



Appeal Decisions

Inquiry held on 1 to 4, 8 to 11 and 15 to 18 October 2024

Site visit made on 15 October 2024

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th November 2024

Appeal A: APP/L3815/W/24/3344538

Crouchlands Farm, Rickman's Lane, Plaistow, West Sussex, RH14 0LE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Artemis Land and Agriculture Limited against Chichester District Council.
- The application reference is 22/03114/FULEIA.
- The development proposed is the erection of 108 dwellings (Use Class C3), and associated access and street network, footpaths, open spaces, plant, landscaping and site infrastructure.

Appeal B: APP/L3815/W/24/3344661

Crouchlands Farm, Rickman's Lane, Plaistow, West Sussex, RH14 0LE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Artemis Land and Agriculture Limited against Chichester District Council.
- The application reference is 22/01735/FULEIA.
- The development proposed is the regeneration of Crouchlands Farm, comprising demolition of selected buildings, extension, refurbishment and remodelling of selected buildings and the erection of new buildings to provide up to a total of 8,788sqm (including retained/refurbished existing buildings) comprising the existing farm hub (sui generis), a rural enterprise centre (Use Classes E(c), E(e), E(g), C1 and F1(a)), a rural food and retail centre (Use Classes E(a) and E(b)) and a glamping site (Use Class E and sui generis); provision of new hardstanding, pedestrian, cycle and vehicular access, circulation and parking, landscaping including new tree planting, maintenance and improvements to the public rights of way, site infrastructure and ground remodelling.

Appeal C: APP/L3815/W/24/3344663

Crouchlands Farm, Rickman's Lane, Plaistow, West Sussex, RH14 0LE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by Artemis Land and Agriculture Limited against the decision of Chichester District Council.
- The application reference is 22/01735/FULEIA.
- The development proposed is an outline planning application (with all matters reserved except access) for the erection of up to 492 dwelling (Use Class C3), education provision including primary school (Use Class F1) and associated access, footpaths, open spaces, landscaping and site infrastructure.

Decisions

1. Appeal A is dismissed and planning permission is refused.
2. Appeal B is dismissed and planning permission is refused.
3. Appeal C is dismissed.

Preliminary Matters

4. The appellant confirmed the address of the appeal sites is as set out in the banner headings above, notwithstanding that it differs slightly from that used in previous (unrelated) appeal proceedings on the same sites.
5. The Council issued a decision notice in respect of Appeal A but I have considered it on the basis of a failure to determine the application because the appeal was lodged shortly before the refusal notice was issued. The reasons given in the notice have been taken as the reasons on which the Council is opposing that appeal.
6. The Council failed to determine the application subject of Appeal B. It later resolved to oppose the proposal for the reasons set out in a planning committee report of the 10 July 2024. I have taken those reasons into account in framing the main issues in the appeal.
7. Appeal C is made in outline with all matters reserved for later consideration other than for access. It was confirmed at the inquiry that for the purposes of Appeal C, access related to the formation of new highway junctions to the site from Rickman's Lane. It does not include the internal roadways indicated on the layout plan.
8. It is agreed by the main parties that the appeal proposals should be considered together as a single scheme. I have determined the appeals on that basis.
9. A written ministerial statement and consultation on proposed changes to the National Planning Policy Framework (the Framework) were published on 30 July 2024. The proposed changes to the Framework are in draft form. As they may change depending on the Government's response to the consultation, I give them only limited weight.
10. The draft Chichester Local Plan 2021-2039 is at examination, the hearing sessions for which started on the opening day of the inquiry. As the plan may be amended as a result of the examination, I give it limited weight.
11. Two legal undertakings under Section 106 of the Town and Country Planning Act 1990 have been submitted with the appeals. The first, a multilateral agreement with the district and county councils, includes obligations relating to the provision of affordable housing, open space provision, a bus service, highway and public rights of way improvements, and a travel plan. The second contains unilateral obligations relating to water efficiency measures, formal sports provision and provision of land for a primary school. I consider the obligations in more detail in my reasoning.
12. During the course of the appeals, discussion between the main parties was able to resolve matters relating to air pollution on The Mens Special Area of Conservation, and the impact on great crested newts. Consequently, I have not

considered these matters any further. The appellant decided not to submit separate evidence on socio-economic benefits as was originally intended, and although evidence on housing delivery was submitted no witness was subsequently called. I have moderated the weight given to that evidence accordingly.

Main Issues

13. Having regard to the narrowing of issues relating to ecology and the obligations contained in the legal undertakings, I consider the main issues in these appeals are the effect of the development on:

- The location of development in relation to the spatial strategy of the development plan, and accessibility to facilities and services including by sustainable modes of transport
- Landscape character and appearance, including heritage aspects of the landscape
- Design and layout
- The ecological value of the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar site in respect of water neutrality
- Flood risk and surface water drainage
- Heritage assets in respect of the setting of grade II listed Crouchland and non-designated Hardnips Barn
- Highway safety
- The ecological value of The Mens and Ebernoe Common Special Areas of Conservation in respect of bats
- Health risk from lagoon 3
- Ancient woodland
- Foul drainage
- Agricultural operation of Crouchlands Farm
- Housing land supply and housing requirement

14. It is also necessary to consider material considerations relevant to the scheme, including whether the policies most important for determining the appeals are out-of-date, the benefits of the scheme, and how the main issues and material considerations should be weighed against one another. I do this in the planning balance.

Reasons

Location of development and accessibility

15. The spatial strategy of the Chichester Local Plan: Key Policies 2014-2029 (the Local Plan) uses a settlement hierarchy to direct new development to appropriate locations. Policy 2 of the Local Plan identifies the city of Chichester as the focus for major development, with 4 settlement hubs below that

providing centres for a range of uses, and below those service villages providing small scale housing development and local facilities. The service villages include Plaistow/Ifold, Kirdford and Loxwood. Policy 25 for development in the North of the Plan area is consistent with the approach taken in Policy 2 with an emphasis on conserving the rural character of the area. Outside settlement boundaries, Policy 45 says that development in the countryside will be granted where it requires a countryside location and meets essential, small scale and local needs that cannot be met within or immediately adjacent to existing settlements.

16. The proposed development lies outside any defined settlement boundary. None of the appeal sites are allocated for development, the proposed uses (or at least the principal element which is for housing) does not require a countryside location, and the scale of what is proposed goes well beyond meeting any local need. The weight to be given to the policies that set out the spatial strategy of the Local Plan is influenced by other factors, such as whether the strategy is delivering the quantity of housing needed in the district. I consider this weighting later in the planning balance. However, so far as the location of the development is concerned, it runs counter to the spatial strategy of the Local Plan and conflicts with Policies 2, 25 and 45 of the Local Plan.
17. The Council has recognised the need to apply the spatial strategy flexibly by adopting an interim position statement that sets out criteria by which it will assess housing proposals until such time as the Local Plan is updated. This statement is not a development plan document as it has not been through the regulatory processes necessary for such documents, and accordingly carries limited weight. The main difference between it and the Local Plan is that it looks more favourably on housing schemes that are adjacent to settlement boundaries. Since the proposed scheme is not adjacent to any settlement boundary, it is of little relevance to these appeals.
18. Part of the rationale behind the spatial strategy is to maximise access to services and facilities, and minimise the need for travel. Policy 39 of the Local Plan sets out criteria for accessibility, including that new development is located and designed to minimise additional traffic generation and movement, and can be accessed by sustainable modes of transport. The policy is consistent with paragraph 109 of the Framework, which requires that significant development should be focussed on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.
19. The combined appeal proposal amounts to significant development. At present the location has very limited accessibility. The local road network consists of rural lanes with the nearest A or B class roads some distance away. While the lanes are relatively quiet, they are winding, unlit and have no separate footways. There is a network of rights of way, but again these are unlit and also unsurfaced.
20. Limited services and facilities exist at Plaistow approximately 2km away which include a primary school, church, public house, shop/cafe and playground. Similar facilities exist at Kirdford, except for a school, approximately 3km away. There is also a community hall at Alfold. The National Design Guide suggests a walkable distance to be no more than 10 minutes/800m, while

other guidelines¹ suggest a preferred maximum of 2km to a school. Local facilities would therefore be at or beyond distances which most people would consider reasonable for walking, although they would be within range for most people using bicycles.

21. Irrespective of whether these facilities are considered to be within a reasonable walking or cycling distance, in my view the available routes are not attractive for regular use because of the perception of danger on the winding and unlit roads and paths, which for the most part also lack passive surveillance. That would be particularly so for younger and older people, and the parents of children wanting to reach those locations. It is therefore likely that trips to and from local services and facilities would be by private car rather than more sustainable forms of transport. I reach that view notwithstanding the guidance from Road Safety GB which is primarily intended for use in assessing claims for free school transport, or iRAP modelling which is aimed at minimising serious injury rather than encouraging walking and cycling.
22. All higher order services and facilities, and most employment opportunities, are well beyond normal walking or cycling distances. There is no convenient railway station, and the local bus service is only one trip per day on each of 2 routes, which is inadequate for those needing to access secondary or tertiary education, or for work. For all practical purposes most trips to and from this location would be by private motor car.
23. Since the location is not readily accessible in transport terms, it is necessary to consider whether the development can be made accessible by improvements to the transport network. The appeal proposals seek to improve accessibility in a number of ways. These comprise on-site retail, employment and sports facilities, upgrades to local rights of way and roads, a dedicated bus service, and land for a primary school.
24. The on-site facilities have the potential to cater for some of the day-to-day needs of future residents. However, I have been given no trip generation data for the proposed retail, employment and sports elements and therefore it is possible they would generate as many trips to and from the site as they would save. That is particularly the case for the retail element which is of a scale that exceeds the more modest size of shops found in neighbouring villages and is therefore likely to cater for more than local needs. What these facilities would not be able to do is cater for higher order retail, leisure and employment needs arising from the development, which would still need to be met by trips to larger centres some distance away.
25. Upgrades to local rights of way and roads would include improvements to walking and cycling routes to Plaistow and Kirdford, new speed limits on local roads, improvements to some road junctions and passing places on Foxbridge Lane. Implementation of these improvements, or financial contributions to fund their implementation, are secured by way of legal obligations and I therefore have taken them into account.
26. There are unresolved safety concerns with some of these proposals which I consider in more detail later. However, even assuming they all could be implemented, they would not reduce the length of the walking routes to either

¹ Institution of Highways and Transportation, guidelines for providing for journeys on foot, 2000

Plaistow or Kirdford, which are already at or beyond the distances the guidance suggests most people are willing to walk in preference to using other forms of transport. Furthermore, they would only result in modest improvements to the attractiveness of these routes, which would still be perceived as dangerous because they would remain winding and unlit, and largely without any passive surveillance. I consider that most people would still drive rather than walk or cycle.

27. The dedicated bus service would provide a half-hourly service to Billingshurst and would be free to residents and employees on the appeal sites and at a reduced cost for others, for a period of 5 years. That would be a marked improvement on the current bus service and would enable access to the higher order services available in Billingshurst and opportunities for onward travel to other centres.
28. However, the bus service would link only to one centre rather than having direct links with a number. That would limit choice and result in longer journey times, particularly for destinations in the opposite direction to Billingshurst. More importantly, it would only be guaranteed for a limited period. The need to fully fund it for that period indicates that it would not be commercially viable, and it is unlikely that it would become commercially viable by the time the funding ceased. Examples of other developer funded bus services show that the large majority cease after funding is withdrawn or require public support². The dedicated bus service, useful though it would be while available, would not provide a long-term solution to the lack of accessibility to higher order services and facilities.
29. Appeal B includes an option to provide land for a primary school, secured by a unilateral obligation. The Education Authority no longer supports provision of a primary school on the site as there is no current need. Its preference is to accommodate additional demand by expansion of existing schools which are in more sustainable locations. Having regard to the position of the Education Authority, I place little weight on the possibility of there being a primary school on the site and therefore any impact it might have in reducing the need to travel.
30. As well as the changes detailed above, the transport strategy for the scheme relies on a 'predict and provide' method of travel planning, which seeks to monitor travel patterns and respond where required to encourage the use of sustainable forms of transport and discourage car borne trips. The travel plan would include a travel coordinator, but there is little detail as to what actions might be triggered as a result of monitoring. It seems to me that if this approach is to be effective, there should at least be sufficient locational advantages and transport infrastructure available to provide the potential for changes in travel behaviour. Those simply do not exist in this case.
31. Paragraph 109 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. I accept that the appellant has done all that could reasonably be expected in trying to improve accessibility. However, the isolated location of the appeal sites means that even with these measures in place, accessibility would still be poor.

² CD8.34 Stephen Gee, proof of evidence, paragraph 4.40

32. Drawing these points together, I conclude that the appeal sites are not in a location that is readily accessible to sustainable modes of transport, nor would the development be made sustainable by the transport improvements included in the scheme. There would as a consequence be substantial conflict with Policy 39 of the Local Plan, which promotes sustainable forms of transport.

Landscape

33. The sites fall within the North-Western Low Weald landscape character area as identified in the Landscape Character Assessment of West Sussex. It is described as a gentle, rolling, enclosed rural landscape, with a sense of unity conferred by strong patterns of woodland, streams and rolling pasture interspersed with more open arable fields. Many pastures contain field oak trees and are enclosed by sometimes dense networks of hedgerows, trees, shaws, and frequent small and medium sized woodlands. Overall, the area has a remote and tranquil character.
34. The appeal sites exhibit almost all these characteristics, the only element absent being that of arable fields. It consists of small, irregular pasture fields bounded by well-established hedgerows and shaws, interspersed with blocks of woodland. The land is gently rolling rising to a low ridge north of Plaistow with small streams draining towards the east. The settlement pattern is generally of dispersed farmsteads and houses. The villages of Plaistow and Kirdford to the north and south are small and loose knit having grown incrementally around crossing points. Ifold is somewhat different consisting of more recent, dispersed housing grouped around a triangle of roads. The settlements are joined by narrow, winding country lanes. The area has a sense of remoteness and tranquillity.
35. There is a difference of view between the parties as to whether the area is a valued landscape in the sense used in paragraph 180 of the Framework. There is no definition of that term in the Framework, although it is generally agreed that in principle it can include landscapes beyond those designated at a national level. Guidance produced by the Landscape Institute provides a range of factors to aid identification, but these are not exhaustive and it remains a matter for judgement depending on the characteristics of the landscape in question.
36. In my view for a landscape to be valued it has to be distinguished in some way from the general countryside in which it lies, and be of a higher quality. The Weald covers a large area between the North and South Downs and although the appeal sites may be a good example of the landscape typical in the lower part of that area, I do not consider that it stands out to such an extent that it can be distinguished from the wider tract of land of which it forms part. The factor that is perhaps most different is its quietness and tranquillity relative to other parts of the south-east, but that alone is not sufficient to elevate it to a valued landscape.
37. That having been said, the landscape is representative of the Low Weald and, other than for the lagoons and other structures subject of enforcement action on the farm, it has remained largely unchanged from at least the 18th century and quite possibly from medieval times when the field system was assarted from the forest that covered much of the Weald. It does therefore have historic interest. While it may not be valued in the sense of how that term is used in

the Framework, it is clearly valued by local residents and those who enjoy its recreational qualities. It is of intrinsic character and beauty, and because of its historic integrity and tranquillity is sensitive to change.

38. The proposed development would make extensive changes to the immediate landscape. It would introduce domestic-scale residential development in a form and density that would be alien to the present scatter of farmsteads or loose-knit small villages in the area, as well as other structures such as the retail centre and the glamping lodges. Notwithstanding the retention of most field boundaries and woodland, and the extensive buffer zones that would be incorporated into the scheme, these buildings and their associated infrastructure would be seen as a suburban form of development, at odds with the rural character of the landscape.
39. In terms of character effects, there is general agreement in the evidence presented to me that even after planting had matured there would be a continuing high or medium-high adverse impact on the rural character of the area, in particular the narrow, enclosed lanes and tracks, the small-scale intimate pastoral landscape, and local landscape tranquillity.
40. In terms of visual effects, the impact would be high, reducing to high or medium in the longer term when viewed from the adjacent rights of way network, Rickman's Lane and Foxbridge Lane. However, because of the rolling nature of the landform and extensive network of woodland, field hedges and wooded shaws, medium distance views would be curtailed. The zone of theoretical visibility shows that such views would be relatively limited and even from higher ground to the north of Plaistow the verified view shows that, at most, only the tops of some of the buildings would be visible.
41. Long distance views would also be curtailed for the same reasons. The Low Weald forms part of the setting to the South Downs National Park, which lies some 2km to the west and 4km to the south, but the development would be largely hidden from view. Given the distances involved and the characteristics of the landscape, I think it unlikely that any appreciable additional activity or light pollution would be caused to the National Park. There would therefore be no conflict with the purposes of its designation.
42. My conclusion is that, notwithstanding the relatively limited medium and long-distance views of the sites, the development would have a significant impact on the local landscape adversely affecting its qualities including the enclosed lanes and tracks, intimate scale and tranquillity, and that those adverse impacts would persist irrespective of any mitigating planting and landscaping. It would as a result conflict with Policies 25, 33, 40, 45, 47 and 48 of the Local Plan, which seek to conserve and enhance the rural character of the area, the quality of its landscape and the natural and historic environment.

Design and layout

43. The design and layout of a large part of the scheme is reserved for later consideration. The elements for which those matters are relevant are the 108 dwellings in Appeal A, and the built elements of Appeal B. Of these the rural enterprise centre would reuse existing modern farm buildings, whose form and position are already set, and the retail centre would in part do the same. A proving layout has been provided to give an illustration of how the larger part

of the residential scheme in Appeal C would appear, and how the various elements would relate to one another. I have had regard to the proving layout as one potential way the scheme could be laid out, while recognising that Appeal C remains in outline and could result in an alternative approach.

44. The design of the residential element of the scheme seeks to achieve a degree of consistency between buildings while providing enough variety to avoid blandness, and has grouped dwellings in small neighbourhoods, largely based on the existing field layout, to achieve a smaller scale and retain hedging and field trees wherever possible. The village green, play areas, orchard and extensive landscape buffers would all provide a generous sense of space within the scheme. The layout has also been designed to minimise the dominance of parked cars and encourage safe and easy movement within and between neighbourhoods. The buildings have been designed to meet current standards and be energy efficient. There would be a mix of uses, notwithstanding the residential-led nature of the scheme. All these aspects accord with design principles as set out in the National Design Guide and local planning policies and guidance.
45. I do however consider the layout to be disjointed. Traditional villages in the Low Weald, such as Plaistow, are centred on a crossing place with local services and facilities located in or near the centre of the village providing a clear identity. In contrast, the staggered crossing on Rickman's Lane would be anonymous without any clear indication that one was entering a village, and the services and facilities in the retail centre are located at the western end of the development, isolated from the houses. The village green is also off-centre and lacks enclosure, and the main access road avoids most of the housing rather than forming a clear spine for movement within the development. Rather than these elements reinforcing one another to create a distinct centre, the settlement would lack a coherent sense of place.
46. I also have some concern with the palette of materials proposed for the dwellings in Appeal A, which include the use of buff brick and zinc roofing. The Design and Access Statement sets out the rationale for these as part of the wider palette of materials, with buff brick representing stone and the use of zinc being taken from modern farm buildings. However, the Low Weald is poor in building stone. It is used on few buildings, and then not to the extent proposed in the appeal scheme. Metal sheet roofing is found on modern farm buildings but that is in the context of agricultural use and on much larger scale buildings. It is not typical of either vernacular or modern dwellings in the Low Weald. I consider these particular materials would look discordant within the context of the local area.
47. Concern was raised at the ability of the outline element (Appeal C) to accommodate the quantum of development proposed, having regard to the density of proposed development and the net developable area. As discussed at the inquiry, density is a relatively crude measure dependent as it is on the size of units as well as their number. The net developable area may also vary depending on exact requirements for buffer zones and drainage. I am satisfied that the proving layout presented at the inquiry demonstrates that the quantum of development proposed in Appeal C can be accommodated on the site in a manner that is consistent with the detailed scheme proposed in Appeal A.

48. Taking all these matters into account, I conclude that while much of the design of the development accords with the advice in the National Design Guide, there are elements relating to its layout and proposed materials that would not, and would lead to moderate harm. As a consequence, there would be conflict with Policy 33 of the Local Plan, which requires proposals to meet the highest standards of design.

Water neutrality

49. Under the Conservation of Habitats and Species Regulations 2017 where there is a possibility of harm being caused to sites of designated ecological importance, I am required to carry out an appropriate assessment to determine if the proposed development would have a significant adverse effect on those sites, and if so whether there are any measures that could be taken to mitigate that effect.

50. The appeal site lies within the Sussex North Water Supply Zone, in which drinking water is supplied by groundwater abstraction. Natural England advises that the groundwater abstraction is having a significant adverse effect on the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar site. The adverse effect results from the reduction in water levels in wetlands used by rare flora and fauna.

51. The development would be supplied with drinking water from the Sussex North Water Supply Zone. Having regard to the advice of Natural England, the additional demand for drinking water arising from the development could have a significant adverse effect on the Arun Valley sites, taken in combination with other development in the supply zone, because it would increase the need to abstract water. It is therefore necessary to consider whether the potential adverse effect can be mitigated.

52. Pending a long-term solution to the supply of drinking water, the mitigation approach taken by the relevant authorities in partnership with Natural England is to achieve water neutrality, defined as being the use of water in the supply zone before the development being the same or lower after the development is in place. That can potentially be achieved through a combination of minimising water use in new development, and offsetting the remaining increase in demand by an equivalent reduction in existing water consumption in the supply zone.

53. Agreement was reached between the parties at the inquiry that measures to minimise water use would limit consumption to 60.26 litres per person per day for the residential element and agreed standards for the non-residential elements. This would be achieved through the use of water efficiency fixtures and fittings, greywater recycling and rainwater harvesting. Installation of these features would be secured through a planning obligation, to which I give weight. It is also accepted that an occupancy factor of 2.4 persons per household should be used to calculate the residual water demand. In the development proposal with housing in place of a primary school, that would amount to 84,476 litres per day or 30,834m³ per year.

54. The Council, in partnership with other authorities, is close to introducing the Sussex North Offsetting Water Scheme. This would allow for the purchase of off-setting credits derived from water efficiency measures being installed in

existing water users in the supply zone, such as affordable housing stock and schools. However, a decision was taken shortly before the inquiry opened that the offsetting scheme will not be open to development where the principle is not in accordance with an adopted development plan, or in a post-submission local plan or neighbourhood plan. This includes housing and employment development outside settlement boundaries on unallocated sites. Having regard to that decision, the appeal proposals would not be eligible for offsetting through the scheme, and I place little weight on it as a mitigating factor in these appeals.

55. The market for alternative water neutrality offsetting schemes is nascent. I was presented with limited details of companies who offer water offsetting services but it was confirmed at the inquiry that none of these have been approached, nor any offsetting schemes identified, that would provide offsetting credits for the appeal proposal. The Council's evidence is that the schemes handled by these companies are relatively small (for example 6-8 dwellings/single commercial premises). This contrasts markedly with the scale of the appeal development at 600 dwellings together with retail, commercial and leisure uses.
56. Even based on theoretical efficiency savings that might be achieved in refitting larger office, warehouse or care homes with water saving equipment³, the appellant would need to source many schemes to provide sufficient offsetting credits to achieve water neutrality. I have been provided with no evidence that such opportunities exist, certainly not in the numbers or of the size that would be required. With the private offsetting market still at an early stage of development, and without access to the Sussex North Offsetting Water Scheme, I consider that adequate offsetting would not be achieved.
57. The appellant suggests that Grampian conditions could be imposed that would prevent development commencing unless or until a suitable water neutrality strategy has been secured. The Planning Policy Guidance advises that such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission. That is indeed a low bar but in this case the evidence suggests that there is no realistic prospect of the very substantial amount of offsetting required being achieved within the normal time period for a permission. The test has not therefore been met and Grampian conditions would not be appropriate in these appeals.
58. My attention has been drawn to an appeal decision at *Lower Broadbridge Farm* where a Grampian condition relating to water neutrality was found to be applicable⁴. The recent decision to exclude non-development plan compliant schemes from the Sussex North Offsetting Water Scheme is a material change to the circumstances in which this earlier decision was made, which noted that there remained some prospect it would be available. The scale of offsetting also significantly differs, with the *Lower Broadbridge Farm* scheme requiring 18,907 litres per day to be offset, compared to the requirement for the current appeals of 84,476 litres per day to be offset. I distinguish the schemes on these grounds.

³ CD11.30 Royal HaskoningDHV water neutrality technical note, 7 October 2024

⁴ CD5.55 APP/Z3825/W/23/3321658 - Land at Lower Broadbridge Farm, Broadbridge Heath, West Sussex

59. I conclude that it cannot be shown with certainty that the appeals scheme would not have an adverse effect on the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar site because of an increased demand for water abstraction. It would consequently conflict with Policy 49 of the Local Plan, which seeks to protect habitats and species, and the Conservation of Habitats and Species Regulations 2017.

Flood risk and surface water drainage

60. The Council expresses concern about surface water flood risk to parts of the appeal scheme. The flood risk arises from surface water flooding that ponds or backs up from drainage ditches during heavy rain. This form of flooding tends to be relatively short lived, but while it is present it can cause damage in the same way as any other form of flooding.

61. Paragraph 168 of the Framework requires that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding and says that the strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

62. The latest strategic flood risk assessment has been produced by the Council as supporting evidence for the emerging local plan. The stage 1 flood risk assessment categorises sites as being sequentially preferable where no more than 20% of a site is at risk from flooding from any source. This assumption has been made on the basis that it may be possible to develop such sites by locating vulnerable development outside those parts of a site that are at risk of flooding.

63. At the inquiry I was presented with differing calculations for the proportion of the appeal sites at risk of surface water flooding of between 19-21%. While that statistical approach may be sufficient for local plan making purposes at an early stage in the site selection process, for individual development proposals the assumption about the proportion of a site subject to flood risk does not have to be relied upon alone as the proposed development can be compared directly with the available surface flood risk information.

64. For Appeals A and B, the sites are either not subject to surface water flood risk, or the development on them has been laid out to avoid the areas which are at risk. However, for Appeal C parts of the site are at risk of surface water flooding. Although made in outline, residential development is proposed in these parts of the site and would inevitably be impacted by it. Evidence was given at the inquiry as to how such flood risk could be mitigated by raising floor levels, bridging an access road across a flow path, and increasing flood storage to compensate for development within the area liable to flood. While mitigation may be possible, putting mitigation before avoidance runs counter to national flood risk policy, which is to steer new development to areas with the lowest risk of flooding from any source. The Planning Policy Guidance advises that avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on such mitigation measures.

65. As parts of the development would be at risk of surface water flooding, I conclude a sequential test should have been carried out. The strategic flood risk assessment may be helpful as a starting point in carrying out a sequential test, but it does not allocate sites and does not itself amount to a sequential test. As no such test has been undertaken, I am unable to determine if there are reasonably available sites appropriate for residential development in areas with a lower risk of flooding. The development would as a result conflict with Policy 42 of the Local Plan, which requires that development proposals meet the sequential test.
66. As the sequential test has not been met, I have not sought to consider whether the development requires an exception test or whether it meets the requirements set out in paragraph 173 of the Framework, relating to sustainable drainage and whether the development would be safe for its lifetime without increasing flood risk elsewhere.

Heritage assets

67. It was agreed that 3 heritage assets may be affected by the development: the setting of Crouchland, Hardnips Barn and the heritage aspects of the landscape. I have considered the heritage aspects of the landscape as part of my reasoning on landscape impact. I consider the remaining assets below. In addition to policies in the Local Plan and national policy as regards the historic environment, for Crouchland as a designated heritage asset, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest that it possesses.
68. Crouchland is a grade II listed former farmhouse. It is a substantial timber framed building with stone and brick infill under a clay tiled roof, some first floor tile hanging, and impressive chimney stacks. The building has a date stone of 1652 and is purported to have been built by Henry Stradwick, a local farmer and glass maker. There is a separately listed outbuilding in the grounds of the house. Its special interest lies in it being a good example of local vernacular architecture and its historical associations with farming and glass making.
69. Crouchland stands in extensive grounds with gardens around the house which give way to mature trees and woodland further out. It is largely screened from public view by the well treed and hedged boundaries. Although originally a farmhouse associated with Crouchlands Farm, it no longer plays any role in farming the land. Other than for the listed outbuilding, its former farm buildings have all gone. Its setting is now primarily defined by its grounds with the wider countryside playing only a subsidiary role given the limited visual and functional links between it and the listed building.
70. The nearest part of the proposed development would be the retail centre and houses to the east of Crouchland, separated by an intervening field. This field would be used as allotments and an orchard. The field to the north of Crouchland would be used as a playing pitch with parking along its northern boundary for the glamping lodges. Although no longer agricultural, it would nevertheless remain open. The built elements of the proposed development would therefore be some distance from Crouchland, such that they would have only a limited effect on its wider setting.

71. The main parties agree that the changes to the wider setting of Crouchland would cause less than substantial harm to the significance of that heritage asset. I accept that some less than substantial harm would be caused by the development but consider that it would be very much at the lower end of the scale of such harm. In accordance with paragraph 208 of the Framework, that harm needs to be weighed against the public benefits of the proposal. I do this in the planning balance.
72. Hardnips Barn is a timber framed former threshing barn with an adjacent single storey range, which are probably of 18th century date. These buildings have been linked by an extension and converted to residential use. Although the buildings have been substantially altered, the timber frame of the barn is still largely intact and the conversion has been carried out in a manner sympathetic to its appearance as a barn. It is not listed but given its age and remaining original fabric it is of sufficient architectural and historic interest to be considered as a non-designated heritage asset.
73. It is proposed to convert the buildings to a restaurant and reception centre to support the glamping lodges. Alterations to the buildings would include a larger link extension, 2 external staircases and balconies, and a flat roofed extension to the end of the single storey range. Given its current residential use I consider that no harm would be caused by its intended commercial use, the timber frame would be retained, and although the western bay would be floored, the middle bay and roof structure would remain open allowing an appreciation of its construction.
74. The external changes however would not be as sympathetic. The flat roofs to the extensions are not characteristic of the form of either the barn or single storey range and would appear incongruous. Similarly, the external staircases and balconies would be prominent and interrupt the simple elevations of the barn. External staircases are seen occasionally on rural buildings but these are generally used to access lofts above stables or other smaller ancillary buildings. They are not characteristic of threshing barns.
75. For non-designated heritage assets, paragraph 209 of the Framework says that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In this case the barn is of moderate significance. While the proposed use and internal alterations are acceptable, the external changes would cause a degree of harm to its character.
76. Consequently, for both Crouchland and Hardnips Barn, I conclude that there would be moderate or limited conflict with Policy 47 of the Local Plan, which seeks to conserve and enhance designated and non-designated heritage assets in the district. For the same reasons there would be a conflict with the statutory duty to preserve the setting of Crouchland.

Highway safety

77. The Council's concerns are primarily that insufficient information has been provided to demonstrate that there would not be highway safety concerns. By the start of the inquiry the matters in dispute had been narrowed to the following issues: improvements to the junction of the A272/B2133; passing

places on Foxbridge Lane; parking provision within Appeal A; speed limits on the local lanes; and a bridleway alongside part of Rickman's Lane.

78. The improvements to the A272/B2133 junction have been subject to a road safety audit that identified a number of outstanding concerns. The plan responding to the safety audit incorrectly shows the width of the right turn lane to be narrowed, but I accept this to be in error. Other changes required by the audit would require departures from standard, but on the basis of the evidence presented to me these are likely to be acceptable. Further work would be required to make the design of the junction improvement safe, but in principle that should be achievable.
79. The inclusion of passing places on Foxbridge Lane would enable vehicles to pass one another more easily. A road safety audit flagged issues that needed to be addressed, including intervisibility between passing places and the geometry of those places. Even accepting the criticisms of the Council that the plans show vehicle tracking going outside the highway boundary, or having inadequate width to enable vehicles to pass safely, there appear to be sufficient opportunities along Foxbridge Lane to relocate or redesign the passing places to meet safety concerns. Further design work would be required but, again, would appear in principle to be achievable.
80. There would be parking provision within the Appeal A site of 188 spaces against the guideline of 230 spaces. The Council accepts that a reduction in car parking based on a robust sustainable transport strategy would be acceptable but questions the implications for on-street parking within the site should the strategy prove inadequate. The appellant's justification for this reduced provision is as part of the transport strategy to reduce reliance on private vehicles. It would be for that strategy to address any issues arising out of inadequate car parking, but given the detailed residential phase has been designed with low speeds and safety in mind, even if on-street parking were to occur, I do not consider that it would give rise to a highway safety concern.
81. It is now accepted (reluctantly on the part of the appellant) that it would not be possible to introduce 20mph speed limits on Rickman's Lane, Foxbridge Lane, The Street and Dunsfold Road enforced by average speed cameras. However, 30mph speed limits on Rickman's Lane and Foxbridge Lane, and a 20mph speed limit on the northern section of Rickman's Lane where it enters Plaistow, would be possible. It is also accepted that there is insufficient width to provide a bridleway along the verge of Rickman's Lane, and that the Highway Authority would not support an informal 'trotting track' in its place. Even without this track, walkers, cyclists and horse riders would continue to be able to use the carriageway as they do at present. Although neither of these changes would be possible as originally intended by the appellant, they are not highway safety critical features but rather were aimed at improving accessibility. I have addressed accessibility and the perception of safety elsewhere in my reasoning.
82. The unresolved nature of some of the highway improvements is not ideal. However, for the reasons given above I consider that they are likely to be achievable, subject to further design work and liaison with the Highway Authority. All would be off-site works on the public highway and would require separate highway works agreements or orders. Financial contributions towards the works are included in planning obligations. I have given weight to these obligations in securing the necessary works.

83. Subject to the resolution of detailed designs, I conclude that the development would not have an unacceptable impact and would therefore comply with Policies 8, 9 and 39 of the Local Plan in so far as they relate to highway safety.

The ecological value of The Mens and Ebernoe Common Special Areas of Conservation in respect of bats

84. Ecological surveys have identified the presence of a variety of species of bats on all the appeal sites, including populations of Barbastelle and Bechstein's bats. The bats are likely to interact with similar populations in the Mens and Ebernoe Common Special Areas of Conservation. Although the limited foraging distances means that those in the designated habitats are unlikely to use woodland at Crouchlands Farm, they are likely to interbreed with the outlying populations on the farm, thus supporting the genetic health of the populations in the designated habitats. For that reason, as well as avoiding harm to bats as a protected species, the main parties are in agreement that it is also necessary to ensure that there would be no significant adverse harm to the ecological integrity of the designated habitats, in accordance with the Conservation of Habitats and Species Regulations 2017.
85. The appeal proposals have been designed with buffer zones to woodland and hedgerows, together with additional planting, to provide undisturbed wildlife corridors for commuting and foraging bats. The Council raises no objection to this approach but is concerned that light spill from residential development in Appeal A, and potentially the glamping lodges in Appeal B, could disturb bat behaviour.
86. The appellant has undertaken an assessment to show that light spill from these developments would be at or below 0.4 lux at the edge of the woodland or hedgerow, equivalent to no more than moonlight. Although the methodology was criticised in terms of assumptions made on the intensity of light sources, and internal and external reflection, I was provided with no alternative figures on lighting. The assessment makes no allowance for blinds or curtains, which in reality are likely to be present and used when darkness falls. Even if the assessment does underestimate light intensity, that factor alone would compensate for it. I consider the assessment provides a sufficiently robust basis on which to judge light spill.
87. The results of the lighting assessment are disputed. It is accepted by both parties that the model produces occasional erroneous data points and therefore the results need to be interpreted. The Council's witness considers that a pattern can be discerned to indicate light spill from certain windows, whereas the appellant's witness denies that is the case. Based on my own observations, I cannot discern any clear pattern in the data. Where a group of data points had slightly higher readings, they are still generally below 0.4 lux, with the few points over that figure no more numerous or grouped than can be found among what were agreed to be erroneous readings. I therefore prefer the appellant's interpretation of the lighting assessment results.
88. Restrictions on external floodlighting would be imposed either by conditions or by covenants on the properties. While I accept there may be issues with enforcing such controls that would not be so difficult as to be unrealistic. The same applies to managing lighting for the glamping lodges.

89. Having regard to my overall decisions on the appeals, I have not sought to carry out a formal appropriate assessment under the terms of the Habitat Regulations, nor have I reconsulted Natural England as suggested by the appellant in closing. However, based on the evidence before me, I am satisfied that the continued foraging and commuting of bats on the sites would not be compromised by the development. There would therefore be no conflict with Policy 49 of the Local Plan, in so far as it relates to the protection of bats.

Health effect of lagoon 3

90. There is a risk that hydrogen sulphide has built up in a redundant covered digestate lagoon to the west of Crouchlands Farm, and that an uncontrolled release of the gas could have an adverse effect on part of the proposed development. The lagoon results from a failed enterprise to produce biomethane from agricultural waste. It lies outside the ownership of the appellant.
91. Conflicting evidence on the risk was presented at the inquiry, both in terms of the likelihood of a release of gas, and the consequences were that to happen. While the concentration and pressure of the gas is unknown because those parameters have not been tested, it is only in the most extreme circumstances of a wholesale escape of gas under pressure and at high concentration that it could cause harm to the nearest glamping lodges, the rest of the development being too far away to be significantly affected.
92. On the reasonable assumption that the digestate arose from agricultural waste, the evidence shows that even with gas at the upper likely level of concentration and pressure of that expected from agricultural waste, the risk to human health would be low. Factoring in that a wholesale escape of gas is unlikely, the risk would be very low.
93. However, it is not necessary for me to rely on the evidence presented on health risk at the inquiry, as the responsibility for assessing risk and taking appropriate action lies with the Environment Agency. It has served an anti-pollution works notice under Section 161A of the Water Resources Act 1991 on the owners of the lagoon requiring removal of the waste digestate. It has chosen not to enforce the notice because it has assessed the risk to human health to be low enough not to require that work to be undertaken. The Agency continues to monitor the lagoon, as part of a multi-agency incident team.
94. In accordance with paragraph 194 of the Framework, planning decisions should assume that pollution control regimes will operate effectively. Consequently, I rely on the Environment Agency's assessment of the risk of the escape of gas as being sufficiently low that no current action is required to safeguard human health. If permission were to be granted for the development it would be for the Environment Agency to review the level of risk and take appropriate action. If action were deemed to be necessary, it could include enforcing the anti-pollution notice, or for the Environment Agency to exercise powers to carry out the works itself. The same would apply to any risk of pollution from escape of the digestate. The outcome would be that the development would not be at risk from an uncontrolled release of gas or digestate from the lagoon.
95. Contrary to an argument put forward by the Council, I do not consider this to be a situation where the appellant is an agent of change. The lagoon is

unlawful and it would be unfair for legitimate development proposals to be stymied as a result of any risk emanating from it.

Ancient woodland

96. In response to the Council's concerns, the appellant amended the development to avoid drain runs going through Hardnips Copse. Remaining issues relate to an outfall from a swale in Appeal A, the use of Hardnips Barn adjacent to ancient woodland, and an access route through Hardnips Copse in relation to the glamping lodges.
97. The outfall from a swale in the south-west corner of the Appeal A site would run into a watercourse that runs through the adjacent ancient woodland along its western boundary. An electricity cable has been laid through the wood at this point, with the route continuing to be used as a field access track. The watercourse runs close to the field boundary such that any ground disturbance would be minimal and would use the area already cleared. The connection could be made without any material harm being caused to the woodland.
98. Hardnips Barn and its curtilage lie within the buffer zones of both Hardnips Copse and Limekiln Wood. Its conversion to a restaurant/reception centre would entail building works and hardstanding being carried out in the buffer zone. However, these areas already form part of the grounds to the barn. There would be no direct disturbance to the woodland and since the barn is already in residential use, its proposed use would not significantly increase disturbance or activity to the woodland.
99. A ride through Hardnips Copse is intended to link a visitor parking area with Hardnips Barn. Visitors would walk or use buggies along the existing track. While that would introduce some additional activity, it would be relatively limited and would not require any physical alterations to the ride other than perhaps timber edging and consolidating the surface with woodchips.
100. I conclude that the development would not cause any material loss or deterioration to the ancient woodland contained within or adjacent to the appeal sites. It would therefore accord with Policy 52 of the Local Plan, which seeks to protect and enhance existing green infrastructure.

Foul drainage

101. The appellant is no longer pursuing a standalone foul drainage system as part of the development, but rather intends to rely upon Southern Water as the statutory drainage authority to dispose of foul waste.
102. The Council raises concern that given the scale of the proposed development, the existing sewerage system would be inadequate to cope with the demand, and that there is no evidence that Southern Water has the capital resources or ability to make the necessary upgrades within the lifetime of a permission.
103. Southern Water is obliged under the Water Industry Act 1991 to provide the necessary capacity to cater for foul drainage from new development. Funding, at least in part, is secured through new connection charges. While the existing waste water treatment works at Kirdford would need upgrading, Southern Water raises no objection to the proposed development and advises in its consultation response that it will endeavour to provide reinforcement within 24

months of planning consent being granted. For more complex applications the response notes that it may require an extension to that period, although no explicit request to do so has been made.

104. Grampian style conditions could be imposed that would prevent development taking place until such time as additional foul drainage capacity was available. Based on the consultation response from Southern Water, that could be achieved within the normal lifetime of a planning permission. The use of such conditions would therefore be an appropriate mechanism for securing adequate foul drainage for the development.

Agricultural operation of Crouchlands Farm

105. The agricultural operation of the farm has changed markedly in recent years, with the previous intensive dairy operation having ceased and the farm now supporting beef cattle and sheep. Some pigs are also currently kept but this is a temporary use. The farming operation continues to change with the sale of parts of the farmland being completed during the inquiry.
106. The Council questions whether the farming operation would remain viable if the development were to go ahead but offers no evidence to support that concern. The only evidence before me is a statement from the farm manager which explains that the current cattle and sheep operations would not be prejudiced by the proposed development and can be accommodated in the retained livestock shed. It also states that the glamping operation and retail centre would support the farming operation by diversifying farm income and providing an outlet for produce respectively.
107. Having regard to the above, I have no evidence that the remaining farming operations would not be viable. On that basis, I conclude that the development would accord with Policies 45 and 46 of the Local Plan, which require that new development does not prejudice any viable agricultural operations on a farm.

Housing land supply and housing requirement

108. The calculation of both housing land supply and the housing requirement is disputed. I deal with each in turn.

Housing land supply

109. The most recent housing land supply statement published by the Council assesses a 5-year housing land supply with a base date of 1 April 2023. Both parties agree that to be the most appropriate period for calculating housing land supply for the purposes of these appeals. It is also agreed that no buffer is required to be added as the most recent housing delivery test is above the threshold set out in footnote 43 of the Framework. There are however differing views on 3 elements of the housing land supply.
110. The West of Chichester Strategic Development Location Phase 2 is allocated for residential development in the Local Plan. The Council's view is that, based on updated information⁵, phase 2 will now deliver 228 dwellings rather than the 268 in the housing land supply statement, while the appellant considers that the site cannot be relied on to deliver any dwellings within the supply period.

⁵ CD8.80 Site Development Progress Form dated 5 September 2024

111. Major development sites which have only outline planning permission or have been allocated in the development plan but which do not have detailed planning permission should only be considered deliverable within the meaning of that term in the Framework where there is clear evidence that housing completions will begin on site within 5 years.
112. The recent grant of outline planning permission⁶ indicates progress is being made in bringing the site forward. However, applications for the approval of reserved matters (other than access) and pre-commencement conditions have yet to be submitted. Significantly, the outline permission is restricted to delivering no more than 150 dwellings prior to completion of a new access road.
113. The site would be developed by the same developers for phase 1 who are therefore already established and have demonstrated an ability to deliver housing. They also have a planning performance agreement with the Council to fund a dedicated officer to work on the scheme and many of the details of the scheme are likely to follow similar details approved on phase 1. Nevertheless, there has been slippage in developing the site when compared to the trajectory in the housing supply statement, and the construction of a new access will take time. While I am satisfied that housing completions are likely to be achieved on site within the supply period, I consider that is likely to be limited to 150 dwellings. This requires 118 dwellings to be removed from the published housing land supply position.
114. Graylingwell (including Kingsmead Avenue) is a phased residential and mixed-use scheme, which is currently being built out. Four phases totalling 220 dwellings are planned to be delivered during the supply period. The appellant disputes 3 of these phases, which total 114 dwellings.
115. Outline planning permission has been granted for all phases and a reserved matters application has been submitted for 36 dwellings in one of the phases. Applications for the approval of reserved matters and conditional details have yet to be submitted for the other phases.
116. The site is being built out by a single developer, who has demonstrated its ability to deliver housing on the site and has achieved above average completion rates compared to comparable sites in the district. Determination of the extant reserved matters application has been delayed because of a nutrient neutrality issue but the developer is taking steps to resolve this matter⁷. There has been slippage in the intended timescales for submission of reserved matters applications as set out in site development progress forms⁸. However, the trajectory for housing completions on the remaining phases provides sufficient leeway for such slippage to be accommodated within the 5-year supply period. I consider there is no need to remove any dwellings from the housing land supply for this site.
117. A major sites windfall allowance of 278 dwellings is included in the housing land supply. The Council considers major windfall development to be a consistent source of housing delivery whereas the appellant considers that it should be removed because it cannot be relied on going forward, and may

⁶ 22/01485/OUTEIA dated 23 July 2024

⁷ CD8.81 Email between Chichester District Council and Vistry Southern, 31 July 2024

⁸ CD7.54i Site Development Progress Forms dated 31 March 2023

result in double counting. No objection is raised to the inclusion of a minor windfall allowance.

118. My attention has been drawn to appeal decisions which take differing views on whether a major sites windfall allowance should be included in the housing land supply⁹. It is now over a year since the latest of those decisions was determined. Since then, the Council's housing land supply position statement and housing land review have been updated and further evidence has been presented to me at the inquiry. I have had regard to those decisions where housing land supply formed a main issue in determining the appeals, but I have reached my own conclusions based on the latest evidence before me.
119. Where an allowance is made for windfall sites, paragraph 72 of the Framework says that there should be compelling evidence that they will provide a reliable source of supply, and that any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends.
120. The latest strategic housing land availability assessment identifies significant potential capacity for housing. Most of this capacity is theoretical in that it is unlikely to be included in future plans, but the assessment nevertheless indicates that, if necessary, there is land available that can accommodate new housing.
121. A review of historic windfall delivery rates has been undertaken on behalf of the Council¹⁰. It concludes that a consistent supply of housing has been derived from major windfall sites on agricultural and residential land, averaging 139 dwellings per year after outlying years are removed. The review considers that there is no discernible link between the rate at which major windfall sites have come forward and the status of the development plan or housing land supply, the implication being that permissions granted contrary to the development plan are not a large element of the supply. None of those conclusions are challenged by the appellant and therefore I give them weight.
122. The appellant does challenge the assumption that the major windfall trend will continue into the future, relying on the conclusions of the Inspector in the *Nutbourne* and *Chidham* appeals. In that regard, while there are constraints on future development in the district such as highway congestion, foul drainage and nitrate neutrality, the Council is working to overcome them as demonstrated by the progress made on the emerging plan. It is also working to overcome other constraints such as water neutrality with an offsetting scheme for sites that are compliant with the development plan. These constraints have not prevented major windfall sites coming forward in the last few years, and it is therefore reasonable to assume that they can be resolved. The economic uncertainties that also influenced the Inspector's decision have since moderated with inflation and interest rates having stabilised. I do not consider that these are any longer justifiable reasons for opposing a major windfall site allowance.

⁹ List at paragraph 3.9.1 of the rebuttal statement of Alex Roberts. The most recent decision is on two appeals APP/L3815/W/22/3295000 and 3295004 - Land east of Broad Road, Nutbourne and Land west of Drift Lane, Chidham, which also references a contrary decision in APP/L3815/W/22/3291160 - Land south of Clappers Lane, Earnley, West Sussex

¹⁰ Lambert Smith Hampton - Housing Land Supply Review for Chichester District Council, February 2024

123. The windfall allowance is only applied to years 4 and 5 of the housing land supply. I am satisfied that would avoid double counting of major sites that are already permitted and included in other categories of the housing land supply.
124. There is nothing in national policy or guidance that precludes a windfall allowance for major sites being included in the housing land supply, subject to there being compelling evidence that it will provide a reliable source of supply. Although the supply of major windfall sites is reliant on what are a relatively small number of permissions with a degree of variance year on year, from the evidence presented to me there has been a constant and significant delivery of housing from major windfall sites, and there are no overriding reasons why that trend should not continue. The windfall allowance included in the housing land supply is also considerably below the actual past windfall delivery rate, which provides further comfort that the assumptions on windfall housing supply are realistic and can be relied upon. For those reasons, I consider that the major windfall allowance should remain in the housing land supply.

Housing requirement

125. It is agreed by both main parties that because the Local Plan is more than 5 years old, local housing need should be determined using the standard method set out in the Planning Practice Guidance, and that a figure of 125 dwellings per year should be subtracted from the housing requirement to account for the part of the district that is covered by the South Downs National Park.
126. In calculating local housing need, the parties use a different period to calculate the average annual household growth figure. The Council uses the period 2024 to 2034 resulting in a local housing need of 635 dwellings per year, while the appellant uses the period 2023 to 2033 resulting in a figure of 639 dwellings per year.
127. The Council says that there is no requirement to use the same base date for calculating both housing need and housing supply and has used the current year (2024) as the starting point for the former, as indicated in the Planning Practice Guidance¹¹. The appellant argues that the base date should be same for consistency, and since the base date for calculating housing land supply has been agreed as 2023, that should also apply when calculating housing need.
128. In my view there is a need for consistency in calculating housing need and housing supply. Both use periods over time as part of the calculations, and to use different base dates for those periods could lead to inconsistencies in measurement. While I note the advice in the Planning Policy Guidance to use the most recent information available, that is in the context of housing supply also being updated on an annual basis, as required by paragraph 77 of the Framework. In most circumstances that should allow housing supply and housing need to be updated at the same time, avoiding inconsistencies between the two.
129. There is also a difference of view between the parties on whether to use the updated affordability ratio, but it was agreed that given local housing need is subject to a cap under the standard method, that would make no difference to the final calculation.

¹¹ Planning Practice Guidance – ID: 2a-004-20201216

130. My attention has been drawn to several appeal decisions, including one that I determined, which have reached differing conclusions on this matter¹². I acknowledge that in some of those decisions inspectors have considered that the calculation of local housing need can be made independently of the calculation of supply, while in others it has been adjudged that it should not, because calculation of future need is in part dependent on past supply. As indicated above, I give greater weight to the latter argument. On that basis, I prefer the appellant's calculation of local housing need at 639 dwellings per year.

Conclusion on housing land supply and housing requirement

131. The Council is required to demonstrate a minimum of 4 years' worth of housing land supply in accordance with paragraphs 77 and 226 of the Framework. Based on a local housing need figure of 639 dwellings per year, that amounts to a need for 2,556 dwellings. The deliverable housing land supply from the housing land supply statement, reduced by 118 dwellings for the reasons set out above, amounts to 2,543 dwellings. This equates to 3.98 years' worth of housing land supply, which is marginally below that required by national planning policy. I consider the implications of this in the planning balance.

Planning Balance

132. I have found that the proposed development scheme would conflict with the spatial strategy of the Local Plan. So far as the quantity of housing planned in that strategy is concerned, it is agreed between the parties that Policy 4 of the Local Plan is out-of-date because it is not consistent with paragraph 77 of the Framework or the level of housing provision needed as calculated using the standard method. Accordingly, the weight accorded to the strategy as set out in Policies 2, 4, 25 and 45 of the Local Plan should be reduced, because otherwise it would unreasonably constrain the Government's objective of boosting the supply of homes.

133. I have found that the development would be poorly located in relation to accessing facilities and services by sustainable modes of transport. The improvements to walking and cycling routes and the dedicated bus service contained within the proposal, would not overcome the locational disadvantages. This element of the spatial strategy is consistent with the Framework, which requires that significant development should be focused on locations which are or can be made sustainable. I therefore give full weight to Policy 39 of the Local Plan. The conflict with this policy is substantial and weighs heavily against the development.

134. I have found that the development would cause harm to the character and appearance of the landscape which, although not a valued landscape within the meaning of paragraph 180 of the Framework, is still of intrinsic beauty with particular historic and tranquil qualities. I give significant weight to this conflict.

135. I have found that it would not achieve water neutrality and therefore has the potential to have an adverse effect on the Arun Valley ecological sites. This must carry significant weight as it conflicts with the Habitats Regulations.

¹² CD5.14, CD5.3, CD5.8, CD5.29, CD5.34, CD5.32, CD5.28, CD5.27, CD5.24 and CD5.48. The most recent of these appeal decisions was APP/V2255/W/23/333811 Land at Ufton Court Farm, Tunstall, Sittingbourne, Kent.

136. I have also found that there are shortcomings in the design and layout of the scheme, it fails the sequential test for flood risk for parts of the site, and would cause less than substantial harm to heritage assets. I give moderate weight to these conflicts.
137. I have concluded that, subject to further work, the development would not cause highway safety concerns, it is likely that the impact on bats and indirectly on The Mens and Ebernoe Common Special Areas of Conservation could be adequately mitigated, the risk from lagoon 3 is low and would not prevent development, no harm would be caused to ancient woodland, foul drainage could be provided to the development, and there is no evidence to show that the continued agricultural operation of Crouchlands Farm would be unviable. These issues are of neutral weight in the planning balance.
138. Balanced against the harms are a number of benefits. The most important of these would be the provision of 600 new dwellings that would make a significant contribution to meeting housing demand in the district. That provision would include affordable housing, secured by a planning obligation, which given the high affordability ratio in the area would be of particular benefit to those unable to afford accommodation on the open market. I give significant weight to both these benefits.
139. The rural enterprise centre, retail centre and glamping business would provide economic benefits and employment. The housing development would also have economic benefits both in the short term for the construction industry, and in the longer term through the spending power of future residents. I give these benefits moderate weight.
140. The improvements to public rights of way, bus service, sports and play spaces and open space are intended primarily to meet the needs of future residents but would also be accessible to nearby residents and visitors to the area. I therefore give these services and facilities limited beneficial weight.
141. The development would result in biodiversity net gain. I give this limited beneficial weight.
142. As the Education Authority is opposed to a primary school on the site, I give the proposal for land to accommodate such a facility little weight.
143. Taking the heritage assets alone, and notwithstanding the great weight given to the conservation of heritage assets by virtue of paragraph 205 of the Framework, I consider that the benefits summarised above outweigh the less than substantial harm to the setting of Crouchland, and would also outweigh the harm caused to the non-designated heritage asset of Hardnips Barn.
144. I have found that housing land supply in the district is marginally below that required by national policy. As a result, footnote 8 of the Framework deems the policies most important for determining the appeals to be out-of-date, and the provisions of paragraph 11d of the Framework nominally apply. However, because the conflict with national planning policies in the Framework on protecting habitats sites and avoiding areas at risk of flooding provide clear reasons for refusal, the presumption in favour of sustainable development is not triggered in this case.

145. Even were the presumption to be triggered, the fact that the policies in the Local Plan are deemed to be out of date does not mean that they should be given no weight. I have given less weight to those policies relating to housing supply because the housing target in the Local Plan is no longer consistent with the Framework. However, housing supply is only marginally below the current requirement to show a 4-year housing land supply, and therefore they do still carry at least moderate weight. In all other respects, including the requirement to locate development so that it is accessible to services and facilities, I give the policies of the Plan significant weight.

146. I consider that when taken collectively the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits listed above. Therefore, irrespective of whether the presumption in favour of sustainable development applies, I find the harm that would be caused by the development would decisively outweigh its benefits.

Conclusion

147. The proposed development would conflict with the development plan when taken as a whole. The material considerations noted above, including the benefits of the scheme, do not outweigh that harm.

148. Accordingly, I conclude that the appeals should be dismissed.

Guy Davies

INSPECTOR

Appearances

For the appellant:

Jenny Wigley KC and Sophie Gibson	
Dr Emma Wells PhD MCIfA FSA	Technical Director, SLR Consulting Ltd
Ben Pycroft BA (Hons) DipTP MRTPI	Director, Emery Planning
Sarah Taylor BA (Hons) MSc (Eng) CEng FCIHT	Director, STRS
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Matthew Johnson BSc (Hons) MA (Dist) MRTPI	Director, DLBP

For the Council:

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Seb Willett BA (Hons) PgCertArch AoU MSAI	Associate, Clague Architects
Katherine Waters BSc (Hons) MSc MCIWEM	Technical Director, WSP
David Cranmer BSc MSc MRTPI	Director, DCC Planning Ltd
Alexander Brown LIA Cert Dip	Lighting Consultant, DFL-UK

In addition, for discussion on the legal undertakings and conditions:

Fred Quartermain	Solicitor, Thrings LLP
Amy Paterson	Senior Associate Director, DLPB
Nicola Gooch	Solicitor, Erwin Mitchell LLP

Interested parties:

Councillor Paul Jordan	Plaistow and Ifold Parish Council
David Jordan	Resident
Isabel Reynolds	Resident
Clarissa Bushall	Resident
Phillip Luff	Director, Plaistow Village Trust
Paul Reynolds	Resident
Simon Clements	on behalf of Frances King, Resident
Councillor Andrew Woolf	Plaistow and Ifold Parish Council
Ruth Childs	Resident
John Barbour	Resident
Ruth Flight	Resident
Councillor Charles Todhunter	Chichester District Council, Loxwood Ward
Maria Evans	on behalf of Councillor Gareth Evans, Chichester District Council, Loxwood Ward
Councillor Sophie Capsey	Plaistow and Ifold Parish Council

Documents accepted during and after the inquiry:

CD11.1	Inquiry programme
CD11.2	Design round table agenda
CD11.3	Heritage round table agenda
CD11.4	Housing land supply round table agenda
CD11.5	Landscape round table agenda
CD11.6	Council's schedule of appearances
CD11.7	Appellant's schedule of appearances
CD11.8	Appellant's opening statement
CD11.9	Council's opening statement
CD11.10	Vistry Homes Ltd v SSLUHC [2024] EWHC 2088 (Admin)
CD11.11	R (Wyatt) v Fareham BC [2022] EWCA Civ 983
CD11.12	SNOWS access definition
CD11.13	APP/L3815/W/16/3150857 Hardnip's Barn, Crouchlands Farm
CD11.14	Chichester and Horsham Census data
CD11.15	Baseline survey – Brannan light meter calibration certificate
CD11.16	Email on sale of land at Crouchlands Farm
CD11.17	Updated land edged in blue following sale of land
CD11.18	Representation from Cllr Paul Jordan
CD11.19	Representation from Ruth Childs
CD11.20	List of draft conditions v2
CD11.21	List of draft conditions v3
CD11.22	SNOWS newsletter, October 2024
CD11.23	Montebello et al, report in Chemical Engineering Journal, 2012
CD11.24	Representation from Paul Reynolds
CD11.25	Representation from Frances King
CD11.26	Lighting additional information
CD11.27	Draft S106 multilateral undertaking
CD11.28	Draft S106 unilateral undertaking
CV11.29	Representation from Clarissa Bushell
CD11.30	Water neutrality additional information

- CD11.31 Representation from Andrew Woolf
- CD11.32 Flood Risk Technical Note
- CD11.33 Planning Policy Guidance on flood risk and coastal change
- CD11.34 Appendix K – level 1 SFRA site screening table
- CD11.35 Draft S106 multilateral undertaking with Council’s comments
- CD11.36 Draft S106 unilateral undertaking with Council’s comments
- CD11.37 Addendum to statement of common ground on housing land supply
- CD11.38 Planning Policy Guidance on use of planning conditions
- CD11.39 List of draft conditions v4
- CD11.40 Alex Brown – proof of evidence
- CD11.41 Representation from Councillor Charles Todhunter
- CD11.42 Representation from Councillor Gareth Evans
- CD11.43 Representation from Robert Stubbs
- CD11.44 Closing submissions on behalf of the Council
- CD11.45 Closing submissions on behalf of the appellant
- CD11.46 R (Ardleigh Parish Council) V Tendring DC [2024] EWHC 648 (Admin)
- CD11.47 R (CPRE) v Herefordshire Council [2019] EWHC 3458 (Admin)
- CD11.48 William Davis Ltd v Charnwood BC [2018] JPL 549
- CD11.49 Walthen-Fayed v SSLUHC [2023] EWHC 92 (Admin)
- CD11.50 Completed S106 multilateral undertaking
- CD11.51 Completed S106 unilateral undertaking
- CD11.52 List of draft conditions final