



## Appeal Decision

Inquiry (Virtual) Held between 25 May and 4 June 2021

Site Visits made on 19 May and 6 July 2021

**by Dr A J Mageean BA(Hons), BPI, PhD, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30<sup>th</sup> July 2021**

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**Appeal Ref: APP/Z3825/W/21/3266503**

**Land south of Newhouse Farm, Old Crawley Road, Horsham**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by FCP Land 4 Ltd against the decision of Horsham District Council.
  - The application Ref: DC/20/0470, dated 3 March 2020, was refused by notice dated 29 July 2020.
  - The development proposed is an outline application for the erection of 473 dwellings, with new access provided off the Crawley Road, plus associated areas of open space and landscaping. All matters reserved apart from access.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. I have used the fuller site address set out on the decision notice and appeal form as it more accurately locates the appeal site.
3. The application was submitted in outline with all matters except access reserved for future consideration. I have had regard to the Indicative Site Layout (1909/PL.04 Rev J) for the purposes in determining the appeal. I have also had regard to a Parameters Plan (1909/PL.06 Rev F) provided to establish the principles for accommodating development on the site.
4. An Environmental Impact Assessment (EIA) of the proposal was undertaken prior to the appeal. The resulting Environmental Statement has been found to meet the requirements of the EIA Regulations.
5. Following the Inquiry, a legal agreement, signed and dated 24 June 2021, was submitted under Section 106 of the Town and Country Planning Act 1990 (the S106 agreement). This reflected the earlier draft document, though was amended to reflect the discussion at the Inquiry.
6. The S106 agreement contains provisions to secure the delivery of affordable housing and also self-build and custom house building plots. It includes obligations relating to: the ongoing management and maintenance of open spaces; the details and contributions for upgrade works to public rights of way (PROW); an Air Quality Mitigation Strategy; and highways improvements, including a bus stop upgrade. It secures the implementation of a Design Code and a Biodiversity and Landscape Management Plan. Finally, it includes a contribution towards the improvement of the Horsham Riverside Walk.

7. Following the close of the Inquiry additional evidence relating to housing land supply, the local plan review, and recent appeal decisions was submitted. I have considered this where relevant and appropriate. However, whilst the appellant has referred to the contents of the Regulation 19 version of the Local Plan, as this document is not before me it is not appropriate that I consider its implications.
8. On 20 July 2021 a Revised National Planning Policy Framework (the Framework) was issued. The main parties were given the opportunity to comment on the implications of the resulting changes for this appeal. I have considered these as far as they are material to the outcome of the appeal. The paragraph references made within the decision are to the 2021 Revised Framework.

### **Main Issues**

9. Prior to the Inquiry the Council confirmed that the S106 agreement would resolve the concerns contained in its fourth reason for refusal. This related to the lack of provision for affordable housing, PROW improvements, the delivery of outdoor amenity space, upgrading of nearby bus stops and highway contributions.
10. Whilst the Council's reasons for refusing the application included highway safety matters, following technical discussions between the parties prior to the Inquiry, the Council withdrew its objection in this regard. Nonetheless, as highway matters remain a concern for interested parties, this was handled as a main issue to allow for full consideration of outstanding concerns.
11. The remaining main issues are:
  - whether the proposal would conserve and enhance the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty (the AONB);
  - whether this would be an appropriate location for development in relation to the spatial strategy for the District;
  - the effect of the development proposed on the capacity and safety of the local highway network;
  - whether the Council has a five-year supply of housing land; and
  - other matters, including the benefits to be weighed in the planning balance.

### **Reasons**

#### ***Landscape and AONB Matters***

12. The appeal site comprises two cultivated fields and one deciduous woodland parcel, 'The Birches', and forms part of the wider countryside to the east of the built-up area of Horsham. The northern boundary of the western field with Old Crawley Road marks the north western tip of the AONB. The ancient woodland of High Wood forms much of the eastern site boundary, and the dispersed properties along Forest Road lie directly to the south. An informal grassed recreation space and allotments are located to the west, along with part of the identified built up area boundary of Horsham and the B2195. The site rises gently from north west to south east by a little over 20m to around 100m AOD, and then falls slightly to the south east.

13. As the AONB covers an area of some 1,461km<sup>2</sup>, it is inevitable that the presence of the defining components of natural beauty will vary across its area. The characteristic elements apparent in the vicinity of the appeal site include highly interconnected areas of ancient woodland, productive fields bound by hedgerows, woods dissected by historic routes and isolated farmsteads. Other elements, including the landform pattern of faults and folds, numerous streams and the dispersed settlement pattern of late Medieval villages, including distinctive vernacular architecture, are less apparent. This, however, does not in itself determine that this landscape is somehow more 'ordinary', particularly as, via footpath routes, this area is closely connected and provides a gateway to more intimate landscape areas around Woodland Farm, Roffey Park and Faygate Forest to the east.
14. Unsurprisingly the AONB qualities are similarly reflected in the High Weald National Character Area (NCA). The rising land to the north of the A264 crosses the boundary into the Low Weald NCA. This area is recognised as being closely linked to the High Weald, and its characteristics include views from lanes and PROW to the higher ground of adjacent NCAs. The finer grain county and district level Landscape Character Area (LCA) assessments refer to this being a densely wooded area with a landform of flat top rides and steep sided ghylls, divided by fields. It is a strongly enclosed landscape with confined views and a sense of isolation and remoteness, despite the closeness of large towns and roads, though suburban development has spread along ridge top roads. Whilst the landscape value of these areas is judged to be medium to high, with high sensitivity to change, it is recognised that the overall condition of the district level LCA, that of St Leonards Forest, is declining.
15. At the site level some of these characteristic elements are experienced. The main PROW 1587, a route present since at least the mid-19thC, leads directly through to the eastern field where these qualities are most clearly apparent. The strong landscape framework around the fields, including the containment by High Wood and the separation provided by The Birches, along with the open views north across the vale to the wooded landscape opposite, together establish a strong sense of rurality. The road noise from the A264 and built form of Newhouse Farm to the north are apparent, and there are glimpsed views of perimeter dwellings to the west and south, but this does not significantly undermine the sense of being within rural fields. Representations indicate that PROW 1587 and its connecting paths and informal routes stemming from these are much valued and well used by local residents, particularly during recent times.
16. The western field is at a slightly lower level and appears less well connected to the wider landscape. The lack of buffer from the road noise and the visibility of the built form of the settlement edge to the west, mean that whilst it provides a rural setting for Horsham, it has a more transitional character.
17. In visual terms the containment provided by High Wood, and mature trees screening much of the Forest Road and Beech Road properties mean that the most important receptors are in close proximity to the site. Those to the north and north west are associated with residential receptors and transient road users and have clear visibility of the gently rising ground. From the west and south views into the site are restricted by intervening vegetation, though this also serves to limit awareness of the urban edge to glimpses only. Of greatest sensitivity are the viewpoints from within and closely adjacent to the eastern

- field. From within the field, whilst partial views of some Beech Road dwellings and the dispersed Forest Road properties is possible, the edge of settlement location is not readily apparent. It appears that there may be glimpsed views of the Land North of Horsham (LNH) development from viewpoint (VP) 12, but this would be largely screened by existing tree cover.
18. Several more than partial views through to the eastern field are gained from the PROW 1587 approach to the east, and also a limited number of longer distance views from walking and cycling routes across the vale from the north to the higher ground of the appeal site. In these views, particularly VP 31, the valley side position of the appeal site is seen as part of the combination of fields and intervening woodland forming the vista of the High Weald. The eastern field is particularly prominent as an open field rising up the valley side and is not significantly filtered by existing tree cover. There is some loose and indistinct sense of the built form beyond the woodland setting to the west, though at the time of my summer site visits the extensive tree cover masked the presence of Horsham to a very considerable degree. I accept that this may be less effective in winter months.
  19. The LNH development may become apparent at lower levels on the western side of these views, though to a limited degree only due to existing woodland cover and the fact that this will mostly be sited below the 75m contour, around 20m lower than that proposed on the appeal site. It will not, therefore, fetter views across to the open aspect of the eastern field. Nonetheless it is probable that in other views further west, such as VP 26 and 28, and VP 33 and 34, the current restricted views of the appeal site will be interrupted by the built form of the LNH development.
  20. Therefore, in landscape and visual terms the appeal site cannot be described as deeply rural, with evidence indicating that this outer part of the AONB is, perhaps unsurprisingly, one of its least tranquil areas. The area lacks elements of the inner parts of the AONB: specifically, the strong sense of intimacy generated by the more intricate topography, the remoteness associated with distance from larger settlements, and the visual interest associated with Medieval villages. Nonetheless, local and more distant views reveal that the appeal site does reflect important elements of AONB and NCA/LCA character. Specifically, there is a sense of the complex and well-connected mosaic of woodland and field structure which evokes an essentially rural and human scale character, from which the outstanding beauty of the AONB is said to stem. The eastern part of the site is more closely related to the rural qualities of the AONB and is only loosely connected to the town. Further, notwithstanding the urban influences around the western field, the experience of walking the footpaths in and around the eastern part of the site, do provide a sense of intimacy and escape.
  21. The Horsham District Landscape Capacity Assessment (HDLCA), prepared in 2014 and updated in 2020, is an objective and consistent assessment of the capacity of land around existing and new settlements to accommodate new housing and employment development. More specifically, it seeks to identify areas where new development could best be accommodated without unacceptable adverse landscape and visual impacts. The appeal site covers much of the southern part of Area 17. This landscape is assessed as being in good condition, despite the proximity of Horsham, with the southern part having a strongly rural character. Area 17 is identified as having *moderate-*

*high visual sensitivity with some limited capacity for housing development closer to the existing urban edge but this should not extend further east<sup>1</sup> as this could be perceived as a significant incursion into the AONB. It is categorised as having 'moderate' capacity for medium scale housing development of around 100-500 units.*

22. Be that as it may, the levels of landscape sensitivity and capacity identified in the HDLCA are generalised statements, providing indicative landscape and capacity levels with further analysis expected at a smaller scale to determine the actual capacity of the site. In the current case the landscape evidence broadly corroborates the findings relating to Area 17, though at this finer grain level it identifies the variability of sensitivity across the site.
23. Whilst submitted in outline at this stage, the appeal proposal illustrates how the main blocks of residential development would be introduced into the east and western fields, connected by two new road corridors running through The Birches. It is inevitable that the transformative nature of this scheme with the permanent loss of agricultural fields and their replacement with significant housing development would cause varying degrees of landscape and visual harm.
24. In settlement terms much has been made of the comparative circumstances of the LNH development, noting that its area relates to land previously identified as having similar capacity to Area 17 (though varying from no/low to mod/high capacity). Full details of what will be a significant urban extension are not before me, though the fact that it will be on lower land than the appeal site suggests that it has been sited to minimise intervisibility across the vale into the AONB. This development has established the expansion of Horsham to the north, beyond the A264 in an area not distant from the appeal site. However, these areas are separated by the A264, the railway line and fields. As such there is no evidence to support the suggestion that the development of the appeal site would somehow integrate with a wider settlement edge.
25. Whilst the development of the western field would have some connection with the existing settlement edge, the same cannot be said for the eastern field. Therefore, even though only around a quarter of Area 17 would be built on, this larger part of the development would amount to a distinct incursion into a rural setting, the part of Area 17 of greatest sensitivity.
26. At a more detailed level it is clear that efforts would be made to sensitively integrate the development into the site, with built form set in from its boundaries, its overall profile remaining the same, the retention and improvement of the route of PROW 1587, and the retention of an area estimated to be 48% as green infrastructure. This would include the establishment of a country park and the creation of a 20m wide block of native woodland and scrub planting to contain the northernmost part of the eastern field. This would reinforce the wooded character of the site context, with the retained open area also connecting with the rural setting to the east. Nonetheless, notwithstanding that the spaces would include naturalistic and semi-formal planting areas, their essential role would be to provide an attractive setting and recreation opportunities for the new homes. As such there would be a change in character from an essentially modest agrarian landscape to a managed setting for significant residential development.

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<sup>1</sup> CD7.8 p34 Whilst referred to as 'west' it was agreed that this was a mistake



27. At this outline stage in order to give some certainty, principles of the design and layout have been set out in the Design Commitment Statement (DCS) and Landscape and Ecology Commitment Statement (LECS), which are tied into the S106 agreement. These documents set out that the scheme would be a little below the threshold density range set out in the HDLCA, and that its character would seek to draw from the intrinsic qualities of the wider AONB to provide new homes that would be characteristic of the High Weald. This would include being of an appropriate scale and layout, the use of local vernacular elements and colour palette, and the presence of trees throughout. On this basis it would certainly be possible to create attractive and high-quality homes in this setting, and overall the scheme could be perceived as a 'beautiful' place to live. However, whilst assisting to a degree with visual integration and mitigation, this does not in itself demonstrate that development here would be appropriate in landscape or visual terms.
28. The creation of a total of over 3ha of new woodland cover would be a benefit and would, in time, have the effect of moderating the harm caused by the insertion of two 10m wide roads through The Birches. However, the 20m buffer to High Wood would be bordered by development, resulting in a loss of visual appreciation of this feature in the landscape.
29. The upgrading of PROW 1587 to a bridleway would support year-round access for all and provide an attractive tree-lined route. Nonetheless it would also be bordered by roads, houses and associated infrastructure. This would transform the character of this rural route, currently very much valued for its relative tranquillity and opportunity for escape.
30. In visual terms the most significant effect would be on the highly sensitive internal and closely adjacent visual receptors, particularly VP's 12, 14 and 15 along PROW 1587 in which built form would fill much of the field of vision. Distant views north would also be lost due to both built form and the additional woodland planting. Beyond the built form to the east, open space and woodland planting would provide a green outlook, though onto managed space.
31. When approaching from the west (VP 16 and 17) awareness of the site is restricted by the presence of trees, serving to highlight the kinetic experience of arriving to appreciate the scale and openness of the site. Whilst some openness would remain around PROW 1587, Verified Visual Montage (VVM) 16 illustrates the change to an essentially suburban character. Even with mitigation, the effect on these sensitive viewpoints would be to cause major adverse harm.
32. Directly to the north in VP5 and VP6 from Old Crawley Road, a route well-used by walkers, initially the development in both fields would be seen behind farm buildings, rising with the landscape. This would be moderated in time by planting, though rooftops would remain visible breaking the skyline, such that the harm would remain moderately adverse. Similarly, slightly further east from VP 9 on PROW 1588, a section of open views across the field boundaries to the western field would be lost to the development, though again in time this would in part be filtered by vegetation. Also, the moderate visibility of the open aspect of the eastern field from the PROW, would initially be dominated by built form. Woodland planting would significantly mask this in time, reducing harm to minor-moderate adverse.

33. In the limited number of longer distance views from the north, particularly around VP 31, the development would be visible stretching across the two fields on either side of The Birches, close to the skyline and set apart from existing built form. Additional woodland planting would provide some mitigation of visual impacts over time, though roof tops and higher levels of built form would remain visible, particularly noting that the parameter plan includes areas of 2.5-3 storey units. The presence of development would remain moderately harmful.
34. For those receptors close to the western field the development would meet the settlement edge and the view of the wooded valley side would be blocked. Efforts to mitigate the immediate visual impact of the scheme through planting would be hampered by the fact of the gently rising valley side. Similarly, notwithstanding the fact that development would be set back from the entrance on Old Crawley Road, VVM 2 illustrates that it would be hard to moderate the presence of the development and infrastructure associated with what would be a significant junction. Whilst it is agreed that the overall effect would be adverse for residential receptors, the presence of the existing settlement edge and road infrastructure would to some degree contextualise perceived harm.
35. Turning to consider wider AONB management objectives, the retention of most of the existing woodland framework, reinforced with further planting, would assist with managing the visual intrusion associated with development of this scale, and it would be of a high standard of design, taking cues from elsewhere in the High Weald. However, this would not in itself ensure that this would be a positive addition. The development of the eastern field would have a tenuous relationship to the settlement edge. The dispersed settlement structure of the AONB is part of its natural beauty which management objectives seek to protect. Pressure for greenfield housing development such as this, which is not well related to the existing residential area nor its setting, is threatening AONB character.<sup>2</sup> Whilst historic routes would be retained and improved to support increased usage, their rural character would change significantly. In terms of perceptual qualities, the sense of being in the countryside and able to appreciate AONB character would be lost.
36. The fact that Horsham does not itself possess the natural beauty of settlements fully embedded within the AONB, and that this is an outer part of the AONB, are not primary considerations when assessing landscape and visual impacts. The appeal site *is* within the AONB. The appellant's reference to the fact that further exploration of the AONB would still be available 400m to the east, underestimates the intrinsic value of the eastern field in itself and as a gateway to the wider countryside.
37. Summing up, the appeal proposal would introduce a significant area of residential development into an area of moderate to high landscape sensitivity. Whilst it would be sensitively handled in relation to some existing site features, I have found moderate to high adverse effects in relation to a number of landscape receptors, particularly associated with the eastern field. In visual terms the effect of existing woodland, in combination with the woodland cover proposed, would to some degree screen the presence of the development in

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<sup>2</sup> CD7.1 AONB Management Plan, p32

some local and more distant views. Nonetheless, I have found residual moderate and major adverse effects to some visual receptors.

38. On this basis I find that the significant harm to the landscape and visual qualities of the site means that the proposal would not conserve and enhance the landscape and scenic beauty of the High Weald AONB. There is conflict with the requirement of the Horsham District Planning Framework 2015 (HDPF) Policy 25 to protect, conserve and enhance landscape character, and Policy 26 which seeks to protect the undeveloped nature of the countryside against inappropriate development. Whilst design quality is not at issue, there would be conflict with those aspects of Policy 32 and Policy 33 requiring that development relates sympathetically to and integrates with its surroundings.
39. Whilst not referred to in the reason for refusal, the relevance of Policy 30 relating to protected landscapes is agreed. There is conflict with the Policy 30 requirement that there should be no adverse impacts on natural beauty and public enjoyment.
40. In terms of policy and statute, the notion of relative beauty, and the fact that the appeal site is not within deep countryside, with other areas perhaps having greater scenic beauty, is not important. Neither is the fact that the appeal site is a tiny corner of the much larger AONB, two fields out of some 10,000. Nonetheless, the assessment of harm to landscape and scenic beauty set out above is qualified. In this regard Policy 30 refers to the fact that decision making in relation to major development should also include public interest considerations, reflecting the balanced approach to AONB planning decisions set out in the Framework paragraph 177, points to which I return below.

### ***Spatial Strategy***

41. The appeal site is located outside though adjacent to part of the built-up area boundary of Horsham. Policy 2 sets out that the overarching spatial strategy to 2031 seeks to protect rural character, whilst ensuring that the needs of the community are met through sustainable growth. This indicates that development should be focused in and around the key settlement of Horsham, with growth in the rest of the district in accordance with the identified settlement hierarchy. It also requires that development around the edge of settlements be managed in order to prevent the merging of settlements and to protect rural character and landscape. As such my conclusion of harm in relation to the first main issue is of direct relevance.
42. Policy 3 further defines the settlement hierarchy and allows for development within built-up areas, whilst Policy 4 sets out how development around the edge of settlements is to be managed. This establishes the mechanism for growth through the designation of built-up area boundaries and the planned expansion of existing settlements through the Local Plan or Neighbourhood Planning. In this case, whilst the site does partly adjoin the settlement edge, as the proposal relates to land that is neither allocated in a Local Plan nor Neighbourhood Plan, there is conflict with the first criteria. In basic terms the proposal may meet criteria 2 given the scale and function of Horsham. However, in relation to criteria 5, the proposal would not maintain and enhance landscape character features.
43. Also of relevance, Policy 26 seeks to protect the rural character and undeveloped nature of the countryside against inappropriate development. It



sets out that development outside built-up areas must be essential to its countryside location and additionally must meet one of four identified criteria, none of which apply to the present case.

44. I therefore conclude that this would not be an appropriate location for development in relation to the spatial strategy for the District, as set out in Policies 2,4 and 26. I will return to the matter of the weight to be attached to this policy conflict as part of the planning balance.

### ***Highway safety***

45. A SoCG on traffic and transport matters addresses considerations relating to the access onto the B2195 Crawley Road in terms of its safety and possible increased hazards for road users, and also the effect of the development on the capacity of the local highway network.
46. Vehicular access to the site would be provided by a three-arm signalised junction which would include pedestrian and cycle crossing facilities, and a new 3m wide shared pedestrian/cycle link on the western side of Crawley Road. Measures to improve safety would include appropriate signage on the shared pedestrian/cycle routes to minimise risks of conflict between users on these routes and through the junction. From the details before me I agree that this access arrangement would be appropriate for the scale of development proposed, and on this point there are no outstanding highway safety concerns.
47. Updated traffic data modelling to 2031 has incorporated cumulative considerations relating to the LNH and Kilnwood Vale developments. Interested parties expressed particular concern about queuing from the Moorhead Roundabout. On this point adjustments made to signal timings at the Moorhead Roundabout junction, and other junctions, could be made to optimise operations and reduce queuing. On this basis I agree that the impact of the proposed development could be mitigated, and capacity impacts managed, such that the performance of the road network would be comparable to that previously accepted when assessing the LNH and Kilnwood Vale developments. As a result, the development would not have severe capacity impacts on the surrounding road network.
48. Further measures would be introduced to improve pedestrian and cycling facilities in and around the appeal site and on routes to local destinations, including schools and Horsham town centre. These measures, along with enhanced bus stop facilities, would assist in supporting the sustainability credentials of the site, as well as addressing concerns about traffic and pollution levels.
49. I therefore conclude that the development would not have an unacceptable effect on the capacity and safety of the local highway network. In this regard the requirements of HDPF Policy 40 relating to the provision of safe and suitable access and the need to minimise potentially significant impacts on the wider transport network would be met. The Framework paragraph 110 requirement in relation to the mitigation of significant impacts on the transport network would also be met.

### ***Housing land supply***

50. As the HDPF is more than five years old the adopted housing requirement of an average of 800 dpa (dwellings per annum) is now out of date. It was agreed at

the Inquiry that the standard method for calculating local housing needs results in a figure of 897 dpa. Whilst subsequent to the Inquiry the Council have indicated that 902 dpa has been used elsewhere, both parties agree that 897 dpa is consistent with planning practice guidance (PPG). As such the five-year requirement for the period 1 April 2020 to 31 March 2025, is 4,485. If a 5% buffer is added then the five year requirement figure is 4,709.

51. The Annual Monitoring Report December 2020 indicated that the five-year supply of deliverable units for this period is 5,104 dwellings. The Council has updated this figure, such that the supply is considered to be 4,780 dwellings, that is a 5.08 years supply.<sup>3</sup> The appellants position is that the deliverable supply is 3,252 dwellings, equating to a 3.45 year supply. The deductions relate to the anticipated build out rate on two sites, the deliverability of three sites with outline planning permission for major development, the deliverability of eight neighbourhood plan allocations without planning permission and finally the disagreement about whether a windfall allowance for sites of over 10 dwellings should be included.
52. In determining 'deliverability', the Framework Annex 2 sets out that Category A sites which do not involve major development and have planning permission, and all those sites with detailed planning permission should be considered deliverable in principle, unless there is clear evidence that homes will not be delivered within five years. In contrast Category B sites, including those which have outline planning permission for major development or have been allocated in a development plan, should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years. The essential point for both categories is whether or not it is reasonable to assume that they will contribute to the five-year supply, though caselaw has determined that it is not necessary for there to be certainty of delivery as anticipated.
53. Some examples of the nature of 'clear evidence' is provided in the PPG.<sup>4</sup> These are necessarily generalised and refer to indicators such as 'progress towards approving reserved matters' and 'firm progress with site assessment work'. Nonetheless, as the Framework definition makes clear, the key test for all sites should be whether there is a 'realistic prospect' of delivery within five years.
54. Looking firstly at the disputed sites in relation to build out rates, the two sites in question have full planning permission for major development and so in accordance with the guidance are agreed to be 'deliverable', unless there is clear evidence that homes will not be delivered within five years.
55. Site A01 – West of Horsham (East) Highwood. Around half of this 1,000+ unit scheme had been developed by the base date. The average build rate on this site by the developer is 70.75 dpa, with a slightly lower build rate of 65 dpa over the past five years. The appellant notes that delivery so far has included a number of apartment blocks, reasonably assumed to have a faster completion rate than houses. Remaining phases include a mix of houses and flats. The Council's anticipated delivery of 75 dpa, is based on the current buoyancy of the local housing market and the fact that an established builder has been on site for the past eight years. As such 375 units are included in the

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<sup>3</sup> The Council has since conceded in its 30 June 2021 response to correspondence from the appellant that for a future appeal its supply level is considered to be 4.98 years.

<sup>4</sup> Para 007 Reference ID:68-007-20190722

- deliverable supply. These propositions appear to be reasonably sound and provide a not unrealistic basis for the prediction. As such there is no evidence to suggest an adjustment to the supply figure is necessary.
56. Site A02-Kilwood Vale-Colgate. The Kilwood Vale site overall gained outline permission for up to 2,500 dwellings in 2011. Completions started in 2013, and 137 dpa have been completed on average. An occupation schedule provided by the developer indicates that 570 dwellings will come forward for the Colgate site and 218 dwellings for the Colgate Reserve site. The Council has removed 30 from the first figure to allow for slippage, giving a supply figure of 758, equating to an average of 152 dpa.
57. It is clear from earlier completion figures that this site is capable of higher delivery rates (353 in 2017/18 and 196 in 2018/19). I also understand that the lower delivery rate of 74 units in 2019/20 related in part to the completion of the infrastructure for a school. However, the appellant provides evidence that the developers prediction in 2018 of 204 units for 2019/20, presumably at a point when the requirement to provide a school was understood, was completely unrealistic. This provides reason to doubt the credibility of the current predictions. I therefore agree that a more realistic basis for the supply figure is the average of past completions, that is a deduction of 73 units from the five-year supply.
58. The three sites where the dispute relates to the deliverability of major development with outline planning permission are Category B sites, where the Council is required to demonstrate deliverability. The first relates to site B02, Former Novartis Site, a proposal for a mixed-use neighbourhood with outline consent for up to 300 dwellings, with 245 dwellings currently planned. The site is owned by West Sussex County Council (WSCC) who have appointed Muse Developments as its preferred development partner. WSCC anticipates that a reserved matters application for the phase 1 development of 133 dwellings will be submitted in 'late autumn' 2021, with construction starting in August 2022 and completing in 2023/24. The Phase 2 programme of 112 homes is anticipated to be completed in 2025/26. Whilst the AMR included 250 units, this has been updated to reflect the anticipated completion of phase 1 only.
59. This timeline has been set out by the landowner and not the developer. It may be reasonable to suggest that WSCC as landowner has less reason to exaggerate delivery speeds, and some on site clearance works have commenced. However, the email correspondence relied upon falls short of the robust and practical supporting evidence referred to in the PPG. It does not reflect the challenges around gaining reserved matters approval, noting also that there is no evidence of pre-commencement conditions associated with the outline approval having been discharged. As such it is not clear this site will be able to deliver the 133 dwellings anticipated by the Council, though it appears reasonable to assume that development will have started on site.
60. Site B03 Kilwood Vale, Rusper, is linked to Site A02 and refers to phases 4 and 5 of the overall development. It is allocated for 594 dwellings, with the developer's occupation schedule suggesting that 180 dwellings should be included in deliverable supply, with delivery starting from Q1 2023. Whilst the Council assumes that a reserved matters application could come forward in early 2022, there is no sound basis for this assumption, noting that the current outline approval is scheduled to expire in October 2023. This approval also

contains a condition requiring details of a railway bridge to be submitted with the reserved matters application, stating that dwellings are not to be constructed until this is in place. No evidence of progress towards such an application is provided, suggesting that delivery from Q1 2023 is unrealistic. Further, the reliance on the previous delivery rates in earlier phases of development as an indicator of future performance is not a sound basis for evidencing the deliverability of this Category B site. Whilst it is probable that a proportion of these units will be delivered within five years, my view is that it is not appropriate to include all 180 units in deliverable supply.

61. Site B04 Land North of Horsham. This is a large strategic site with outline planning permission to provide up to 2750 dwellings and a range of supporting uses. As at March 2021 there were 42 live applications relating to this site, including a range of outline, reserved matters and approval of details applications. Substantial progress is being made towards delivering necessary infrastructure, including a school, due to open in September 2022, and a footbridge over the A264. Detailed consent has been obtained for 193 dwellings at RM Area 1, with construction due to commence in summer 2021, and a further detailed application for 197 dwellings (RM Area 2) is currently under consideration. There have also been pre-application discussions in relation to a further 219 homes (RM Areas 6 and 7), which are to be affordable dwellings constructed using modular construction methods which, the developer anticipates, would speed up delivery considerably.
62. It is realistic to expect residential development to be completed on this site within five years, and progress on RM Areas 1 and 2 can be expected to deliver 390 units within this period. Whilst there is a reasonable prospect of RM Areas 6 and 7 also starting to deliver, the evidence relating to this is less than clear and cannot be relied upon. As such the Council's anticipated 700 dwellings in the five-year period is optimistic, noting that this is based on the developers current generalised trajectory, which they acknowledge is prior to land sales. Evidence of build rates on similarly sized local sites does not represent the sort of clear evidence of deliverability anticipated by the PPG.
63. The next group relates to neighbourhood plan (NP) allocations. The first of these, Site C01 Land north of Parsonage Farm, Henfield is included in the draft Henfield NP, which recently passed referendum, for around 205 dwellings, with the Council suggesting that 40 dwellings should be included in supply. Correspondence from the site promoter indicates that preliminary site appraisal work is underway and that an outline application is anticipated by June/July 2021. It appears that pre-application advice was on the basis of 270 units, though the details of that are not before me, with the promoter most recently stating their intention to progress an application for around 230 units and suggesting commencement in winter 2022/23. Given uncertainties about site capacity and the lack of supporting information, including the required masterplan, the ambitious statements of the promoter fall short of realistic evidence that completions could be achieved within five years.
64. Site C02 Land East of Wantley Hill, Henfield is also included in the draft Henfield NP for around 25 dwellings. It is a WSCC site and is one of a number involving a recently agreed joint venture with Lovells. Email evidence suggests that it is 'hoped' that a planning application will be submitted in December 2021, though this is subject to joint venture programming. Details of the nature of the application and future programming are limited. Some

- preliminary site assessment work in terms of ground level water and filtration tests took place earlier this year. However, such generalised aspirations fail to show a realistic prospect of housing completions within the five year period.
65. Site C03 Land West of Backsettown, off Furners Lane also relates to a site allocated in the draft Henfield NP. The Council suggest 30 dwellings should be included in supply. Evidence of detailed site assessment is provided, however the planning agent indicates that a planning application will not be prepared until early 2022 at the earliest, and that full planning permission is 12-18 months away. As there is some uncertainty about timings it is not realistic to expect delivery within the five-year period.
  66. Site CO5 Land at Holly Farm, Mannings Heath is allocated in the Nuthurst NP, for five dwellings. Planning permission was refused in October 2020, with a second application submitted in March 2021 seeking to overcome previous reasons for refusal. Having reviewed the supporting documentation, which has been presented to the Parish Council, it does appear that the revisions proposed could address previous concerns, and that there is some momentum around gaining approval. As such, I am satisfied that there is a reasonable prospect of this site delivering within the five-year period.
  67. Site C06 Crosby Farm is allocated in the Slinfold NP for up to 24 dwellings. An outline application for up to 24 dwellings was refused based on the scale of the proposed site access works. This has been appealed and a revised outline application seeking to address this concern has been submitted, as has a full application. As such, whilst planning approvals are not yet in place, it does appear that, as with the previous case, there is evidence of some momentum behind this case, such that there is a good prospect of this site delivering within the five-year period.
  68. Site C08 Land North of Downsview Avenue is allocated in the Storrington NP for at least 60 dwellings. Outline planning approval for 62 dwellings was gained in May 2020 and a reserved matters application submitted in March 2021. Whilst there is limited evidence of pre-commencement conditions having been discharged, the detailed site analysis and design work is presented, and the developer confirms the intention to start on site in early 2022 with completions being made 9 months later at a rate of 1 dwelling per week. Even if such timescales are optimistic, the evidence suggests a sensible prospect of delivery within the five year period.
  69. Site C09 Ravenscroft Allotments, Storrington is allocated in the NP for at least 35 dwellings. A hybrid application is anticipated which will include an outline element for up to 78 homes. As this is more than double the initial allocation it is likely to lead to local objections. As such there is no clear prospect of matters relating to this site being resolved, and even the suggestion that 35 dwellings should be included in supply is unrealistic at this stage.
  70. Site C11 Land East of Pound Lane, Upper Beeding is allocated for around 70 dwellings in the NP which has now passed referendum. The site has been subject to previous outline applications relating to different parts of the site and dating from three to six years ago, none of which were successful. Pre-application discussions took place last year with a view to developing the whole site and providing various community benefits. Whilst a range of site assessment work was undertaken in relation to the earlier scheme, it is not clear how relevant this will be to the scheme currently being considered. Given



the uncertainties and lack of detail relating to the forthcoming application, there is no clear evidence that the 40 units anticipated by the Council will be completed within the five-year period.

71. Finally, turning to windfall figures, the dispute relates to whether a windfall allowance on larger sites of over 10 units should be included. Windfall sites are those not specifically identified in the development plan, though the Framework paragraph 71 sets out that they can be included providing this is realistic having regard to strategic housing land availability assessments, historic windfall delivery rates and expected future trends.
72. The Council have included a figure of 663 windfall dwellings in this category derived from analysis of completions 2012-18. This data does reflect historic delivery rates and this six-year period is a reasonable time from which to draw trends. Further, as updated information demonstrates, as these figures exclude prior approvals the average figures underestimate actual delivery. However, data from more recent years suggests more variable windfall approval rates for sites of over 10 dwellings, with the appellants evidence indicating that no approvals were recorded in 2020/21. At this stage there is no evidence of further potential sites coming forward, therefore falling short of the evidence referred to in the Framework paragraph 71.
73. The view of the Inspector in the Hanging Lane decision,<sup>5</sup> supported by the Secretary of State, is that by definition the detail of these sites is unknown and the only logical basis for determining the allowance is by reference to past completions on such sites. This appears sensible though in this case, given recent faltering windfall approvals, 663 completions appears somewhat optimistic. On the other hand the appellants suggestion that 431 units should be removed from supply is overly pessimistic. My view is that a moderate deduction of around 20% from supply, giving 530 units, would be appropriate.

#### Conclusion on housing land supply

74. Based on the above, I have agreed that it is appropriate to include full supply from sites A01, C05, C06 and C08, and a large proportion of the windfall allowance in supply. However, I have found some uncertainty around the Council's reliance on the remaining sites, suggesting that the allocation for site A02 should be reduced, and that the allocations for sites C01, C02, C03, C09 and C011 should be removed. I have also indicated that whilst the supply figures for sites B02, B03 and B04 cannot be relied on in full, it is likely that there will be completions on these sites. As such my view is that for these sites the supply level should be at a mid-point between the Council's and the appellant's positions. As a result the total deductions from the supply figure amount to 732,<sup>6</sup> giving a figure of 4,048 and a supply of 4.3 years.
75. The implications of not having a five-year supply of housing land are of great significance in as the most important policies for determining the application are deemed to be out of date for the purposes of paragraph 11 d).

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<sup>5</sup> APP/P4605/W/18/3192918, para 14.57-14.59 and para 20.

<sup>6</sup> This comprises deductions of: 73 from A02; 66 from B02; 90 from B03; 200 from B04; 40 from C01; 25 from C02; 30 from C03; 35 from C09; 40 from C11, and 133 from the windfall allocation

## **Other Matters**

### *Development plan policies*

76. Whilst the most important policies for determining the application are deemed to be out of date, the Framework paragraph 219 sets out that due weight can be given to such policies according to their degree of consistency with policies in the Framework. However, the Framework does not prescribe the weight to be given to conflict with development plan policies. This is affected by the purpose of the policy and the circumstances of the case.
77. In this case the most important policies include those relating to the spatial development strategy as set out at HDPF Policies 1, 2, 3 and 4. Policy 1 reflects the Framework presumption in favour of sustainable development and is fully consistent. As noted above, Policies 2, 3 and 4 set out how sustainable growth will be achieved, though as they seek to focus development within settlements and only allow expansion on allocated sites and where landscape character will be protected, they have a restrictive element. Nonetheless as they generally reflect the Framework preference for development to be well located in relation to services and facilities, I give them moderate weight.
78. Policy 15 sets out the approach to ensuring that there is sufficient housing provision for the district, including meeting the needs of other authorities. However, as the Council has not demonstrated a five-year supply of deliverable sites this Policy has limited weight.
79. Policy 25 seeks to protect the natural environment and landscape character and is fully consistent with the Framework in this regard. Policy 26 refers specifically to countryside protection outside built up area boundaries, requiring development to be essential to this location. Whilst again this reflects the Frameworks preference for development to be well located in relation to services and facilities, as the definition of built-up areas is based on out of date housing numbers, I give this Policy moderate weight. Policy 30 sets out measures relating to protected landscapes. Whilst the wording differs slightly from the Framework, the principles are the same and so this Policy receives substantial weight.
80. Other policies are referred to by the appellant in support of the proposal. It is agreed that Policies 16, 24, 27, 31, 32, 33, 34, 36, 37, 38, 39, 40, 42 and 43, have a high degree of consistency with the provisions of the Framework, such that they should be afforded substantial weight.

### *Framework Paragraph 177 considerations*

81. The lack of 5-year housing land supply triggers the Framework paragraph 11 d) and the presumption in favour of granting planning permission, unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing development. This includes AONB, with paragraph 177 requiring that planning permission should be refused for major development, other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. In this case there is no dispute that the development would be 'major'. As such the appellant has set out a number of factors considered to be exceptional and in the public interest, which I now consider in relation to the paragraph 177 criteria.

*The need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy*

*Market Housing need*

82. There is no doubt that there is a national housing crisis that manifests itself particularly in the South-East, as reflected in house price inflation which in turn pushes affordability ratios up to eye-watering levels. The high level of unmet need across the East and West Sussex Housing Market Areas is not in dispute. It is also clear that this undersupply has accumulated over the recent past, with the planned-for housing of a number of Sussex authorities falling below need. The level of unmet need is estimated by the appellant to be around 45,000 homes across the combined area. It appears that this is a long standing and systemic problem.
83. Whilst the position in Sussex overall is bleak, Horsham is one of the few authorities whose plan requirements have exceeded need. In terms of delivery, whilst between 2011/12-2019/20 net housing additions have fallen a little below need when measured by the standard method, over the period 2015/16-2019/20 net additions have exceeded need using this measure, with an accumulated surplus of 663 dwellings over the period 2011/12-2019/20.
84. Nonetheless, the HDPF examining Inspector did make clear his concerns regarding the need for an early review of the Plan in order to identify areas for new housing development needed towards the end of the Plan period (2011-2031) in order to meet the increased housing requirement figure. It was agreed that this should commence within the first three years of the adoption of the Plan. As the HDPF is a strategic document making a limited number of large allocations, the need for a Site Allocations document (SA DPD) to enable a range of smaller scale housing sites to come forward was identified, though the Inspector stated that this was only necessary if initial monitoring showed a potential shortfall in the short term supply of land. As the data indicates that early delivery was above the housing requirement, the suggestion that a SA DPD was unnecessary is not unreasonable per se.
85. The examining Inspector also considered that an early review of the HDPF was required to assist in addressing the housing need of the wider area. I understand that such discussions are ongoing, with the case being made for some of the high levels of unmet need across Coastal Sussex and Northwest Sussex to be addressed by Horsham. Whilst the connection between Horsham and coastal authorities may be tenuous, there is a SoCG between the local authorities of Horsham, Crawley, Mid-Sussex and Sussex County Council setting out that they will work together to address future housing need across the HMA. That said, only Worthing, Crawley and Mole Valley have asked the Council to take on part of their unmet need through the Duty to Cooperate.
86. The Regulation 18 Draft Local Plan (Reg 18 Plan) looks at options for housing provision, noting that in addition to its own objectively assessed need of 965 homes per year, additional development will be required to meet the unmet needs of other districts. It sets out to test the deliverability and impacts of three potential options for housing growth: 1,000, 1,200 and 1,400 homes per year. The 1,000 figure would only provide for Horsham's needs, plus a 5% buffer, whereas the 1,200 and 1,400 figure would provide around 200/400 homes per year to help meet the unmet needs of Crawley and beyond. As

such, noting support for the higher figures from neighbouring councils, the latter positions represent more realistic propositions.

87. A range of large-scale potential housing sites (over 800 dwellings) are identified in the Reg 18 Plan either as new settlements or urban extensions. It is inevitable that a number of these sites will have considerable infrastructure requirements and, if included in the adopted plan, will take some years to deliver homes. The Reg 18 Plan does include smaller scale sites (up to 500 dwellings) which are likely to have greater prospects of earlier delivery, though not at scale. At this stage the plan has excluded sites which are fully within the AONB from consideration. Whilst this does not take into consideration the variable character of the AONB, considering that the designated area covers only 6.8% of the district, it is not unreasonable to expect that there is scope for meeting need outside the designated area.
88. Whilst the HDPF review commenced in 2018 progress has been slow, with the Reg 18 consultation held in February/March 2020. Following the close of the Inquiry it has been confirmed that the Council's intention to publish and consult on a Regulation 19 Submission Draft in September/October 2021 will be subject to delay for an undefined period. This is to allow for additional work to meet the requirement to set out a 30-year vision. Therefore, the suggestion that it could be adopted by autumn 2022 is not realistic, noting also the challenges of translating the Reg 18 options for housing growth into an agreed strategy. Whilst it is not suggested that progress has been completely halted, realistically it is unlikely that the new Local Plan will be in place for some time.
89. The significant need for housing in Horsham is not exceptional as it reflects what is happening elsewhere. Nonetheless, in the context of the current lack of five-year housing land supply, the delays in the allocation of housing to meet the needs of Horsham, as well as wider needs through the plan-led system, means that there is a vacuum which, until addressed, will exacerbate the housing shortage in the district. In this context the provision of market housing is a benefit of substantial weight.

*Affordable housing need*

90. With increasing affordability issues generally, the parties agree that the acute need for affordable housing (AH) in England is reflected in Horsham.
91. Looking at past delivery, the HDPF requirement of 35% AH on larger sites was found to be a sound basis for meeting the minimum level of affordable housing required. This had been identified in the Northern West Sussex Housing Market Area Affordable Housing Needs Update 2014 as a range between 225 and 404 dwellings per annum. Between 2014/15 and 2019/20 average net AH completions fell short of the minimum figure by 3%, with a shortfall of 43 dwellings, and with a shortfall of 46% or 1,117 dwellings, on the upper part of the range. It appears that, unsurprisingly, actual need levels fall somewhere within the range, with the number of households on the Council's register at 675 on 1 April 2020, increasing from 582 on 1 April 2019. As such, it appears that the Councils track record of delivery of AH has been at a reasonably steady level, though has fallen demonstrably short of meeting AH needs.
92. Turning to future supply, the Council anticipates an AH supply of around 240 units per annum, though based on the housing land supply evidence considered earlier the actual figure is likely to be somewhat lower. Furthermore, the 2019

Northern West Sussex Housing Market Assessment has identified a much higher need figure of 503 affordable homes in Horsham. Whilst this has yet to be tested at examination, it is clearly a considerable increase on current supply levels. The Council is considering increasing the policy target to 50%, a point to be explored through viability testing. The Council is also committed to using its affordable housing company to build AH, stating that Section 106 monies of around £16 million are available for this purpose. However, the estimated 96 dwellings this could provide would not make significant inroad into the shortfall. Given the delays to local plan progression, the capacity for enhanced provision at any time soon is uncertain.

93. Whilst national policy does not require local planning authorities (LPAs) to meet their assessed AH needs in full, the very real social responsibility of providing for each household within this group is without doubt, recognising also that their interests often go under-represented at Inquiries such as this. In Horsham it is relevant to note that of those households on the housing register, 387 indicate Horsham East and 93 indicate Colgate Civil Parish as their areas of choice. A further 506 households were on the help to buy register on 22 February 2021 seeking shared ownership. In these circumstances the appellant's enhanced offer of 45% AH, which would be secured by the S106 agreement and would amount to 213 new homes for local people (149 homes for affordable rent and 64 for shared ownership), is an important matter attracting very substantial weight.

*Self-build and custom-build housing (SBCB)*

94. In response to rising demand over the past decade, government has sought to boost the supply of SBCB housing, and now attaches great importance to this element of housing supply. The HDPF was prepared in the context of the 2012 Framework, which required LPAs to identify the scale and mix of housing and the range of tenures needed by local people over the plan period, including people wishing to build their own homes. Provision for this was made in Policy SD4 relating solely to the LNH allocation for at least 2,500 homes, which will include 30 SBCB plots.
95. Local policy does not yet reflect the provisions of the Self-Build and Custom Housebuilding Act 2015 which formalised SBCB requirements, placing a legal duty on local authorities to establish and publicise a local register of custom-builders who wish to acquire suitable land to build their own home. The Housing and Planning Act 2016 added the requirement to grant suitable development permissions in respect of enough serviced plots of land to meet the demand for SBCB in the authority's area arising in each base period.
96. The dispute between the parties relates to whether this demand has been captured, and specifically whether a robust assessment of SBCB demand in the district has been undertaken, in line with PPG. The PPG sets out that LPAs should use demand data from the registers in their area, supported as necessary by additional data from secondary sources, to understand and consider future need for this type of housing. Secondary sources can include data from building plot search websites, enquiries for building plots recorded by local estate agents and surveys of local residents.<sup>7</sup>

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<sup>7</sup> Paragraph: 011 Reference ID: 57-011-20210208



97. In this case the Council introduced an annual fee of £20 to remain on the Register in November 2018, which resulted in the removal of entries. As such, whilst the current cumulative total entries on the Register from Base Period 1 to Base Period 6 is 103 (76 resident; 27 non-resident), if previous removals were added the cumulative total would be considerably higher, estimated by the appellant to be 332 individuals and four groups.<sup>8</sup>
98. The Regulations do set out that fees may be charged to be entered onto and remain on the register, and the reluctance to pay such a nominal fee may reflect a lack of commitment. Nonetheless, evidence of secondary sources presented by the appellant, which was not disputed, indicates that demand is higher than the Register would suggest.
99. The Reg 18 Plan does acknowledge the Council's duty to pursue SBCB plots, though it will be some time before its provisions are in place. Until then the Council's inability to fulfil its duty in terms of registered demand remains. The provision of 47 units of SBCB housing secured by the S106 agreement would more than double the Council's supply, providing for local demand and going some significant way towards meeting statutory duties in this regard. This is a benefit attracting substantial weight.
100. The demonstrable need for housing in Horsham district is without doubt. Looking at the effect on the local economy, whilst refusing the scheme would not have any specific adverse impacts, permitting it would deliver short to medium term benefits such as the boost to the construction industry, and additional spend in the economy. These are generic benefits associated with major development of this nature which attract modest weight.

*The cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way*

101. The appellant has considered nearby sites outside the AONB, but has concluded that they are constrained by the railway line or already have permission for development (the LNH and Kilnwood Vale developments). However, as the designation covers only 6.8% of the district, this is not an adequate basis for concluding on the scope to meet needs outside the AONB.
102. Whilst at the present time the housing land supply evidence indicates that sites under development will not achieve the necessary targets, it is clear that there is a lot of development in progress which will deliver within and beyond the five-year period. The Council also considers that it can meet future needs without relying on AONB land, with a range of large and smaller scale sites included in the Reg 18 Plan. It will be some time before this emerging Local Plan is in place and it has limited weight at this stage, with the viability of these sites not having been fully considered. Even if viable, it is clear that larger sites will take some time to come forward, as demonstrated by the fact that the LNH has not yet delivered units. That said, not all would be required to meet future need and it is agreed that the Reg 18 Plan demonstrates the direction of travel, with considerable scope for meeting housing need outside the AONB.
103. The nature of the housing offered by the appeal scheme is not constrained to any particular location unlike, for example, in the Broadway appeal where

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<sup>8</sup> Compare Fig 1 of Mr Hermitage's PoE with Fig 4.2 of Mr Moger's PoE.

reference is made to the rarity of the opportunity to viably provide extra care housing that is affordable.<sup>9</sup> Similarly in the Sonning Common case the Inspector found that, due in part to viability issues, the immediate unmet need for extra-care housing could not be met elsewhere.<sup>10</sup>

104. Whilst I conclude that the scope for developing a scheme of this nature outside the AONB has been underestimated by the appellant, the issue of meeting the urgent need for housing within the short to medium term remains.

*Detrimental effect on the environmental, landscape and recreational opportunities, and the extent to which they can be moderated*

105. In relation to landscape and visual matters I have found that, perhaps unsurprisingly in relation to a site on both the edge of an AONB and the edge of a town, the site provides the opportunity to experience some, though not all of the AONB special qualities. Whilst the western field has elements more characteristic of a transitional edge of settlement environment, AONB qualities are experienced in the eastern field. The development would be a significant intrusion into this essentially rural space.

106. The site has a high degree of visual containment by virtue of The Birches and particularly the tall trees of High Wood. Additional planting would further moderate visual impacts over time. Nonetheless, I concluded that there would be residual moderate and major adverse effects to some landscape and visual receptors, and significant harm to AONB landscape and scenic beauty.

107. The secondary mitigation includes the commitment to design quality, secured by the DCS. That a high standard of design that would be of the High Weald could be achieved is not questioned. Whilst this level of commitment to design excellence may be unusual for an outline scheme, it is not exceptional for development within an AONB to be of the highest standard, rather this is an expectation, noting Government's renewed commitment to creating well-designed and attractive places. Nonetheless, design standard could assist in managing some aspects of visual integration and I note that the Framework paragraph 134 requires such considerations to be given significant weight.

108. The measures set out in the LECS include the commitment to the provision and management of green infrastructure, making up 48% of the site area and including LEAPs, LAPs, allotments, a sports pitch and a country park. The future management of these areas would be secured by the S106 agreement. This exceeds the policy requirement for Public Open Space by a considerable margin in an area said to be deficient in open space, though evidence to back this latter point was not provided. The legal access to the spaces provided would improve recreation opportunities for existing and new residents. The PROW itself would be upgraded and a financial contribution made via the S106 agreement to the improvement of the Riverside Walk. Whilst some of this provision would be necessary to support the increased local population, the recreational benefits to the wider community attract moderate weight.

109. The LECS also sets out how the green infrastructure would deliver ecological mitigation measures and reasonable levels of biodiversity enhancement which would secure measurable net biodiversity gains. The importance of planning

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<sup>9</sup> APP/H1840/A/14/2224292

<sup>10</sup> APP/Q3115/W/20/3265861

decisions in mitigating impacts and providing net gains for biodiversity is reflected both in national and local policy. In this case the predicted outcomes based on the LECS and using the Biodiversity Metric 2.0 demonstrates a net gain of around 20% habitat units and 55% linear habitat unit increases. Whilst in part demonstrating policy compliance, I give this consideration moderate weight.

110. Finally, the appeal proposal contains several measures relating to sustainable design and construction seeking to address climate change. These provisions largely reflect the need for a proactive approach to mitigating and adapting to climate change, as set out in legislation as well as national and local policy. As such they are for the most part now expected in new development, and do not attract beneficial weight.

#### *Other benefits*

111. Paragraph 177 a)-c) criteria are not an exhaustive list of what may be considered exceptional circumstances. The appellant highlights a number of points relating to what is considered to be the exceptional location of the site adjacent to Horsham town. Firstly, it is agreed that the town has a pivotal role in the spatial strategy, providing district-wide services and facilities as well as extensive public transport links. The HDFP highlights the importance of retaining the existing settlement pattern, ensuring that development takes place in the most sustainable locations and is of a scale that retains the character and role of the settlement.

112. The HDLCA of 2014 and 2020 considered a range of sites around the circumference of Horsham town, providing an objective assessment of the sensitivity and capacity of the landscape around existing settlements to accommodate development. With the exception of the areas which will form part of the LNH development, most of the remaining perimeter of Horsham town is considered to have no/low capacity for development. The appeal site's location in Area 17 is unique in that it is considered to have moderate capacity. This is subject to further detailed consideration, as has been undertaken here, with harm identified in relation to the physical extent and form of the appeal scheme. As such the suggestion that the site is unique is of limited weight in determining this appeal.

113. That said, a development of this scale would not be disproportionate to the size of settlement, and in basic terms adjacent settlement size does provide a starting point for judging appropriate development scale. The appellant sought to highlight this with reference to other AONB developments adjacent to smaller settlements which have been permitted at appeal.<sup>11</sup> These cases engaged paragraph 177 and considered whether exceptional circumstances justified major development. Beyond this the case details differ. In the Broadway case, in addition to the challenge of viably meeting the need for the development elsewhere, the Inspector found no significantly harmful effect on the scenic beauty of the AONB, and that the development would appear as a marginal extension of a significant area of housing. In the Tetbury case<sup>12</sup> the Secretary of State agreed that there would be some harm to AONB scenic beauty, but that there was very limited scope to develop on sites that were outside the AONB. Therefore, notwithstanding the appellant's point about

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<sup>11</sup> INQ12

<sup>12</sup> APP/F1610/A/11/2165778

proportionality in relation to settlement size, these cases demonstrate that whether the conclusion can be drawn that circumstances are so exceptional that development would be in the public interest is dependent on the careful balancing of harm to the protected area with meeting wider needs. I therefore attach limited weight to these other decisions.

114. Finally, the site is well located in relation to transport networks, with the A264 and bus routes along the Crawley Road close by. It is also well connected by PROW leading into the urban area. This would support sustainable travel methods, which can be of particular value to the occupiers of AH. Whilst the provisions of the S106 agreement seeking to enhance walking/cycling routes and upgrade bus stop facilities are required to make the development acceptable in planning terms, these improvements would also be enjoyed by the existing residents of the Roffey area. As such this would be a wider benefit of moderate weight.

### *Planning Balance*

115. The starting point for reaching a conclusion on the Framework paragraph 176/177 is that *great weight* should be given to conserving and enhancing the landscape and scenic beauty of an AONB, which has the highest status of protection in relation to these issues. This reflects the statutory duty under Section 85 of The Countryside and Rights of Way Act 2000 to have regard to the purpose of conserving and enhancing the natural beauty of AONB. As such, the scale and extent of development within these areas should be limited, and planning permission should be refused for major development other than in exceptional circumstances.

116. I agree that the collective of benefits should form part of the consideration of whether exceptional circumstances exist. This is confirmed by *Compton PC v Guildford BC*,<sup>13</sup> which also indicates that general planning needs such as ordinary housing are not precluded from being part of the judgement that exceptional circumstances exist. Further, this term does not mean that the factors involved have to be unlikely to recur in a similar fashion elsewhere.

117. In this case there is no doubt that the collective of benefits identified present considerations of great importance. As such I have afforded substantial weight to market housing, very substantial weight to affordable housing and substantial weight to self-build and custom-build housing. I have recognised that in very basic terms the site aligns with the spatial strategy in somewhat constrained circumstances, and that there would be sustainable travel benefits associated with the proposal. There would also be recreational and biodiversity benefits, and a high standard of design would be achieved. Whilst I have found that the scope for developing outside the designated area to be underestimated by the appellant, I recognise the short to medium term issues with achieving this, and also that the appellant is committed to securing the early delivery of the appeal scheme.

118. Set against this, I have found significant harm to the landscape and scenic beauty of the AONB. This relates particularly to the eastern field which I have found to reflect qualities of the wider AONB, a fact valued and appreciated by many. Whilst I have recognised the efforts to moderate these impacts

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<sup>13</sup> *Compton Parish Council v Guildford Borough Council* [2019] EWHC 3242 (Admin)

through design and green infrastructure, this would not significantly address the effects of the degree of physical and visual intrusion proposed.

119. The range, sensitivity, and importance of the issues on both sides of the balance are not taken lightly. I recognise that the identified benefits in relation to housing matters would clearly be in the public interest. However, the reality is that the circumstances of the housing shortfall, including huge challenges around providing for affordable housing and self-build and custom-build housing, are not unusual. The location of the site has been carefully considered: it is part of an area considered to have capacity to accommodate significant housing development adjacent to the main district settlement, though this is subject to detailed landscape analysis. The challenge of accommodating development that accords with the spatial strategy remains and is a material consideration, though the locational circumstances of the site have not been found to be unique. The other benefits identified are commonplace and do not add significantly to the balancing. Overall, my view is that these considerations do not together present exceptional circumstances. I conclude that when they are balanced against the significant harm to the landscape and scenic beauty of the AONB, a development of this scale in this location would not be in the public interest.
120. The Framework paragraph 11 sets out that where the application of policies within the Framework that protect areas of particular importance provide a clear reason for refusing development then the so called 'tilted balance' in favour of granting planning permission does not apply. Therefore, in light of footnote 7, given my conclusion in respect of AONB this case falls to be determined on the ordinary unweighted planning balance, to which I now turn.
121. Support for some aspects of the development, including the provision of a policy compliant housing mix, affordable housing, design quality, environmental protection, the provision of green infrastructure, energy use and climate change can be gained from development plan policies which carry substantial weight. The proposal would also be policy compliant in relation to other matters including sustainable transport, energy use, climate change and flooding. I have also found policy compliance in terms of highway safety.
122. Whilst the proposal would not support the spatial strategy for the District as set out in Policies 2, 4 and 26, these policies are not fully Framework compliant. Furthermore, the issues associated with the supply of housing land means that conflict with these policies may be afforded modest weight only.
123. Nonetheless, those policies relating to the conservation and enhancement of protected AONB landscapes are fully consistent with the Framework. The conflict identified is significant and is determinative in this case. I therefore conclude that the benefits of the appeal proposal do not outweigh the conflict with the development plan taken as a whole. There are no material considerations that suggest the decision should be taken other than in accordance with the development plan.

## **Conclusion**

124. For these reasons the appeal is dismissed.

*A J Mageean* INSPECTOR



## **APPEARANCES**

### FOR THE APPELLANT:

Christopher Young QC instructed by FCP Land 4 Limited  
Assisted by Sioned Davies

#### They called:

James Donagh BA (Hons) MCD MIED on housing need

Ben Pycroft BA (Hons) DiP TP MRTPI on housing land supply

James Stacey BA (Hons) DiP TP MRTPI on affordable housing

Andrew Moger BA (Hons) MA MRTPI on self build and custom housebuilding

Andrew Smith BSc (Hons) MSc CMLI on landscape, visual and character matters

Elizabeth Alexander BA (Hons) MPhil MRTPI on planning matters

Michael Kitching BSc MSc CILT on transport

### FOR THE LOCAL PLANNING AUTHORITY:

Clare Parry of Counsel instructed by legal services Horsham Council.

#### She called:

Mark McLaughlin BA (Hons), MTPL, MRTPI  
on five year housing land supply

Anne Westover BA Dip LA CMLI  
on landscape

James Hutchinson BA MA MRTPI  
Planning consultant on planning policy and planning balance

### INTERESTED PARTIES:

Ms Lydia Playfoot  
Keep Our Green Spaces

Cllr David Searle  
Horsham Town Community Partnership

Cllr Alan Britten  
North Horsham Parish Council

Mr Paul Kornicky

Mrs Sally Sanderson  
Horsham Green Spaces Forum

Dr Peter Simpson  
Horsham Green Spaces Forum

Mr Andrew Caulfield

Mr Howard Wilder

Dr Roger Smith  
CPRE Sussex

Mr Simon Neesam  
The Landscape Partnership

Mrs Heather Playfoot  
Keep Our Green Spaces

Mrs Elizabeth Rice

#### DOCUMENTS SUBMITTED AT THE INQUIRY

1. Council Windfall Sites update (INQ 1)
2. Draft planning conditions (INQ 2)
3. Appellant opening statement (INQ 3)
4. Council opening statement (INQ 4)
5. Statement from KOGS Horsham
6. Statement from David Searle
7. Statement from North Horsham Town Council
8. Statement from Paul Kornycky
9. Statement from Horsham Green Spaces
10. Statement from CPRE Sussex
11. Statement from the residents of Roffeyhurst properties
12. Shelter report (INQ 5)
13. Landscape errata to Ms Westover Proof of Evidence (INQ 6)
14. High Weald AONB Map (INQ 7)
15. Further Extracts from the 2020 Horsham Landscape Capacity Study (INQ 8)
16. Joint Policy Position Statement (INQ 9)
17. Broadway appeal decision (APP/H1840/A/14/2224292) (INQ 10)
18. Holsworthy Appeal decision (APP/W1145/A/09/2117379) (INQ 11)
19. Major development in AONB comparison table (INQ 12)
20. Map of Wychavon AONB (INQ 13)
21. Table of responses to Reg 18 Horsham Local Plan (INQ 14)
22. Timeline for Reg 18 Horsham Local Plan (INQ 15)
23. Statement from KOGS
24. Council Closing Statement
25. Appellant Closing Statement

#### DOCUMENTS ACCEPTED AFTER THE INQUIRY

1. The appellants signed and dated legal agreement under Section 106 of the Town and Country Planning Act 1990.

2. SoCG and Council's Statement of Case in relation to the Appeal Ref APP/Z3825/W/3261401.
3. Appeal decisions APP/B1930/W/20/3265925 & 3265926
4. Appeal decision APP/Q3115/W/20/3265861
5. Council response to Appellant correspondence of 30 June 2021
6. Appeal decision APP/V3120/W/20/3261691
7. Appeal decision APP/K1128/W/17/3185418
8. Appellants reply to the Council's post-Inquiry Submissions
9. Appellants response to the Revised National Planning Policy Framework
10. Press release of 28 July 2021 relating to progress with the Draft Horsham District Local Plan