
Appeal Decision

Inquiry held on 21, 22 and 23 March 2017

Site visit made on 23 March 2017

by Peter Rose BA MRTPI DMS MCMI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 June 2017

Appeal Ref: APP/Z3825/W/16/3151508

Chanctonbury Nurseries, Rectory Lane, Ashington, West Sussex RH20 3AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Linden Homes South against the decision of Horsham District Council.
 - The application Ref: DC/15/1886, dated 18 August 2015, was refused by notice dated 5 April 2016.
 - The development proposed is the demolition of the existing nursery buildings and the redevelopment of the land at Chanctonbury Nurseries, Rectory Lane, Ashington so as to accommodate 77 dwellings together with associated access road, car parking, landscaping and open space.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The planning application was made in the name of Linden Homes Guildford, but the appeal is made in the name of Linden Homes South. The Inquiry was advised this merely reflects a change in company name.
 3. The application is for full planning permission.
 4. The appeal is accompanied by a unilateral undertaking signed and dated 17 March 2017, and I am satisfied that no interests would be prejudiced by its consideration as part of this decision. Reason 2 of the Council's decision notice refers to an absence of provision in relation to affordable housing and other issues, but that is now addressed by the submitted planning obligation and is no longer a matter of dispute between the main parties.
 5. Reference was made at the Inquiry to the judgment of the Court of Appeal in the case of Suffolk Coastal District Council and Hopkins Homes Limited and the Secretary of State for Communities and Local Government, and Richborough Estates Partnership LLP and Cheshire East Borough Council 2016 (EWCA Civ 168). This has been superseded post-Inquiry by the subsequent judgement of the Supreme Court dated 10 May 2017 ([2017] UKSC 37), and both the main parties have been afforded an opportunity to comment further, as appropriate, in that regard.
 6. I consider the appeal on the above basis.
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Main issues

7. The main issues are:

- (a) whether the proposal would involve a sustainable development of Ashington with particular regard to the approach to settlement expansion expected in the development plan, and;
- (b) the possible significance of other material considerations relevant to the appeal scheme.

Reasons

Background

- 8. The appeal site occupies some 2.39 hectares on the western edge of the village of Ashington. It is bounded by Rectory Lane to the north, and is adjacent to woodland to the south and existing residential development to the east and west.
- 9. The northern part of the site falls within the Built Up Area Boundary (BUAB) of Ashington as defined by the Horsham District Planning Framework November 2015 (the HDPF). This area mainly comprises grassland and is undeveloped.
- 10. The central part of the site comprises a number of disused buildings and open land, and has a commercial use for the storage of boats and caravans.
- 11. The southern part of the site comprises a number of large disused glasshouse structures and areas of open land.
- 12. It is common ground between the main parties that some 85% of the site lies outside the BUAB and, by implication of Policy 26 of the HDPF, that part is thereby to be considered as countryside for the purposes of the HDPF. Of that part outside the BUAB, some 38.8% comprises Previously Developed Land (PDL), some 25.4% comprises glasshouses, and some 35.8% is undeveloped. Of the total site, some 33% is agreed to be PDL.
- 13. Footpath FP2607 comprises an unmade public right of way along the eastern boundary of the appeal site and which also runs close to the northern frontage. To the south of the appeal site the footpath continues towards the village recreation ground and local school, and links to Foster Lane and beyond.
- 14. The appeal scheme proposes redevelopment to accommodate 77 dwellings and associated works and facilities. Twenty-seven (35%) of the proposed dwellings would comprise affordable accommodation. Vehicular access would be provided from the existing location in Rectory Lane.

Sustainable development and the development plan

- 1. Horsham District Planning Framework (the HDPF)
- 15. Four related policies of the HDPF are directly relevant to the principle of the appeal proposal.
- 16. Policy 2: 'Strategic Development' seeks to maintain the District's rural character whilst ensuring that the needs of the community are met through sustainable growth and suitable access to services and local employment. It seeks to do this in various ways, including by focussing development in and

around the key settlement of Horsham, but also by allowing for growth in the rest of the District in accordance with an identified settlement hierarchy, and by continuing to support in principle the sustainable development of settlements through an appropriate scale of development which retains the existing settlement pattern.

17. Policy 3: 'Development Hierarchy' clarifies the settlement hierarchy to which Policy 2 refers. It identifies Ashington as a 'Medium Village', defined to be a settlement which has a moderate level of services and facilities and community networks, together with some access to public transport. Such settlements provide for some day-to-day needs of residents, but rely on surrounding small market towns and larger settlements to meet a number of their requirements.
18. Policy 4: 'Settlement Expansion' states that the growth of settlements across the District will continue to be supported in order to meet identified local housing, employment and community needs. Of particular relevance to this appeal, however, Policy 4 states that, outside built-up area boundaries, the expansion of settlements will be supported where, aside from four other criteria, the site is allocated in the Local Plan or in a Neighbourhood Plan and adjoins an existing settlement edge. The other four criteria are less strategic in their nature and are not in dispute between the main parties.
19. Policy 26: 'Countryside Protection' further states that, outside built-up area boundaries, the rural character and undeveloped nature of the countryside will be protected against inappropriate development. Any proposal must be essential to its countryside location and must, in addition, meet one of four identified criteria, none of which apply to the appeal scheme.
20. Paragraphs 1.7 and 1.8 of the HDPF further explain how the development plan is intended to lay the foundation for the preparation of Neighbourhood Plans, and which, in turn, are anticipated as giving individual communities the opportunity to plan proactively for their local area, and to bring forward development sites for particular uses, and including housing and community facilities.
21. Hence the HDPF seeks for development to take place in a manner which ensures that the settlement pattern and the rural landscape character of the District are retained and enhanced, but whilst still enabling settlements to develop and grow. The mechanism by which this will be achieved is through development in accordance with the designation of built-up area boundaries and through planned expansion identified either via the means of the HDPF or through Neighbourhood Plans.
22. The overall development strategy set out in the HDPF post-dates the National Planning Policy Framework (the Framework), and has been found to be sound through relatively recent examination in public as set out in the Inspector's report of October 2015.

2. Ashington Neighbourhood Plan

23. Ashington Parish was designated a Neighbourhood Plan area in February 2014, and the Inquiry heard that significant action has since taken place in preparation of a Neighbourhood Plan. A Neighbourhood Plan Clerk has been appointed, a Neighbourhood Plan Steering Group has been established, and various survey work has been either completed or is underway. This includes

work towards an up-to-date Housing Needs Survey to replace that undertaken in 2012, and a State of the Parish report. The Inquiry heard of the significant interest and commitment from local people, as evident in the response rate to surveys. A draft plan has yet to be prepared, but the Parish Council is looking for the Neighbourhood Plan to be made before the end of 2018.

24. A Call for Sites was initiated in April 2016 and 26 nominations were submitted for consideration. This has since been reduced to a list of 15 possibilities, including the appeal site. Developers with submitted sites either within the BUAB (6 sites) or abutting the BUAB (9 sites) will be asked to submit proposals that deliver tangible community benefits hand-in-hand with new development. The full and detailed scale of current housing need in the village has yet to be formally established, but the Parish Council estimates that the 6 sites within the BUAB could accommodate 30-40 homes and should be considered a priority for development.

3. Summary- sustainable development and the development plan

25. It is not known at this point whether the appeal site will be formally allocated for housing or other development in the Neighbourhood Plan and, if so, how much of the site that might involve. Nonetheless, the clear presumption of the HDPF is that this is a matter for the Parish Council to consider through that particular part of the development plan process.
26. Most of the appeal site lies outside the BUAB, is not allocated for housing development in the HDPF, and there is no made Neighbourhood Plan. The proposal therefore runs contrary to the spatial strategy of the development plan as prescribed by Policies 2, 4 and 26, and contrary to a core planning principle of the Framework that planning should be genuinely plan-led, empowering local people to shape their surroundings.
27. The judgement in East Staffordshire Borough Council and the Secretary of State for Communities and Local Government and Barwood Strategic Land II LLP dated 22 November 2016 [2016] EWHC 2973 (Admin) (the East Staffordshire judgement) states that, where a proposed development conflicts with the Local Plan, the starting point for analysis should not be that there is a presumption in favour of development as expected in paragraph 14 of the Framework. Rather, the decision maker's starting point should be that such a scheme would not be sustainable development.
28. I therefore find that the proposal represents a fundamental conflict with the provisions of a recent, statutorily adopted development plan.

Other material considerations

1. Housing land supply, and implications for market housing

29. The Framework seeks for planning to deliver a wide choice of high quality homes and to boost significantly the supply of housing. To this end, the Framework requires a local planning authority to identify and update annually a supply of specific deliverable housing sites sufficient to provide five years' worth of housing relative to its requirement for market and affordable housing, and including an additional buffer of 5%.
30. It is agreed common ground between the main parties that the Council is able to demonstrate a five year supply of housing land. This has been evidenced in

the Secretary of State's recent appeal decision dated 12 December 2016 and relating to residential development at Sandgate Nurseries, West End Lane, Henfield, BN5 9RD (Appeal Ref: APP/Z3825/W/14/3001703) (the Sandgate decision).

31. Policy 15 of the HDPF seeks delivery of at least 16,000 homes and associated infrastructure within the period of 2011-2031, at an average of 800 homes per annum. The Council's projected five-year housing land supply calculation for 2017/18 suggests some 638 completions above requirement, giving a five-year supply of 117%. The comparable surplus for 2016/17, including a similar 5% buffer, was 539 with a supply of 113%.
32. The Horsham District Council Authority Monitoring Reports for 2014/15 and 2015/16 (the AMR's) demonstrate the significance for housing completions of non-allocated sites, such as the possible development of the appeal site. Policy 15 acknowledges such sites as a component of the identified housing supply, and the HDPF particularly anticipates development of non-allocated sites within BUABs.
33. The 2015/16 AMR shows that some 1,201 dwellings were completed that year, well above the stated target of 800 and an increase of 193 on the projected 1008 net completions set out in the 2014/15 AMR. Further, the 2015/16 AMR shows forecast net completions sit above 800 for all but one of the next nine years, reaching a projected peak surplus of 953 homes in 2024/25.
34. The appellant suggests the margin of Horsham's five year supply to be modest, but there was little specific evidence before the Inquiry to suggest that the identified provision may be in any particular way vulnerable, and I would regard the level demonstrated to be adequate relative to the required five year threshold. That said, some longer term issues exist.
35. Paragraph 3.27 of the HDPF indicates that, even though the plan's housing trajectory demonstrates that the Council can deliver around 10,000 dwellings in the first 15 years of the plan, there are a number of uncertainties towards the mid/end period of the plan, including the future of Gatwick Airport. In recognition of this, the Council is committed to a review of the plan which will commence within three years of its adoption.
36. A relatively recent letter from the examiner of the Mid Sussex District Plan dated 20 February 2017 refers to various more immediate matters. Horsham forms part of the same Housing Market Area and, in response to relevant market signals, the letter identifies an uplift in the Objectively Assessed Need figure for Mid Sussex. The letter also refers to changing market conditions to those existing at the time of examination of the HDPF. It now notes rising house prices and worsening affordability, both of which are also particularly relevant to the appeal scheme's proposals for 27 units of non-market housing.
37. The existence of a five-year supply does not negate the benefit of market provision as proposed, and I note the Secretary of State's appeal decision dated 13 February 2017 relating to residential development and other facilities at Watery Lane, Lichfield WS13 8ES (Appeal Ref: APP/K3415/A/14/2224354). The housing targets set by Policy 15 are not maxima, local issues remain, and the authority is still obliged to boost significantly the supply of housing in accordance with the Framework.

38. Notwithstanding the existence of a five year housing land supply, I consider the scheme would still deliver housing benefits through provision of 50 market dwellings. This is a matter to which I attach significant weight.

2. Affordable housing

39. The Inquiry heard evidence of a clear need for affordable housing, in both Ashington and in the wider area. The Council acknowledges a deficit and accepts there are indicators of worsening affordability.

40. Housing Need in Horsham District, March 2015, a report prepared by GL Hearn, indicates that Horsham has a net need for between 225 and 404 affordable homes per annum and that it is not likely that all of the need will be met through new affordable housing delivery.

41. The appellant suggests that the Council has struggled in recent years to meet its lower end annual housing requirement of 225 dwellings and that, as of 2014-15, it had a cumulative deficit of some 171 dwellings. Against a higher end target of 404 dwellings, the deficit rises to 887.

42. Paragraph 6.4 of the HDPF indicates the Council's objective to keep the authority's housing register stable through provision of around 240 affordable homes per year. In contrast, paragraph 3.74 of the 2015/16 AMR states that, as of 1 July 2016, there were 606 households on the Council's housing register which represents a substantial increase of 98 households compared to that reported at the end of the 2014/15 monitoring period.

43. The Ashington Housing Needs Survey Report July 2012 prepared by Action in rural Sussex, whilst regarded as out-of-date and considered to be of little weight by the Parish Council, still provides some indication of more local data. This identified at that time some 58 households in housing need who had a local connection and who could not afford to either purchase or rent housing on the open market.

44. I therefore find that the proposed development would make an appropriate and much needed contribution of 27 affordable homes in full accordance with Policy 16: 'Meeting Local Housing Needs' of the HDPF. Policy 16 requires development to provide a mix of housing sizes, types and tenures to meet the needs of the District's communities. This includes a requirement for 35% of dwellings to be affordable on sites providing 15 or more dwellings. I also particularly note that the terms of the unilateral undertaking include a provision relating to people with a 'local connection' expressly defined with reference to previous residence or employment within Ashington itself. I consider this would be significant in ensuring, in the first instance, that the opportunity would be taken for the scheme to address any particular local needs of the village.

45. The benefits of the scheme in providing 27 affordable homes to local households in need are a matter to which I attach very significant weight.

46. A further and more general benefit of the scheme in connection with both affordable and market housing would be timeliness of delivery. The site is available for development now and a national housebuilder wishes to proceed without further delay. Notwithstanding the Council's five-year housing land supply, there is outstanding housing need in the District. That is an ongoing need which is awaiting address. The developer's programme would be to start

on site in autumn 2017, the first private and affordable dwellings being occupied in summer 2018, and achievement of site completion indicated to be in winter 2019. There is also evidence of current interest from two providers of affordable housing. This compares with the latest Ashington Parish Neighbourhood Plan Updated project plan and timescales (update to CD10) which shows the plan being made, and assuming successful examination and referendum, in late 2018.

3. Unilateral undertaking

47. The scheme is accompanied by a range of proposed mitigation and benefits formally contained in the appellant's unilateral undertaking. This also sets out various regulatory matters, including provision for a Landscape and Open Space Management Plan for land within the application site.
48. The local planning authority and the County Council, in conjunction with other relevant service providers, have submitted evidence of compliance with the relevant requirements of Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010. I also have regard to relevant provisions of the Framework, to the government's Planning Practice Guidance (the Guidance), and to the Planning Inspectorate's Procedural Guide Planning Appeals - England, published 5 August 2016.
49. The local planning authority indicated at the Inquiry that it was satisfied with the form and content of the document as a deed.
50. I find the undertaking to be generally compliant with the CIL Regulations and Guidance, and I take into account the commitments and accompanying terms as considerations of my decision.

4. Economic benefits

51. The economic benefits would include investment and expenditure associated with implementing the development, related employment for the duration of the works, and a subsequent increase in local household expenditure and demand for services from new residents post-occupancy.
52. The appellant identifies some 115.5 construction jobs arising, and some 38.5 indirectly related jobs. The numbers quoted were not disputed and, although the jobs might only be temporary for the duration of the works, that would be the very nature of such opportunities.
53. The additional 77 households would represent a very significant increase in a village of around some one thousand homes, and would help to support and sustain the range of services the settlement currently offers. Estimates are offered by the appellant drawing upon the Office for National Statistics Compendium of Family Spending 2015 and suggesting an additional annual spend in the local community of some £2.127 million. My judgement is that, given the relatively limited range of services available locally, that figure is likely to be over-optimistic, and particularly so allowing for expenditure on matters such as utilities not, in any case, occurring locally.
54. Nonetheless, I am satisfied that the injection of local spending would be sizeable and consistent with the need to increase economic growth in the village and the need to support the use of local retail units as identified in the Parish Council's Ashington Community Action Plan 2010 (the Ashington Action

Plan). Significantly, in terms of benefits to the village economy, I also note that specific representations of support for the scheme were previously submitted to the Council on behalf of three local businesses: from the village's Co-operative Store, from the local Red Lion Public House, and from Monza Sports.

55. The scheme would generate financial contributions to the Council through New Homes Bonus payments. Paragraph 011 Reference ID: 21b-011-20140612 of the Guidance states that whether or not a local finance consideration is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. Further, it advises that it would not be appropriate to make a decision based on the potential for a development to raise money for a local authority or other government body.
56. In light of the Guidance, I attach little weight to this wider general benefit to the local planning authority insofar as it may relate to the specific planning merits of the scheme. This is because there was no evidence before the Inquiry as to how any such receipts might be deployed by the authority and, more particularly, no evidence of any way in which the scheme might be made more acceptable in planning terms in direct consequence of that funding.
57. Whilst the development would generate extra Council tax revenue for the authority, in the absence of any specific evidence to the contrary, I would not necessarily regard that as a relevant benefit of the scheme, but rather as a payment by future occupants in lieu of services to be provided to those same future occupants.
58. Nevertheless, I find the overall scale of economic benefits to be an important consideration, and consistent with the expectations of the Framework for planning to support economic growth.
59. The economic benefits of the scheme are a matter to which I attach significant weight.

5. Social benefits

60. Social benefits would arise in connection with other commitments beyond the scheme's contribution to meeting local housing needs as described.
61. A significant feature of the scheme would be upgrading footpath FP2607. This would include a new 'year round' stone surface with timber edging, widening the footpath where possible, and replacement of the existing two-plank footbridge in a form more accommodating of buggies, pushchairs and wheelchairs. This latter aspect would have particular positive implications for matters of equality through improved accessibility.
62. A second route through the northern part of the development would provide a more direct alternative to the existing relatively tight and enclosed alignment around Chanctonbury Lodge to the north-east of the site. This more direct alignment through the site itself would be particularly beneficial, generally opening up and encouraging the footpath's use from the north, and including a specific scheme of maintenance for that element.
63. The Parish Council considers the existing footpath to be rarely used and suggests the scheme would only benefit a small proportion of the village. The Parish also refers to the safety concerns of Sussex Police who object due to

- possible implications for the safety and security of users. As a rural footpath, the Parish considers lighting to be inappropriate and that the proposals would not make it safe.
64. In contrast, the Rights of Way Team at the County Council has encouraged improvement to the footpath as it would help promote sustainable forms of transport and encourage healthier living for future occupants of this site and for other local residents.
65. I agree with the local planning authority's assessment that the footpath already exists, that measures can be introduced as proposed to improve safety, and that the improvements would be significant in promoting and upgrading a pleasant rural walk. The footpath would lie towards the west of Ashington and immediate beneficiaries would be future occupants of the scheme, but also existing nearby residents. The upgraded footpath beyond the site itself is unlikely to be used outside daylight hours due to the absence of lighting but it would still provide an effective link at other times towards the centre of the village from the west, and also link as part of a wider network of public rights of way, particularly to the north-west.
66. Significantly, I also note representations of support to the footpath improvement previously submitted to the Council from nearby local residents, and I have little formal evidence of recorded crime directly associated with the existing link.
67. In response to the Parish Council, the development would also be accompanied by clearance of existing vegetation that encroaches onto the main Rectory Lane footpath east of the proposed site access and so provide a more user friendly footway in that vicinity.
68. The proposed upgrading of both footpaths would contribute towards realising the expectation of paragraph 32 of the Framework to promote safe and suitable access to the site for all users. Ashington provides a good range of local facilities and services that will satisfy many day-to-day needs and the improvements proposed would contribute towards promoting related opportunities for walking and cycling. This would be reinforced by a Travel Pack to be provided to each new household. The intention of the Pack would be to help and encourage new residents to travel sustainably, but I accept that use of private vehicles is likely to remain significant, and particularly so for higher order services and for other journeys beyond the village.
69. Contributions would also be made through the undertaking towards a new warden/parish office facility at Ashington Community Centre (£26,099), and towards improvements to Ashington Recreation Ground, to Posthorse Play Area and to youth facilities at Ashington Community Centre (£117,175). I consider that each of these contributions would lead to significant community benefits.
70. The mitigation proposed includes an education contribution of £575,763 towards additional facilities at Ashington Church of England First School, and at Steyning Grammar School. A contribution would be made to West Sussex Fire and Rescue Service Northern Division (£8,280), and towards flexible shelving at Storrington Library (£26,430).
71. Whilst mitigation is initially proposed to directly address a potentially harmful impact of the scheme and/or some matter of policy compliance, I accept that

aspects of such measures may also carry with them some minor degree of broader public benefit. Additional school accommodation, for example, as proposed, would initially be required to meet the needs of new residents, but that same accommodation would be available to the wider community in perpetuity. Similarly, proposed shelving in libraries, as proposed, is considered necessary for additional demands, but that same facility would still be available to other users of the library. Likewise, improvements to fire services would not be exclusive to the 77 new households but would be generally available as a public good. I attach some limited weight to these secondary implications.

72. In summary, the scheme would provide a range of social benefits to which I attach significant weight.

6. Environmental benefits and related impacts

73. The overall physical impression of the site is one largely shaped by derelict structures and by a fairly sporadic arrangement of various caravans and other vehicles, some of which also appear abandoned. The general character and appearance from within the site are therefore relatively poor, but this impact upon the wider local area is significantly offset by the recessed and largely enclosed setting of the site, and by local ground levels. The land is set well back from Rectory Lane, slopes gently away from the road and is enclosed by planting. This means that the unattractive interior is only readily visible in public views through glimpses from Rectory Lane, and more directly in openings along the eastern boundary from footpath FP2607. The Parish Council also advises that no complaints have been received regarding the condition of the site.
74. The appellant's Landscape Report by fabric Limited dated February 2017 suggests the site is inconsistent with the wider District landscape and with the analysis set out in the Council's Horsham District Landscape Capacity Assessment April 2014. The Council's study defines the site as forming part of Landscape Study Area AS2, and identifies overall landscape capacity for small-scale housing to be 'Low-Moderate'. The appellant's contrasting assessment is that the site has a high landscape capacity. It is seen as a well-defined and discrete parcel of land, previously developed, and which is well related to Ashington and disassociated with the wider more rural landscape. The scheme would replace a degraded urban edge and would not replace countryside of value for its intrinsic character and beauty.
75. Whatever the merits of the wider setting, I generally agree with the appellant's assessment as it relates specifically to the appeal site. The scheme would include some planted frontage to Rectory Lane and would offer wider views from the north across an attractive, landscaped residential development. Notwithstanding the existing, relatively enclosed nature of the site, the scheme would result in a general improvement to its overall character and appearance, and particularly from public viewpoints to the north and east.
76. The scheme would also provide an opportunity to enhance and actively increase biodiversity within the site. Such possible opportunities are encouraged in Natural England's letter of 18 October 2016, and which also acknowledges possibilities for landscape enhancements. Similar reference is made in the appellant's Ecological Constraints and Opportunities Assessment dated June 2015.

77. The supporting Ecological Constraints and Opportunities Assessment report by ENIMS, dated June 2015, sets out significant survey and related work already undertaken, and the submission identifies a number constraints, including the possible presence of bats, reptiles and nesting birds requiring impact avoidance and/or mitigation measures as recommended in the assessment.
78. More particularly, the appellant's ecological survey identified a small population of slow worms which are a protected species under section 9(1) of the Wildlife and Countryside Act 1981. This identification involved one sub-adult slow worm on a fourth survey visit. I am satisfied that, in principle, there is a reasonable prospect that detailed measures are likely to be capable of addressing any adverse impact as a necessary prior requirement to development and, in this regard, note the agreed assessment of both the main parties that this matter could be adequately managed by way of a planning condition.
79. The site also forms part of a much wider Bat Sustenance Zone identified in the HDPF. Whilst no direct impacts to roosting bats are anticipated by the appellant's assessment, further mitigation is appropriate for any foraging and commuting bats.
80. I consider the appellant's initial response to ecological matters, and particularly to the identified presence of slow worms and possible implications for bats, to be appropriate and robust, and consistent with a core principle of the Framework for the planning system to contribute to conserving and enhancing the natural environment, and with accompanying statutory duties, including the need to conserve biodiversity. Further, no development, including any works of demolition or site clearance, would take place unless and until the terms of an appropriate planning condition had been discharged.
81. Although the authority is not arguing that the site has any particular inherent landscape quality, I noted at the accompanied visit that existing ground cover across much of the land was compacted earth, and that the large glasshouse structures in place appeared relatively lightweight. The point being made by the Council is that, following any vacation and clearance of the current uses, reinstatement to a countryside character would be readily achievable. That is a theoretical possibility which I can acknowledge, but its reality as a likely outcome, in terms of both economics and in light of the countervailing attractions of existing use rights, has not been demonstrated such that I can afford that particular scenario any significant weight.
82. In summary, the development would yield notable environmental benefits, and this is a matter to which I attach significant weight.
7. Other site-specific factors
83. I have had regard to all other matters raised, both at the Inquiry and in written evidence. Matters of flood risk, design and layout, and implications for local living conditions were previously cited by local interested parties in representations made to the Council. These matters are not raised in objection by the Council and, having considered the evidence, I have little reason to conclude otherwise.
84. The Inquiry also heard concerns expressed on behalf of Newhouse Farm Livery regarding the possible effect upon horse riders of an increase in vehicle

generation. The appellant's Transport Assessment shows that the traffic impact of the appeal scheme would be less than one vehicle movement per minute in the morning and evening peak hours, well below a level that could reasonably be considered to have a severe cumulative impact as identified as a possible threshold for concern by paragraph 32 of the Framework. Further, given the location of the appeal site relative to the Livery, and the general anticipated direction of generated traffic, I do not find there would be material harm in that regard.

85. The likelihood is that, by replacing the existing boat and caravan storage use, the frequencies of visits to and from the site by larger vehicles accessing via the relatively narrow Rectory Lane would also be reduced, although the Parish Council advises that no complaints have been received in relation to existing traffic generation. Even so, the scheme would address an existing access acknowledged by the highway authority to be sub-standard in terms of visibility splays, and would thereby enhance public safety. Some further limited benefit would arise on these counts.

8. Other decisions

86. Reference was made at the Inquiry to a Council decision arising from a report to the authority's Development Management Committee (South) on 16 August 2016. This concerned a decision to grant planning permission for a development of some 23 dwellings, 6 flats and a station car park and associated works at Land adjacent to Railway Cottages and Pulborough Railway Station, Stopham Road, Pulborough, West Sussex (Application Ref: DC/16/0728) (the Pulborough decision).
87. The Pulborough decision was taken contrary to the recommendation of Council officers. As with this current appeal, the application site was located outside a BUAB and was not allocated for residential development in the HDPF or in a made Neighbourhood Plan. Officers also advised, as with this appeal proposal, that the development was contrary to Policies 2 and 4 of the HDPF. Unlike this appeal scheme, the Pulborough proposal was also recommended for refusal in relation to further, other harm to the rural character, but also, in-keeping with the appeal proposal, due to inadequate provision for affordable housing and related matters.
88. North Wiltshire DC v Secretary of State for the Environment (1993) held that like cases should be decided in a like manner so that there is consistency in the appellate process. Whilst the particular circumstances of all cases will be different, and each will be necessarily fact and context sensitive, there are similarities between aspects of this appeal proposal and the planning considerations of the Pulborough decision. Further, it is significant that the Committee's approach to the planning balance in that case, whereby other material considerations were judged to out-weigh the presumption of the development plan, is the same rationale advocated by the appellant in this instance.
89. The Council refers to a number of other previous appeal decisions where support has been given to the authority's position. These include decisions relating to appeals at Jasmine House (Ref: APP/Z3825/W/15/3138804), Forest House (Ref: APP/Z3825/W/16/3151573), Tuggles Plat (Ref: APP/Z3825/W/16/3145622), Smock Alley (Ref: APP/Z3825/W/16/3146231), Bax Close (Ref: APP/Z3825/W/15/3128935 and 3141250), and Blackthorne

Barn (Ref: APP/Z3825/W/16/3159519). Reference is also made in this regard to the Sandgate decision.

90. These decisions have relevance to this appeal proposal in demonstrating support for Policy 4, but the merits of that policy are not a matter which, in principle, I have reason to dispute. Besides, in terms of the wider composition of each decision, I find it significant that most were the outcome of planning balances embracing other aspects of harm and were not confined to the same single issue of policy conflict around matters of settlement expansion which applies to this current appeal. Other issues of harm included, variously, harm to character and appearance and to designated heritage assets. The exception is Jasmine House which largely involved a similar single issue appeal but for a proposal involving only one dwelling. In that instance, it follows that the scale of likely housing benefit to be weighed, to the extent that it may be reflective of one dwelling rather than the 77 as currently proposed, would have been notably different. Hence, I regard the overall circumstances of each of these decisions not to be directly comparable.
91. Whilst I have had particular regard to all the above decisions, I have also noted a case cited relating to development of eight dwellings at Land in Threals Lane, West Chiltington, West Sussex (Ref: APP/Z3825/W/16/3150965) dated 25 November 2016 (the Threals Lane decision) and where the appeal was allowed. The Inquiry was told that particular decision was subject to legal challenge by the Council. Notwithstanding a request by the appellant, written details of that challenge were not available to the Inquiry, but the Council did confirm that the Court had not agreed at that time a challenge in relation to Policy 4. Little further detail was available to the Inquiry.

Overall planning balance

The approach

92. Paragraph 12 of the Framework reminds us of the statutory status of the development plan as the starting point for decision-making. Reflecting section 38(6) of the Planning and Compulsory Purchase Act, 2004 (the Act), it explains that proposed development which accords with an up-to-date Local Plan should be approved, and that proposed development which conflicts should be refused unless other material considerations indicate otherwise.
93. The proposal would conflict with aspects of the development plan to the extent described. Lack of accord with the development plan is a potentially weighty and substantial factor militating against a scheme and in favour of dismissing an appeal.
94. Notwithstanding that the scheme would be contrary to the HDPF and would not thereby be sustainable development in accordance with the East Staffordshire judgement, the question which necessarily follows both section 38(6) and that judgement, is whether, nonetheless, there are substantial and demonstrable objective material considerations which would warrant a decision in this instance other than in accordance with the development plan.

Sustainable development and the development plan

95. *Tesco Stores Ltd v Dundee City Council* [2012] PTSR 983 found that, where it is concluded that a proposal is not in accordance with the development plan, it is necessary to understand the nature and extent of the departure from the

plan which the grant of consent would involve in order to consider on a proper basis whether such a departure is justified by other material considerations. In this regard, the preceding analysis requires focus upon three particular strands of policy conflict: Policy 2 in seeking to promote the sustainable development of settlements; Policy 4 in highlighting the absence of a housing allocation for the site in either the HDPF or in a Neighbourhood Plan; and Policy 26 in seeking to protect the countryside from inappropriate development.

1. Harm in relation to Policy 2- sustainable development

96. The Framework makes clear that housing applications should be considered in the context of the presumption in favour of sustainable development. The purpose of the planning system is to contribute to the achievement of sustainable development. Sustainable development is defined by the Framework with reference to the policies in paragraphs 18 to 219 taken as a whole. The Framework further identifies economic, social and environmental dimensions to sustainable development.
97. The scheme would undoubtedly provide considerable and much needed housing benefits, in terms of both market provision and affordable dwellings, and such benefits would be consistent with the social dimension of sustainable development. It would also provide other social facilities by way of benefit, but there would be some loss of social opportunity and accompanying public harm in connection with the curtailed role and influence of the local community in shaping future development of the site, and upon any possible implications arising, through the yet-to-be prepared Neighbourhood Plan.
98. The investment represented by the development in terms of employment and subsequent local spending would be consistent with the economic dimension.
99. In environmental terms, the scheme would generate significant benefits, particularly associated with the footpath works and with general improvements to character and appearance.
100. It is agreed between the main parties that the appeal site occupies a relatively accessible location. There are local facilities in the village within reasonable walking distance of the site, there are good transport links to Horsham, Crawley, Gatwick and Worthing via the A24, and there is a local bus service. Although only some 33% of the site comprises PDL, Policy 2 encourages the effective use of sites by reusing land that has been previously developed (brownfield land) provided that it is not of high environmental value. This is also consistent with the introductory text to Chapter 4 on page 19 of the HDPF which states that the amount of brownfield land in the District is relatively limited, but that there is still a need to prioritise this land for development where possible.
101. In summary, the scheme would offer a range of characteristics consistent with the particular economic, social and environmental dimensions of sustainable development expected in the Framework, but would also be inconsistent with the social dimension in relation to the forsaken opportunity of the Neighbourhood Plan as it relates to the appeal site and as expected by the development plan.

2. Harm in relation to Policy 4- Neighbourhood Plan

102. Policies 2 and 4 are essentially permissive policies for development outside but adjoining a settlement edge, but subject to the provisions of the HDPF or of a Neighbourhood Plan.
103. Notwithstanding the absence of a Neighbourhood Plan, the proposal has evolved through both pre-application discussions with the local planning authority, and with the benefit of community engagement as set out in the appellant's Statement of Community Involvement dated August 2015.
104. The Parish Council stated to the Inquiry that there had been no discussion between the developer and the Parish Council regarding what community facilities the village may need, but the evidence is that some degree of dialogue between the parties, of whatever content, has taken place, and over an extended period. A letter submitted to the Inquiry on behalf of the site owner dated 21 March 2017 sets out details of communication with the Parish Council initiated by the owner in December 2013. The owner's attendance followed at a meeting of the Parish Council in October 2014. The owner's note to that meeting indicated that many approaches had been made by developers but that there was a wish to work with the village to prepare a development brief.
105. The appellant's Statement of Community Involvement indicates that a further meeting took place with the Parish Council in July 2015, and also sets out details of an exhibition held in June 2015 to which the Parish Council and other public stakeholders were invited. This also included an invitation to 672 local residential and business addresses in Ashington. I heard at the Inquiry that there were some unforeseen issues with the venue on the day, but understand contingency arrangements were put in place.
106. Further, the local planning authority states that Parish Councils have been asked to identify service or facilities provision in their areas which are inadequate to meet the needs of future residents of proposed development. In this case, the Council's evidence states projects where services/facilities lack the capacity to meet future resident needs have been identified by Ashington Parish Council. These include the need to improve the nearby Posthorse Play Area and facilities at the nearby Ashington Recreation Ground, to ensure that the Parish office facilities are sufficient to meet the needs of residents, and to make sure that the Ashington Community Centre is better able to provide for young people. The authority has confirmed the contributions proposed would ensure these facilities would remain available for use by future residents of the development.
107. The appellant also explained how it has sought to respond to specific references made in the Ashington Action Plan. In particular, the Action Plan refers to a need to improve access to the village for the adjacent residents of Penn Gardens, and to generally encourage residents to walk and cycle around the village and surrounding countryside. The appellant also referred to the Action Plan's reference to reduce the number of lorries coming through the village unnecessarily, but the Parish Council does not consider this refers to the existing use of the appeal site.
108. The Parish Council cites an alleged absence of community benefits from the proposal and refers to possible allotments, community open space, sports

pitches, a youth club and an outdoor gym. From the evidence before me, I am unconvinced as to how those sorts of facilities may be realised through this particular site. I have no evidence of funding for acquisition of any land or for direct provision of such facilities, and delivery otherwise as part of the site's wider future development would in any case be constrained by the extent of land available and by the market value of any development. Moreover, opportunities via planning obligations are not open-ended and would have to be necessary, reasonable and be directly related to the development in accordance with the tests set out in Regulation 122. Significantly, paragraph 2.7 of the Council's Written CIL Justification Statement advises that this scheme is of a scale such that it is not feasible to provide on-site facilities, and yet the scheme effectively includes the whole site.

109. Although the Parish Council remains critical of the extent of communication undertaken, I am satisfied that very significant attempts have been made to engage with the local community prior to submission, and that the scheme is reflective of its reasonable needs to the extent that they are currently identified, and that the provisions available through this proposal would be both appropriate and proportionate to the site and its development.
110. Against that, I acknowledge the local commitment to the Neighbourhood Plan and the quality and professionalism of the work being undertaken and how this reflects Policy 4's recognition of the role of the local community in helping to shape planned settlement growth. Ashington is also representative of a District-wide buy-in to the HDPF's spatial strategy. Twenty-three of twenty-six Parishes and Neighbourhood Councils have started their Neighbourhood Plan process, and exceptional circumstances were given to explain the absence of progress in relation to the remaining three.
111. Neighbourhood Plans in Horsham are not a bolt-on supplement to the HDPF but a fundamental and expressly recognised component of the development plan process itself. Given its relationship to the HDPF, the absence of a Neighbourhood Plan runs deeper than mere prematurity.
112. I also note a potential fallback position involving a smaller development but confined to that part of the site inside the BUAB. The Council suggested at the Inquiry this might involve something in the order of 18 dwellings. Such a proposal would not fall foul of Policy 4 in the same way as the appeal scheme and could proceed independently of a Neighbourhood Plan, but nor would it be likely to deliver the scale of other benefits either suggested by the Parish Council or as formally proposed by the appeal scheme. Further, nor would such a scheme serve to plan the whole site as one coherent entity.
113. Notwithstanding the above considerations, there would be a very significant degree of social and procedural harm occasioned though the loss of the site to the on-going Neighbourhood Plan process contrary to Policy 4.

3. Harm in relation to Policy 26- countryside

114. Reference has been made, with some justification, to the uniqueness of the site. I find this reflects a location partly adjacent to a settlement, but also partly within its BUAB, and a physical character which, whilst technically defined as countryside, comprises significant PDL but some open countryside. That part outside the BUAB also includes former horticultural use, including extensive, and now largely derelict, glasshouse structures.

115. By virtue of Policy 26, land outside the BUAB is regarded as countryside but, even so, I find this designation does not fit comfortably with the existing physical characteristics of the appeal site given the extent of PDL and glasshouse structures which lie beyond the defined settlement boundary. I find the site does not currently enjoy either the particular rural character or undeveloped nature which can be generally expected of the countryside, and which Policy 26 expressly seeks to protect.
116. Possible development of this site appears to have been relatively long in the making. The appellant indicates that the site formed part of discussions relating to a Strategic Housing Land Availability Assessment (SHLAA) dating from 2009. Pre-application discussions took place with Council officers in 2014 and 2015 and no objection appears to have been raised to the principle of a redevelopment at that time.
117. An email from the Council's Head of Strategic Planning and Sustainability dated 26 January 2016 post-dates the HDPF and identifies the proposal to be contrary to policy, but also acknowledges a unique set of characteristics which apply to the site. At that time the Council had a further objection regarding a possible requirement for re-use of the site for employment purposes. I find this significant as it would also seem to imply an assessment by the Council that the site should not necessarily revert to open countryside, and nor would it seem to give the site any in-principle recognition in relation to a need to protect a rural character and an undeveloped nature of the countryside pursuant to Policy 26.
118. Further, the Horsham District Council Strategic Housing Land Availability Assessment 2016 (SHELAA) identifies the site as Ref: SA131, categorises it as 'suitable, available, viable', refers to 77 units being developable within a 6-10 year timescale, and recommends that the site is considered through the emerging Ashington Neighbourhood Plan. The SHELAA does not allocate sites for development but, rather, provides a high level assessment to subsequently inform more local allocation exercises to be carried out through the HDPF or associated Neighbourhood Plan processes. Nonetheless, the Ashington Parish Neighbourhood Plan Part 1 Site Assessment Decisions now takes that matter forward and the appeal site is currently identified for further consideration as possible housing development.
119. The fact that the site is not already allocated in the HDPF also does not reflect any adverse decision made regarding its particular planning merits. Rather, the Inquiry heard that it was not allocated in the HDPF because it was not of a strategic size to warrant consideration for the purposes of that exercise.
120. I find that the possibility of a residential development of the site has previously been recognised by the authority, albeit relatively informally, and largely reflecting the uniqueness of its planning character.
121. Although I find the impact upon the countryside would be mitigated to some degree by the factors described, the scheme as proposed would remain contrary to the substance of Policy 26 in seeking to protect the countryside from inappropriate development.

4. Summary- sustainable development and the development plan

122. Whilst the scheme itself would not be sustainable development, it would otherwise contribute positively to Ashington through characteristics consistent with dimensional aspects of sustainability identified in paragraphs 18 to 219 of the Framework. Nevertheless, the eventual outcome of the Neighbourhood Plan process as it relates to this site and as formally anticipated by the development plan might well be different to the current proposal. A permission as sought would particularly curtail the Neighbourhood Plan process to the extent that the opportunity for the local community to engage through that specific mechanism, to shape future development of this site, and to consider implications arising, would be lost, and would be contrary to Policies 2, 4 and 26 of the development plan.

The balance against other material considerations

123. Section 38(6) of the Act does not prescribe that either the development plan or other material considerations be given any particular weight in the required balance. It is, in effect, an ordinary, unweighted balance between the two countervailing elements. Neither does it follow from section 38(6) that conflict with the development plan, however serious, should necessarily dictate that an appeal be dismissed.
124. I find the scheme, with particular regard to its conflicts with Policies 2, 4 and 26, would not accord with the development plan read as a whole. Further, the expected centrality of the development plan within a system of plan-led decision-making, and the regard to be given to its up-to-date status and accompanying provisions, are matters of considerable importance and weight. The proposal would conflict with the development plan and the East Staffordshire judgement makes clear that the scheme would not be sustainable development.
125. In summary, I find that the considerable weight I attach to the scheme's conflict with the development plan is not outweighed by the significant benefits otherwise arising from the scheme.
126. In accordance with section 38(6), as reflected in paragraph 12 of the Framework, I find that the weight and subsequent balance of other material considerations do not lead me to a decision in this instance other than in accordance with the development plan.

Conclusion

127. For the above reasons, the appeal is dismissed.

Peter Rose
INSPECTOR

DOCUMENTS SUBMITTED TO THE INQUIRY

By the local planning authority:

1. Opening submissions on behalf of the Council by Emmaline Lambert of Counsel
2. Appeal decision Ref: APP/Z3825/W/16/3159519 dated 17 March 2017 and relating to development of 8 dwellings at Blackthorne Barn, Marringdean Road, Billingshurst, West Sussex RH14 9HD
3. Appeal decision Ref: APP/Z3825/W/15/3138804 dated 9 March 2016 and relating to development of a dwelling at Land adj Jasmine House, Cox Green, Rudgwick, West Sussex RH12 3DE
4. Written CIL justification statement (as updated)
5. Page 6 of Horsham District Council - Authority Monitoring Report 2014/15
6. Ashington Parish Neighbourhood Plan Updated project plan and timescales (update to CD10)
7. Key to Horsham District Planning Framework (2015) Policies Map and Inset Maps
8. Horsham District Council five year housing land supply calculations (projected at 2016/17 and 2017/18)
9. Closing submissions by Emmaline Lambert of Counsel

By the appellant:

10. Opening statement for the appellant by Mark Lowe of Queen's Counsel
11. Submissions of law for the appellant by Mark Lowe of Queen's Counsel
12. Compendium of application drawings as agreed with local planning authority
13. Drawing 2230-C-1103-A, Existing and Proposed Aerial Plans of the Site
14. Unilateral undertaking signed and dated 17 March 2017
15. Unilateral undertaking - Summary of key planning obligations
16. Power of Attorney made by Urai Smith dated 17 March 2017
17. Minutes of meeting of Linden Limited held on 17 November 2016
18. Letter from Linden Homes dated 17 March 2017, and enclosed letters from Clarion Housing Group dated 13 March 2017, and from Orbit Homes dated 23 February 2017
19. Letter from Jonathan Bore, MRTPI dated 20 February 2017 and relating to the Mid Sussex District Plan Examination
20. Drawing Ref: ITB11035-GA-006, Proposed footpath improvements indicative scheme
21. Letter from Angus Farquhar dated 21 March 2017
22. Ashington Parish Neighbourhood Plan Part 1 Site Assessment Decisions
23. Location Plan of Neighbourhood Plan Site Submissions
24. Recalibrated housing completions dating from 2011
25. Closing submissions by Mark Lowe of Queen's Counsel (including Reply to Law)

Jointly by the Council and the appellant:

26. Response to the Inspector's Pre-Inquiry Note dated 16 March 2017
27. Location plan of Newhouse Farm Livery
28. Plan of Public Rights of Way

- 29. Suggested wording of possible condition relating to clearance works to the public footpath fronting Rectory Lane
- 30. Suggested wording of possible condition relating to maintenance of the proposed footpath link within the application site

By other parties:

- 31. Statement and enclosures from Karen Dare on behalf of Ashington Parish Council
- 32. Written CIL justification by West Sussex County Council dated 8 August 2016

FURTHER DOCUMENTS SUBMITTED POST-INQUIRY

By the local planning authority:

- 33. Email from Adrian Smith dated 23 May 2017

By the appellant:

- 34. Email from Judith Ashton dated 22 May 2017 and enclosure

APPEARANCES

For the local planning authority:

Emmaline Lambert	of Counsel, instructed by Paul Cummins, Head of Legal Services, Horsham District Council. She called:
Adrian Smith	Senior Planning Officer

For the appellant:

Mark Lowe	of Queen's Counsel, instructed by Judith Ashton Associates. He called:
James Bevis	Partner, i-Transport LLP
Judith Ashton	Principal, Judith Ashton Associates

By other interested parties:

Karen Dare	Neighbourhood Plan Clerk, Ashington Parish Council
Catherine Duke	Proprietor, Newhouse Farm Livery