1 and NP Policy MOS1 due to the site's location.
118. The proposed development would conflict with LP Policies HER SP1, HER DM1 and HER DM2 as it would not preserve or enhance the designated heritage assets or the range of NDHAs. The proposal would, however, accord with NP Policy MOS7 due to the sensitive works proposed to alter historic buildings. That said, the proposal would cause less than substantial harm to the designated heritage

assets, with that closer to the upper end and the middle of the spectrum, respectively. The harm relating to the NDHAs ranges from the top end of moderate, low to moderate harm, and neutral to limited and neutral, respectively.

119. The proposal would cause moderate harm to the provision of BMV in the district and conflict with LP Policy SO DM1.
120. The proposal would accord with LP Policies W SP1, W DM1, W DM2, W DM3 and ECC SP1 and NP Policies MOS2, MOS3 and MOS4 in respect of flood risk and drainage matters. The proposal would accord with LP Policies T DM1 and ENV DM4 and NP Policies MOS6, MOS10 and MOS14 in respect of access to facilities and services and the protected tree. The proposal would also accord with LP Policies AH SP2, T SP1 and T DM1, INF SP1, INF SP2, and ENV DM5 and NP Policy MOS10 in respect of the various planning obligations sought. Planning conditions to secure the provision of play space would mean that the proposal would accord with LP Policy OSR DM1 and NP Policy MOS17.
121. However, the proposed development would be contrary to the development plan when taken as a whole. I shall now consider whether there are material considerations that would indicate that my decision should be made otherwise than in accordance with the development plan.

The benefits of the proposal

122. The current housing land supply position stands at 3.23 years, a shortfall of 3,131 dwellings over a five-year period which is a significant and persistent shortfall below the Framework's minimum requirement. The proposal would add to the supply of dwellings in the district in the next five years, but it would not fundamentally alter the existing shortfall. However, sites such as this would collectively assist with resolving that. The proposal would also contribute to the supply of affordable homes with a policy-compliant level of such housing. The proposal would make a positive contribution to the supply and mix of affordable homes in the district in an accessible location and help reduce the number of households on the waiting list. Thus, I attach substantial weight to the public benefit of providing market and affordable homes.
123. The proposal would result in economic benefits from direct, indirect, and induced jobs from the construction of the development and from future occupiers spending in the local economy. Those public benefits would be both short-and long-term, so I give them limited to moderate positive weight.
124. On and off-site highway works to widen Ancton Lane and to improve pedestrian infrastructure along it; to improve connectivity for pedestrians between Ancton Lane and Elmer Road; and to improve the ability of persons to use PRow 164 by cutting back vegetation carry limited to moderate positive weight. While these are public benefits, some of the works are to mitigate the proposal's effect and to ensure that it is accessible. Thus, they temper the weight that I attach to them.
125. The proposal would provide open space provision in excess of what is required in an accessible location close to the existing community. Hence, the over-provision carries limited to moderate positive weight due to the scale of the scheme.
126. The 12.51% and 19.77% increases of hedgerow and watercourse habitats would be greater than the 10% gain required by legislation. These increases carry limited to moderate weight given the need to secure measurable net gains for biodiversity.
127. Works to existing pipework beyond the appellant's riparian responsibility would

improve drainage conditions for others in the area. This would also arise from works to the ditches on Ancton Lane, which would provide additional storage capacity. Surface water runoff from the appeal site would also be managed through the provision of on-site SuDS. I give these matters moderate positive weight given the flooding issues that residents have experienced in the area.

128. The NDHAs of Elm Farm Barn (Ancton Manor Historic Farmstead) and Flint Wall / Former Farmstead would each be restored and/or improved. They would both be positive outcomes of the scheme, as the heritage assets are an irreplaceable resource that should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations. I give these benefits limited to moderate positive weight.
129. Community Infrastructure Levy payments carry neutral weight in my view, as they assist with mitigating the proposal's impact on infrastructure in the area.

Heritage balance

130. Given my earlier findings, there are distinct tests to be applied in respect of the designated heritage assets and NDHAs. With that in mind, the Framework states that great weight should be given to the conservation of designated heritage assets. This does not apply to the conservation of NDHAs.
131. The harm caused by the proposal to the significance of the various NDHAs ranges from the top end of moderate, low to moderate harm, limited and neutral, respectively. In my judgement, when I consider the scales of harm identified having regard to the scheme's benefits, the balance is in favour of the proposal.
132. The harm to the significance of the listed buildings of Manor Farmhouse (including the curtilage-listed eastern barn at Ancton Manor Historic Farmstead) and Ancton House Hotel would be less than substantial, with the harm closer to the upper end and the middle of the spectrum, respectively. I give great weight and importance to their conservation, as they are an irreplaceable resource. Having regard to the public benefits set out above, I consider that they do not outweigh the harm that the proposal would cause to them.
133. Despite my balanced judgement on the NDHAs, the harms to the NDHAs are nevertheless heritage harms which, when combined with the harms that I have identified to the designated heritage assets, amount to an overall heritage harm. But, in any event, the harm that the proposal would cause to the designated heritage assets remains.

Conclusion on Planning Balance

134. For the reasons outlined, the proposed development would result in harm as well as benefits, but the proposal would not accord with the development plan when taken as a whole and it would conflict with section 66(1) of the PLBCAA.
135. That said, the current shortfall in housing land supply below the minimum five-year level is a significant shortfall, and the proposal would contribute towards meeting that minimum level of supply, albeit it would not make a significant contribution on its own. The proposal would also deliver much-needed affordable homes in an accessible location. However, even taking the various public benefits into account, the harm to the designated heritage assets (assets of particular importance) is such that they provide a strong reason for refusing the development proposed. This is because both of those assets are an irreplaceable resource and where the harm sits on the spectrum of less than substantial harm for each asset. That

judgement would be the same even if the eastern barn were not curtilage listed.

Conclusion

136. The proposal would conflict with the development plan, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR

Richborough

APPEARANCES

FOR THE APPELLANT:

David Hardy, of Counsel and Solicitor	Partner at CMS Cameron McKenna Nabarro Olswang LLP
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he called:

Kim Hammonds BA, MSc, CTPP	Associate Transport Planner and Business Lead, Paul Basham Associates
Karl Hulka PGC Arch Hist (Oxon)	Technical Director and Head of Built Heritage, Orion Heritage Ltd
Martin Roberts Leng, ASSOCMCIWM, MCIHT	Managing Director, GTA Civils and Transport Ltd
Ben Abbatt Dip Arb (RFS), BA (Hons), MICFor, MRICS	Arboricultural Consultant, Sapling Arboriculture Ltd
Philip Murphy MTCP MRTPI	Senior Director, Quod
Jonathan Ward*	Associate, CMS

FOR THE LOCAL PLANNING AUTHORITY:

Ben Du Feu of Counsel

he called:

Martin Carpenter BA (Hons), MRTPI	Director of Planning, Enplan
Martyn White BA (Hons), MSc, MRTPI	Conservation Officer, Arun District Council
Mark Warwick BTEC, FdSc, MArborA	Tree Officer, Arun District Council
Sofina Ahmed*	Solicitor, Arun District Council
Cathy Fishenden*	Senior Planner, Enplan
Tracey Dunn*	School Place Planning Advisor, West Sussex County Council

FOR MIDDLETON-ON-SEA PARISH COUNCIL:

Dr Colin Hayes

he called himself on flood risk and drainage matters, and gave evidence at the accessibility roundtable session

* s106 agreement session only

INQUIRY DOCUMENTS

- ID1 Appellant opening submissions
- ID2 District Council opening submissions
- ID3 MoSPC opening submissions
- ID4 Jill Sutcliffe submissions
- ID5 Simon Warde submissions
- ID6 Steve Sampson submissions
- ID7 Charles Caney submissions
- ID8 Jacqueline Nash submissions
- ID9 Steve Christie submissions including photographs
- ID10 Ann Christie submissions
- ID11 Charlotte Fish submissions
- ID12 Appellant Boundary Note
- ID13 MoSPC Groundwater Data Review
- ID14 SFRA Map
- ID15 Mr and Mrs R J Bourne letter, 28 February 2026
- ID16 District Council Updated CIL Compliance Statement and Appendices
- ID17 County Council Updated CIL Compliance Statement and Appendices
- ID18 Appellant Ecological Note, 25 February 2026
- ID19 MoSPC closing submissions
- ID20 District Council closing submissions
- ID21 Appellant closing submissions



Costs Decision

Inquiry held on 24 - 26 February 2026 and 3 March 2026

Site visit made on 25 February 2026

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2026

Costs application in relation to Appeal Ref: APP/C3810/W/25/3374471

Land south of Ancton Lane, Middleton-on-Sea, Bognor Regis PO22 6NB

- 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 Kinsted Developments LLP for a full award of costs against Arun District Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for the demolition of agricultural buildings and development of the site to provide 67 No. dwellings with supporting infrastructure, storage units, public open space, landscaping, sustainable urban drainage, car and cycle parking and associated works.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant made their application in writing during the appeal. The Council submitted its response in writing ahead of the Inquiry. I gave each party the opportunity to make oral or written submissions at the Inquiry to reflect the evolution of evidence and the evidence given at the Inquiry. Neither took up that opportunity, so I have determined the application based on the written submissions.

The merits of the application

4. The applicant alleges that the Council prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. It is the applicant's contention that the planning application should have been granted, and the appeal would not therefore have been necessary.
5. While the Council is currently unable to demonstrate a five-year supply of deliverable housing sites as required by the National Planning Policy Framework (the Framework), that does not automatically mean that development proposals should be granted planning permission. The starting point in planning law is that applications for planning permission are determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework was a material consideration in this case.
6. Planning permission was refused by the Planning Committee for nine reasons after considering their officer's report and recommendation to refuse planning

permission. The Planning Committee reached a different assessment on the degree of harm that would be caused to designated heritage assets and felt that future occupiers of the appeal site would be overly reliant on private car journeys. As a matter of principle, it is reasonable for Council officers to reach different assessments to the applicant and for members of the Planning Committee to reach their own assessment irrespective of their officers or the applicant's. The key in both situations is that the view is supported by substantive evidence.

Reason for refusal 6

7. Officers had explained to the Planning Committee that "the proposal, despite being within the countryside, is sustainably located as it adjoins with the defined Built Up Area Boundary, and it will be possible for residents to use non-car means of transport to access pubs, shops, and other facilities. There will be safe walking and cycling routes to the facilities of Middleton-on-Sea."
8. The Planning Committee disagreed with their officers, as they are entitled to do. But that must be backed up with reasons and evidence to support the stance being taken. The Minutes of the Planning Committee meeting confirm the decision that members took to add reason for refusal 6 to the list of reasons for refusal, but the minutes do not explain the reasons why members took that decision.
9. The applicant submitted an Active Travel Assessment (ATA) as part of its appeal submissions. Despite this, the Council reflected reason for refusal 6 in its Statement of Case (SoC) and said little else. Therefore, I requested a fuller explanation of the Council's case. This led to the Council withdrawing this reason for refusal after the matter was taken back before the Planning Committee.
10. It is not unreasonable for new material to be reviewed during an appeal, but the Planning Committee did not explain why it took the stance it did in refusing planning permission or in withdrawing the reason for refusal. On neither occasion is there a public record of the rationale for why the Planning Committee took the decision it did. Even though the applicant submitted the ATA, there was no suggestion that there had been a change of circumstances in respect of facilities and services in the area. Given this and members' local knowledge, the Council acted unreasonably in not substantiating its case on appeal and withdrawing its case after causing the applicant to incur unnecessary expense in preparing its evidence on this matter. The basis of the award relates to the work incurred by the applicant due to the Council's actions, not the dispute which continued with the Parish Council.

Reason for refusal 1

11. Appendices D to F to the applicant's SoC were submitted with the applicant's appeal. They amended the approach to off-site highway works to ensure that off-site protected trees were not harmed because of the proposal. Reason for refusal 1 outlined that "no definitive information has been put forward to properly determine the level of impact". Thus, given that the Council subsequently withdrew reason for refusal 1, it is reasonable to conclude that the Council was satisfied that the information submitted with the appeal provided the right level of detail.
12. I do not think the Council's concern could have been dealt with by imposing a planning condition because the amendments were undertaken following a more detailed tree survey in relation to an Oak tree on the southern side of Ancton Lane. The upshot of this was the proposed widening works opposite the site's entrance included the northern verge and ditch rather than the southern side, as previously

proposed. Changes were also made to widen the southern extent of the lane to the west of the site. Swept path analysis was also completed. The breadth of additional information indicates to me that it would not have been possible to draft a planning condition with sufficient precision to secure the changes that the applicant and the Council agree are required. Therefore, the Council acted reasonably in refusing planning permission for this reason and by responding to the amendments.

Reason for refusal 2

13. Being correct about a matter does not necessarily mean that the other party has acted unreasonably. The Council chose to defend this reason for refusal, and the matter was the subject of a roundtable session. The Council's Tree Officer submitted a Proof of Evidence setting out the Council's case on the matter.
14. The dispute was a difference of professional judgement. Both witnesses provided well-reasoned justification for their stance, and the Council substantiated its concerns. Moreover, both parties agreed that a planning condition would overcome the concerns raised about the cycle/bin store in plot 49. This was not a point made by either party, but as it did not change the Council's view on other aspects of the dispute, I consider the Council did not act unreasonably in refusing planning permission as it substantiated its case on appeal.

Reason for refusal 3

15. This reason for refusal contains two parts. The first was about where parts of the built development would be in relation to Flood Zones 2, 3a and 3b and future Flood Zone 3a in 2111. This was because Flood Zone mapping of the appeal site from the Strategic Flood Risk Assessment showed part of the site being affected by Flood Zone 3b. The accuracy of that mapping has nevertheless fluctuated due to correspondence with the Environment Agency, and due to a subsequent update to the Flood Zone mapping. Ultimately, however, the applicant and the Council engaged, reviewed the matter and agreed that the mapping insofar as Flood Zone 3b on the appeal site was erroneous. That work took place ahead of the Inquiry and avoided unnecessary work from taking place. It was a reasonable course of action that responded to the changing circumstances.
16. Even so, other parts of the appeal site around the proposed access were in Flood Zones 2 and 3. Further, more of the appeal site (including the proposed access and emergency access) is predicted to lie in Flood Zone 3a by 2111 due to a rise in sea levels. Hence, whether it be the current or future flood risk, some of the proposed built development would be located on an area of risk of flooding even though the dwellings would not be due to land raising. Correctly, a sequential test was needed, so the Council did not act unreasonably in considering one to be necessary.
17. The second part of the reason for refusal related to the sequential test submitted with the planning application. The Council determined that the area of search was too confined in relation to several sites being discounted for being too small or for having the same status as the appeal site in the Housing and Economic Land Availability Assessment. The Council's stance was justified and subsequently vindicated through the updated sequential test submitted with the Applicant's SoC. This broadened the area of search to the whole district and addressed the approach to sites being discounted.
18. The Council was only able to consider the updated information as part of the appeal, as it was not available any earlier. Thus, the Council did not act

unreasonably in refusing planning permission on this ground. It also promptly reviewed the information and concluded that the sequential test had been passed, which resulted in this reason for refusal being withdrawn. That was an appropriate and reasonable approach that saved unnecessary work as part of the appeal.

Reason for refusal 4

19. The Council determined the planning application on 26 March 2025. Although West Sussex County Council (WSCC) did not raise objection to the proposal subject to planning conditions in respect of drainage, the Council's drainage officer objected for several reasons. Those were listed in the Original Officer Report and formed the basis of the Council's reason for refusal around the lack of sufficient information. The Council explained that, in reaching its decision, it did not consider the applicant's submissions on 25 March 2025, as they came too late to properly consider them before the Planning Committee. The Council acted reasonably given the timeframe involved. In any event, this was not the only reason for refusal, and the Council had explained that the flood risk harm amounted to a strong reason for refusal. Therefore, the decision was reached in accordance with Framework paragraph 11 d) i, not part ii of that paragraph. Hence, the outcome would not have been any different, and an appeal would not have been avoided entirely.
20. At appeal, the Council engaged with the applicant's drainage information and reviewed its case, thereby avoiding unnecessary work as part of the appeal. That was reasonable behaviour, and the Council's actions have not caused the applicant to incur any unnecessary or wasted expense in the appeal process as a result.

Reason for refusal 5

21. Both parties agreed that the proposal would conflict with the relevant development plan policy on this issue. It was also common ground that this matter needed to be weighed in the planning balance, a point that the reason for refusal makes clear as it says that "the harm identified, in combination with other issues, clearly and demonstrably outweighs the benefits of the application...". As such, the Council's decision and case were not predicated on the basis that the loss of high value agricultural land was a matter that would significantly and demonstrably outweigh the scheme's benefits on its own. The Council maintained this position, and while other inputs into the planning balance changed, the Council was entitled to exercise its planning judgement on the tilted balance, and thus, it substantiated its case. Hence, no unreasonable behaviour occurred in respect of this reason for refusal.

Reason for refusal 7

22. The Planning Committee considered that the proposal would cause a higher level of harm to the designated heritage assets than their officer's. That was a matter of judgement, a requirement of their role. Even so, the Planning Committee later reconsidered the degree of harm that they considered the proposal would cause. While the category of harm changed, and no explanation was provided by the Council as to why it reverted to less than substantial harm rather than substantial harm, it changed very little in terms of the appeal, as evidence still needed to be produced in respect of the dispute and so that I had all the relevant information to discharge my statutory duty. But, even if the Planning Committee had adopted its officer's recommendations on heritage assets, an appeal would still have arisen given the Council's stance on flood risk. Given this, the applicant did not incur unnecessary or wasted expense in the appeal process, as they would have needed to produce the evidence anyway.

Reasons for refusal 8 and 9

23. Both reasons for refusal came about because of the Council's stance on the other seven reasons for refusal. Although the applicant intended to enter into a legal agreement with the Council and WSCC, this does not alter the Council's view on the other seven reasons for refusal. The Council's approach is common practice in the absence of an executed legal agreement which ensured that the scheme complied with the relevant development plan policies. In the absence of such an agreement, policy conflict arose, albeit a technical conflict given the applicant's intention. No unreasonable behaviour arose here, and the parties have worked constructively together as part of the appeal to secure the requested obligations.

Conclusion

24. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of reason for refusal 6 (Council actions only), and a partial award of costs is therefore warranted. However, as I have explained, no unreasonable behaviour occurred in respect of the other aspects of the application, and therefore no unnecessary or wasted expense was incurred on those matters.

Costs Order

25. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Arun District Council shall pay to Kinsted Developments LLP, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of reason for refusal 6 (Council actions only); such costs to be assessed in the Senior Courts Costs Office if not agreed.
26. The applicant is now invited to submit to Arun District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Andrew McGlone

INSPECTOR