



Appeal Decision

Inquiry Held on 27 to 30 June and 4 July 2017

Site visit made on 4 July 2017

by Richard McCoy BSc MSc DipTP MRTPI IHBC

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

Decision date: 29 August 2017

Appeal Ref: APP/X1355/W/16/3155717

Land south of Beacon Lane, Sedgefield, County Durham

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Avant Homes against the decision of Durham County Council.
 - The application Ref DM/15/02626/OUT, dated 20 August 2015, was refused by notice dated 4 February 2016.
 - The development proposed is the erection of up to 150 dwellings.
-

Procedural matters

1. The application was made in outline, with all matters reserved except for access though an indicative layout was supplied and a number of illustrative details are given in the Design and Access Statement¹ and built form masterplan.
2. Sedgefield Village Action Group (SVAG) was granted Rule 6(6) status under the provisions of the Inquiries Procedure Rules.
3. A signed and dated Agreement² under Section 106 of the Town and Country Planning Act 1990 (S106) was submitted by the appellant. This ensures the provision of affordable housing at a level of 15%. It also secures the provision of a contribution towards primary and secondary education, and an off-site open space contribution. In the light of the evidence presented at the Inquiry, I consider that the obligations in the S106 meet the tests set out in the NPPF and satisfy the requirements of regulation 122 of The Community Infrastructure Levy Regulations 2010. I can therefore give the S106 significant weight.
4. The Council confirmed that the Sedgefield Neighbourhood Plan³ (NP) went to examination in June 2016 with the Report⁴ delivered in July 2016. The Report concluded that the NP could proceed to referendum on the basis that only 4 policies remained from the submission draft. The Sedgefield Town Council however decided that the 4 remaining policies would not fully reflect community ambitions and objectives, and a re-draft of the NP was commenced. This was submitted in February 2017 with a request that the Council undertake the Regulation 16 consultation.

¹ Core Document 1.26

² Inquiry Document 22

³ Core Document 5.18

⁴ Core Document 5.19

5. However, as the re-draft was materially different to the examined version of the NP (including several new policies and an amended settlement boundary), the Council advised that a full consultation under Regulations 14 and 16 would be required. The Council explained that following receipt of an Examination Report, the actions open to the Council are limited to correcting procedural issues and spelling errors then proceeding to a referendum. As Sedgefield Town Council does not want to do this but instead has redrafted the Plan, the Council sees no option other than to return to the Regulation 14 stage with the re-draft NP.
6. In view of this both the Council and the appellant agreed that as an emerging document undergoing full consultation, the NP should be afforded very little weight. From my assessment, I have no reason to disagree and have dealt with the appeal on this basis.
7. With regard to the County Durham Plan Submission Draft (April 2014) (CDP), the appellant and the Council agreed that following the findings of the judicial review that the 18 February 2015 interim views should be quashed and the CDP withdrawn (pursuant to Section 22(1) of the Planning and Compulsory Purchase Act 2004) and an amended and refreshed Local Plan resubmitted for independent examination (pursuant to Section 20 of the Planning and Compulsory Purchase Act 2004, having first followed the procedure set out in Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012), the CDP should be afforded very little weight. From my assessment, I have no reason to disagree and I have dealt with the appeal on this basis.
8. The Sedgefield Borough Local Plan (LP) was adopted in 1996 and expected to run until 2006. I note the Council and appellant consider that as it was prepared in a wholly different planning and economic context to the present day, it is time expired and out-of-date. However, several policies within the LP were saved by the Secretary of State in 2007⁵ and remain part of the area's Development Plan. Those of relevance, under paragraph 215 of the National Planning Policy Framework (NPPF), should be given due weight according to their degree of consistency with the Framework, and I return to this matter below.
9. The appellant's witnesses, Mathew Elliott MSc, CEng, FICE, CWEM, MCIWEM, FCIWEM, FCI Arb, C Env, Technical Director, WYG Engineering Ltd and Dr Anthony Martin BSc, PhD, MCIEEM, CMLI, Director, E3 Ecology Ltd, who were going to give evidence on flood risk/drainage and ecology respectively, were not called while Dr Ricardo Gomez BA, MA, PhD, Director, Regeneris Consulting and Dr David Usher MA(Hons), PhD, Principal Research & Intelligence Officer, Durham County Council gave evidence at the "Round Table" session on the housing requirement and housing land supply for the appellant and the Council respectively.
10. Following the close of the Inquiry, the appellant submitted appeal decision ref. APP/X1355/W/16/3163598, dated 28 July 2017 in respect of land at Former Sedgefield Community Hospital, Salters Lane, Sedgefield. In that decision the Inspector considered the up-to-date position on housing land supply in the County. The parties were afforded the opportunity to comment on the

⁵ Core Document 5.33

implications of this decision to their respective cases and I have taken these comments into account in considering this appeal.

Decision

11. I dismiss the appeal.

Background and main issues

12. The Council and the appellant agreed⁶ that the Council cannot demonstrate a 5 year housing land supply and that the provisions of paragraph 49 of the NPPF are engaged. It is also common ground that there is no adopted or up to date housing land supply target which relates to either the former Sedgefield Borough Council or the wider Durham County Housing Market Area and that there is no publicly tested full objectively assessed need (OAN) figure for the purposes of calculating housing land supply⁷.
13. The most recently adopted figures relating to the housing land requirement in this area were contained within the Regional Spatial Strategy (RSS) for the North East (2008), which was subsequently revoked in 2013. It is common ground that the RSS figures are not up-to-date.
14. Against this background, I consider the main issues to be the effect of the proposal on;
- (i) the character and appearance of the area,
 - (ii) the setting of the Grade I listed Church of St Edmund,
 - (iii) the setting of the Sedgefield Conservation Area,
 - (iv) the infrastructure of the area, and
 - (v) whether any adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole or whether specific NPPF policies indicate that development should be restricted.

Reasons

15. The appeal site extends to around 8.9 ha and is broadly flat in nature. It stands around 800m from the centre of Sedgefield and is bounded by Beacon Lane to the north and west (with the 'three cornered field' beyond to the west), the A689 to the south east and Stockton Road to the south west. Beacon Lane is closed to vehicles and is promoted as a link from Sedgefield to National Cycle Route No. 1. It is also regularly used by local walkers.
16. Hedgerows containing native species (including trees at intermittent points) line the northern, western and south-western site boundaries. The boundary shared with the A689 road corridor has no hedge, giving open views across the site, towards the town. The site stands within around 160m of the boundary of Sedgefield Conservation Area. Views of the Conservation Area are limited from within the appeal site with the exception of St Edmunds Church tower which shows above the tree line.

⁶ Note on Common Ground on Housing Land Supply, Inquiry Document 14

⁷ Housing Statement of Common Ground

17. Proposed is a development of up to 150 dwellings, with all matters reserved except access. Vehicular access would be taken from Stockton Road with footpath connections provided to Beacon Lane and Stockton Road.
18. The submitted illustrative layout plan shows a mix of house types and sizes of 2, 3, 4 and 5 bed properties, including bungalows. The housing would be traditional in style and form and is intended to respond to local market needs. The layout also shows the creation of a green corridor within the development affording a view framed by the Church of St Edmund.

Character and appearance

19. The Landscape and Visual Impact Assessment (LVIA) submitted by the appellant⁸ includes representative views of the proposal and distinguishes between its effect on landscape character and its visual impacts on views experienced by visual receptors. A Zone of Theoretical Visibility (ZTV) is also included taking in an area within a 5km radius of the appeal site. The LVIA sets out the impact of the development at 5 and 10 year intervals following completion using photomontages, and explains the proposed Landscape Mitigation Strategy. The key visual receptors include walkers and cyclists on Beacon Lane, Stockton Road, the footpath along the western site boundary and road users on the A689 and Stockton Road.
20. The appeal site lies within an area classified by Natural England as National Character Area (NCA) 23: *Tees Lowlands*. This is described as a broad, low lying, open plain of predominantly arable agricultural land, with low woodland cover and large fields, defined by wide views and distant hills. Principal transport corridors, power lines and energy infrastructure are conspicuous elements in the landscape.
21. At the regional level, the County Durham Landscape Character Assessment (LCA) identifies the key characteristics of the *Tees Lowland* County Character Area to include; a broad lowland plain of gently undulating, occasional flat terrain and a visually open and broad scale landscape with panoramic views to distant hills. The LCA is divided into Broad Landscape Types (BLT) and then into Broad Character Areas (BCA) and it is the *Lowland Plain* BLT and the Butterwick and Shotton BCA which are relevant to the appeal site, the latter covering the landscape to the east of Sedgely.
22. The *Lowland Plain* BLT key characteristics include, amongst other features, broad ridges and shallow valley heads, few wooded areas and a visually open landscape with commanding views across adjacent valleys to distant ridges, whilst the Butterwick and Shotton BCA is described as open, flat or gently undulating arable farmland. The appeal site itself is categorised further as Local Landscape Type (LLT): *Plain farmland: open arable*. Its characteristics are open, gently undulating arable farmland of large fields with mainly low hawthorn field boundaries.
23. I observed the appeal site to be an agricultural field which runs between the edge of Sedgely and the road corridor of the A689 dual carriageway to the south and south east of the town. The general topography of the land falls gently from the settlement edge south towards the shallow valley formed by the Shotton Beck. It then rises gradually to a ridgeline to the south east of

⁸ Philip Barker Proof of Evidence

Sedgefield, marked in the landscape by the presence of several farmsteads such as Cote Nook Farm, Glower O'er Him and Beacon Hill Farm.

24. The appeal site is not included within LP Policy E4 which seeks to protect the landscape setting of the town and I agree with the appellant's assessment that in terms of landscape character, the appeal site is typical of the surrounding area, contains no particular features of note and is assessed in the spatial strategy for the *Plain farmland: open arable* LLT as being suitable to 'enhance'. The LLT explains that this is to be achieved by developing entirely new features or characteristics as it is considered to be a landscape which has few valued attributes and/or is in a poor condition. As such, it is not in my judgement, a valued landscape for the purposes of NPPF paragraph 109.
25. Nevertheless, the Core Planning Principles at NPPF paragraph 17 include the requirement to 'take account of the different roles and character of different areas'. In this regard, my attention was drawn to the Ministerial Statement⁹ dated 27 March 2015 which states that while designated landscapes such as National Parks and Areas of Outstanding Natural Beauty enjoy the highest degree of protection, outside of these areas the impact of development on the landscape can be an important material consideration.
26. While not a valued landscape under NPPF Paragraph 109, the appeal site is not without its functional attributes. It forms a strong demarcation between the countryside and the existing urban development on the edge of Sedgefield from which it is physically separated by the "three cornered field". As such, it shares its affinity with the countryside with which it forms an integral and functional part (notwithstanding the presence of the A689 dual carriageway). Furthermore, the appeal site serves to provide open views of the tower of the Church of St Edmond on the approach to the town from the east, revealing Sedgefield's historic function as rural market town.
27. These views commence around Beacon Farm, heading west on the A689, until the junction with Stockton Road. The proposal would obscure these views on a section of this approach (along most of the south-eastern appeal site boundary estimated by the appellant to be around 250 metres in length). This is a considerable length of the approach when the church tower is in view and whether in a car, on foot or on a bicycle, replacing this view with a suburban housing development would cause a harmful change to the character of the landscape and on the view experienced by visual receptors.
28. The tower of the Church of St Edmund stands at the highest point within the heart of the town, and is a distinctive and prominent feature of the area. It is visible from some considerable distance away from several viewpoints, and features prominently on the approach from the east. While views of the church tower are available on other approaches to the town, I observed those from the east on the A689 to be particularly striking. Unlike the nearby development at Eden Drive (which was granted planning permission on appeal ref. APP/X1355/W/16/3150609 and where apart from within the site itself, no views of the tower are obscured by the development) this proposal, as set out in the illustrative material, would block a very prominent view of this distinctive feature. This harmful outcome would not be mitigated by the proposed landscaping, the siting of dwellings away from the eastern most section of

⁹ Inquiry Document 13

Beacon Lane or the proposed view framed by the Church of St Edmund from the green corridor within the development.

29. Moreover, the urbanising impact of the proposal would be very apparent from Stockton Road due to the highway works associated with the access and increased traffic movements. It would also change the character of Beacon Lane and the lane between the appeal site and the "three cornered field" from quiet country lanes to lanes on the periphery of a large housing development. While I acknowledge that those using these routes would in all likelihood be aware of the nearby town and noting that layout is a reserved matter, I nevertheless consider that the submitted illustrative material gives an indication of how a residential development of this scale, at this location, would be seen as an incursion into the countryside rather than a natural extension of the settlement.
30. Notwithstanding the proposed landscape mitigation strategy, I consider that this would harmfully change the character of the landscape when approaching the town from the east as the appeal site is appreciated as an integral part of the open countryside that stands in proximity to eastern edge of Sedgefield. Furthermore, the visual impact would be harmful as it would introduce a large urbanising development into a rural setting, blocking views of a prominent local landmark.
31. While I agree with the LVIA conclusion that the proposal's zone of visual influence would be limited by topography and vegetation cover and, as a result, any adverse landscape and visual effects would be localised, I nevertheless consider that the topography in and around the appeal site would result in the proposal being a very prominent feature in views from the nearby road and footpath networks.
32. The proposal would, I conclude, have a significant adverse effect on local landscape character. It would change the intrinsic rural character of the area which would be seen from surrounding roads and footpaths, resulting in a significantly adverse visual impact, given its effect on the view of the church tower on the approach to the town from the east. In this regard, I have considered saved Policy H8 of the LP which, although not relied upon by the Council in refusing the application, was referred to in evidence. This seeks to direct new housing to within the residential framework of Sedgefield and restrict new housing in the countryside outside of the settlement limits.
33. However, I note the Council's conclusion¹⁰ regarding the vintage of the evidence base for this policy and I afford it limited weight. Nevertheless, the proposal would be at odds with NPPF paragraph 7 which makes clear that 'contributing to protecting and enhancing our natural, built and historic environment is an aspect of sustainable development' and paragraph 17 in respect of recognising the intrinsic character and beauty of the countryside.

The effect on the settings of nearby heritage assets

34. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA) states that special regard should be paid to the desirability of preserving the settings of listed buildings, where those settings would be affected by proposed development. The NPPF defines the setting of a heritage

¹⁰ Thomas Bennett Proof of Evidence

asset as the surroundings in which it is experienced. The extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset; may affect the ability to appreciate that significance; or, may be neutral. My attention was drawn to a recent High Court judgement¹¹ which considered the approach to determining the extent of, and the role of visual connections to, setting.

35. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight attaches to the asset's conservation; the more important the asset, the greater that weight should be. Significance can be harmed through development within an asset's setting. Historic England guidance: *The Setting of Heritage Assets*, indicates that setting embraces all of the surroundings from which an asset can be experienced or that can be experienced from or within the asset. Setting does not have a fixed boundary and cannot be defined, in perpetuity, as a spatially bounded area or as lying within a set distance of a heritage asset.
36. The significance of a heritage asset is defined in the NPPF as its value to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. Significance may be harmed by a development and it is necessary to determine the degree of harm that may be caused. This proposal would affect 2 no. designated heritage assets as a development within their settings; the Grade I listed Church of St Edmund and Sedgefield Conservation Area.
37. St Edmunds Church was deliberately sited on high ground within Sedgefield to exert a strong visual influence over the town and the surrounding countryside. The addition of the west tower in the late 15th century served to enhance its position as a dominant skyline feature being visible from distance on most approaches to the town. The archaeological, architectural and historic interest of the church is apparent from the views in which it appears as a distinctive landmark feature. This is very much the case from within, and from parts of the roads and footpaths adjacent to, the appeal site from where the church tower is visible.
38. The parties agreed¹² that an important contribution that setting makes to the significance of the Church is the wider perspective of views of the tower across the rural landscape. While I note the appellant's argument that the setting of the church takes in a wide panorama of which the appeal site forms a small section, I nevertheless consider that the views of the tower on the approach from the east, across the appeal site, are an important element in the prospect of the church tower and thus of the setting of the heritage asset. This is apparent from the appellant's photographic survey¹³ which shows that there are no discordant or distracting elements in this view towards the church.
39. The proposal would alter this by blocking views of the tower completely from parts of the eastern approach to the town and by introducing a large residential development into other views which take in the tower and the appeal site. The

¹¹ Inquiry Document 6, *Peter John Steer v Secretary of State for Communities and Local Government & Others* [2017] EWHC 1456 (Admin)

¹² Proofs of Evidence of Judith Miller and Stephen Carter

¹³ Philip Barker Proof of Evidence

creation of a vista towards the church within the development would not mitigate this adverse effect although landscape planting would soften the outline of the development through time. In overall terms, there would be an adverse impact upon the setting of the church. However, given the majority of the significance of the heritage asset derives from its historic fabric which would be unaffected by this proposal and the fact that the appeal site accounts for a part of the overall setting of the church, I consider that the resulting harm would be less than substantial. In which case, under NPPF paragraph 134 this harm should be weighed against any public benefits of the proposal, including securing the asset's optimum viable use and this is a matter I return to below.

40. Sedgefield Conservation Area contains a collection of high quality historic buildings centred on its historic core which is dominated by the Church of St Edmund. The eastern flank of the Conservation Area is visible along Stockton Road with the buildings on its boundary being seen in this view¹⁴. This takes in part of the appeal site and the "three cornered field" which have inter-visibility with the Conservation Area along Stockton Road. Furthermore, the top end of Beacon Lane near the cemetery, and the lane between the "three cornered field" and the appeal site, provide a quiet, rural aspect close to the eastern boundary of the Conservation area. As such they contribute to the feeling of the countryside sweeping up towards the town that is experienced from this part of the Conservation Area thereby forming part of its setting.
41. I consider that the proposal would adversely affect the setting of the Conservation Area by changing the quiet, rural nature of an area close to its boundary. The proposal would introduce an urbanising feature that would break the close connection between the Conservation Area and the countryside which sweeps up to the south eastern edge of the town, through the appeal site. In this regard, my attention was drawn to appeal decisions refs. APP/X1355/W/16/ 3150609 and APP/X1355/W/15/3134870 (Eden Drive and Beacon Lane respectively) wherein neither Inspector found the effect on the setting of the Conservation Area to be determinative. However, at Eden Drive it was considered that the development would not affect the setting of the town while at Beacon Lane it was found that the proposal would be in a well contained site bounded by development on 3 sides. In my judgement, as set out above, this contrasts with the impact of the proposal before me.
42. As with the church, the harm arising would be less than substantial as the development is not within the Conservation Area and the effect would be confined to a portion of its overall setting. The less than substantial harm that would occur to the significance of the Sedgefield Conservation Area would conflict with saved LP Policy E18 which reflects the approach in NPPF paragraph 132 and which can be given full weight in this matter. Under NPPF paragraph 134 this harm should be weighed against any public benefits of the proposal, including securing the asset's optimum viable use and I return to this matter below.

Housing land supply and sustainable development

43. It is common ground¹⁵ that the Council lacks a current OAN for the County and cannot demonstrate a 5 year supply of housing land for the purposes of NPPF paragraph 47. This engages NPPF paragraphs 49 and 14 as the relevant

¹⁴ VP4 Stephen Carter Proof of Evidence

¹⁵ Housing Statement of Common Ground

policies of the development plan for the supply of housing cannot be considered to be up-to-date if they are not meeting the objectives of paragraph 47. However, in this case I have found that the proposal would cause less than substantial harm to the significance of the Church of St Edmund and the Sedgefield Conservation Area as a development within the settings of these designated heritage assets. In considering the relationship between the balancing exercises under NPPF paragraphs 14 and 134, my attention was drawn to a recent Supreme Court judgement¹⁶ concerning the meaning of NPPF paragraph 49, its interaction with NPPF paragraph 14 and the effect of footnote 9 to that paragraph.

44. The judgment makes it clear that the primary purpose of paragraph 49 is to trigger the operation of the tilted balance of paragraph 14, in respect of the presumption in favour of sustainable development, where a Council cannot demonstrate a five year supply of deliverable housing land. It is necessary therefore, to determine whether or not policies for the supply of housing are achieving a five year supply, in accordance with the objectives of paragraph 47, as this affects the weight to be attributed to such policies.
45. In this regard, my attention was also drawn to an earlier High Court judgement¹⁷ which makes it clear that for the purposes of the second bullet point of paragraph 14 "decision-taking" (which addresses the circumstances where relevant policies of the development plan are out-of-date) paragraph 134 may be a specific policy which indicates that development should be restricted. The above mentioned Supreme Court judgement considered this further and found that footnote 9 is dealing not only with "specific policies in this Framework" but also with "the related development plan policies".
46. In view of my conclusion that there is less than substantial harm arising from the proposal in respect of 2 no. heritage assets, the balancing exercise under paragraph 134 requires to be carried out to determine if the harm is outweighed by any public benefits.

NPPF paragraph 134 balance

47. Public benefits in respect of NPPF paragraph 134 will most likely be the fulfilment of one or more of the objectives of sustainable development as set out in the NPPF, provided the benefits will inure for the wider community and not just for private individuals or corporations. It was not suggested that the proposal is necessary in order to secure the optimum viable use of the heritage assets.
48. The appellant did claim however that the proposal would bring public benefits by:
 - providing up to 150 dwellings (of which 23 would be affordable) in a sustainable location in an area of jobs growth on the southern delivery area of the Durham housing market area,

¹⁶ Core Document 6.1, Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant)

¹⁷ Core Document 6.3, Forest of Dean v SoS & Gladman [2016] EWHC 421

- delivering the housing in the shorter term within the Durham travel-to-work area as an alternative to developing housing within the Durham Green Belt,
 - delivering ecological and flood risk alleviation benefits,
 - contributing financially towards maintaining local shopping and services facilities with residents spending around £181,000 per annum in local shops and £150,000 in local food and drink outlets,
 - providing around 107 construction jobs, and
 - contributing through a S106 to help sustain local facilities.
49. In my judgement, employment and economic activity during the construction phase would be temporary benefits. Furthermore, the open space and education contributions of the S106 and flood risk alleviation measures, rather than being benefits, would provide mitigation to the development. In which case I give them little weight.
50. Nevertheless, it is the case that the NPPF seeks to boost significantly the supply of housing and widen the choice of high quality homes, as well as secure economic growth. The proposal would increase housing choice, including the provision of affordable housing, in a County which lacks a five year supply of deliverable housing land. The proposal would also secure economic growth in the area through residents' support of local shops and services (although there is nothing before me to suggest that these services would need the development to go ahead in order to be economically sustainable) and there would be a net ecological gain from the proposal. These are public benefits which weigh in its favour.
51. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) states that special regard should be paid to the desirability of preserving the settings of listed buildings, where those settings would be affected by proposed development. Applying section 66(1) of the Act is a matter to which I give considerable importance and weight¹⁸. This is also a requirement of NPPF paragraph 132 wherein it states, in respect of an asset's conservation, that the more important the asset (in this case the Church of St Edmund is included within the Grade I listing status thus making it a designated heritage asset of the highest significance) the greater the weight should be. In addition, less than substantial harm would occur to the significance of the Sedgfield Conservation Area in conflict with saved LP Policy E18.
52. Consequently, despite finding the harm in both instances to be less than substantial, the presumption against granting planning permission remains strong. It can be outweighed by material considerations if powerful enough to do so. In this instance, taking an OAN¹⁹ ranging from 1533 to 1717, the parties disputed the extent of the shortfall in the housing land supply with the Council claiming between 4.20 and 4.91 years supply and the appellant between 3.87 and 4.53 years²⁰. Under a recent High Court judgement²¹, the

¹⁸ Core Document 6.6, Barnwell Manor Wind Energy Ltd v E.Northants DC, English Heritage, National Trust & Secretary of State – C1/2013/0843

¹⁹ Inquiry Document 8 on parties' differences on OAN

²⁰ Inquiry Document 14

weight to be given to a proposal's benefit in increasing the supply of housing will depend on, for example, the extent of the shortfall, how long the deficit is likely to persist, what steps the local planning authority is taking to reduce it, and how much of it the proposed development would meet.

53. In this case, even taking the appellant's lowest estimate of supply (which is lower than the lowest estimate of 4.18 years accepted by the Inspector at the Former Sedgefield Community Hospital appeal ref. APP/X1355/W/16/3163598) and giving it significant weight in terms of the extent of that shortfall and how much of it would be met by the proposed development, and giving moderate weight to the economic and ecological public benefits identified above, I do not consider them collectively to be sufficiently powerful to outweigh the considerable weight I give to paying special regard to the desirability of preserving the setting of the Church of St Edmund and the great weight I give to the conservation of the Sedgefield Conservation Area. Accordingly, the proposal would conflict with NPPF paragraph 134 and saved LP Policy E18.
54. Having applied the balance under NPPF paragraph 134 in respect of both heritage assets, I have found that the public benefits would not outweigh the less than substantial harm arising. This means that under limb 2 of the 2nd bullet of NPPF paragraph 14 "decision-taking", NPPF paragraph 134 is a specific policy in the Framework, and saved LP Policy E18 is a related development plan policy, that indicate that development should be restricted. Therefore, whether or not a 5 year housing land supply can be demonstrated is not determinative in this appeal and the presumption in favour of sustainable development is not available to the proposal in hand under paragraph 14 as set out in a recent Court of Appeal judgement²².

Infrastructure and other matters

55. Concerns were raised that the proposal would place strain on the services and infrastructure of Sedgefield. I observed that the town has a good range of services which would be within easy reach of the proposed development. In this regard, I note that the Council and the appellant agree²³ that the appeal site is well-connected, being within walking distance of the town centre and bus stops that link the site with the wider region. It is also agreed that there would be no unacceptable loss of agricultural land from the development of the appeal site. Moreover, in terms of healthcare provision, I note that neither the Council nor the local NHS Trust raised concerns in respect of capacity within the area and the S106 education provision would address concerns raised in connection with capacity at local schools.
56. Furthermore, the Council and the appellant agree that in terms of highway safety, ecology, drainage/flood risk, living conditions of the occupiers of nearby dwellings/future occupiers of the development and archaeology, subject to suitably worded conditions being attached to any grant of outline planning permission in line with the advice obtained from statutory consultees such as Highways England and the Environment Agency, the proposal would be acceptable. From my assessment, I have no reason to disagree.

²¹ Core Document 6.7, Phides Estates (Overseas) Ltd and Secretary of State For Communities & Local Government and Shepway District Council and David Plumstead, [2015] EWHC 827 (Admin)

²² Inquiry Document 24, Barwood Strategic Land II LLP and (1) East Staffordshire Borough Council (2) Secretary of State for Communities and Local Government [2017] EWCA Civ 893

²³ Statement of Common Ground

57. The appellant drew my attention to several appeal decisions in the County and further afield which granted planning permission for residential developments and which it is claimed considered matters that appertain to this appeal proposal. Be that as it may, I am not aware of the detailed considerations of those Inspectors and I do not consider them to be directly comparable to this proposal given the site specific considerations in respect of its effect on the significance of nearby heritage assets, and local landscape character and visual impact.

Conclusion

58. While the proposal would not be harmful in terms of those matters set out above under other matters and would bring public benefits, including affordable housing (which would be secured by means of the submitted S106), I have identified that the proposal would be harmful to the character and appearance of the area, in conflict with NPPF paragraphs 7 and 17, and would cause less than substantial harm to 2 no. designated heritage assets that would not be outweighed by the public benefits, in conflict with NPPF paragraph 134 and saved LP Policy E18.

59. Therefore, notwithstanding the appellant's argument that the second bullet under "decision-taking" in NPPF paragraph 14 refers to policies indicating that development should be "restricted" rather than refused, there are no considerations before me of sufficient weight to outweigh the totality of the harm arising nor the conflict with the development plan as a whole, giving great weight to the heritage assets' conservation and considerable weight to paying special regard to the desirability of preserving the setting of the listed building.

60. For the reasons set out above, I conclude that the appeal should be dismissed.

Richard McCoy

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Clay, Barrister instructed by the Head of Legal and Democratic Services

He called

Judith Miller BA(Hons)

DipEurUrbCon IHBC

Thomas Charrier BA

(Hons) CMLI

Thomas Bennett

BSc(Hons) MSc MRTPI

Henry Jones BA(Hons)

DipTP MRTPI

Senior Design & Conservation Officer, Durham
County Council

Principal Landscape Architect, Stephenson
Halliday

Senior Spatial Policy Officer, Durham County
Council

Senior Planning Officer, Durham County Council

FOR THE APPELLANT:

Mr A Williamson, Solicitor and Barrister

He called

Simon Chadwick

BSc(Hons) MRICS

Dr Stephen Carter BSc

PhD MCIfA, FSA Scot

Philip Barker MPhil CMLI

Richard Ellam

BEng(Hons) CEng

CMIHT

National Planning Director, WYG Planning Ltd

Senior Heritage Consultant, Headland
Archaeology (UK) Ltd

Director, Glen Kemp (Newcastle) Ltd

Associate Partner i-Transport LLP

FOR THE SEDGEFIELD VILLAGE ACTION GROUP:

Mrs J Archer

She called

Julie Archer

Alan Patterson

Gloria Wills

SVAG Chair

Local resident

Member Sedgefield Town Council

INTERESTED PERSONS:

Councillor M Carr

Mrs Clifford Brown

Councillor J Robinson

Chairman Sedgefield Town Council

Local resident

Ward Member

INQUIRY DOCUMENTS

- 1 Council's Letters of Notification of the Inquiry
- 2 Appellant List of Appearances
- 3 Draft S106 Agreement and Planning Obligation
- 4 Summary – S106 Agreement and Planning Obligation
- 5 List of suggested Conditions
- 6 Peter John Steer v Secretary of State for Communities and Local Government & Others [2017] EWHC 1456 (Admin)
- 7 Alan Patterson Rebuttal POE
- 8 Inquiry Position Statement on Objectively Assessed Need
- 9 Evidence of Councillor Carr
- 10 Evidence of Helen Clifford-Brown
- 11 Evidence of Councillor Robinson
- 12 Correspondence between Durham County Council and Sedgefield Town Council on the Neighbourhood Plan
- 13 Ministerial Statement of Brandon Lewis MP dated 27 March 2015
- 14 Note on Common Ground in respect of Housing Land Supply
- 15 Durham County Council position statement in respect of the former Electrolux site, Spennymoor
- 16 Durham County Council Position Statement on the progress of the Sedgefield Neighbourhood Development Plan
- 17 Itinerary for the Site Visit
- 18 Revised List of Conditions
- 19 Appeal Decision APP/X1355/W/16/3160472
- 20 Education Contribution Calculation Note
- 21 Community Infrastructure Levy Regulations 2010 Joint Compliance Note
- 22 Signed and dated S106 Agreement and Planning Obligation
- 23 Email exchange regarding Stockton Road Junction
- 24 Barwood Strategic Land II LLP and (1) East Staffordshire Borough Council (2) Secretary of State for Communities and Local Government [2017] EWCA Civ 893
- 25 Watermead Parish Council v Aylesbury Vale District Council v Crematoria Management Ltd [2017] EWCA Civ 152
- 26 Durham County Council Cabinet Report on *Securing Developer Contributions Towards Education Provision* 16 September 2015
- 27 Durham County Council Delegated Report on calculating and securing developer contributions for education provision

PLANS

- A Integra 61 Plan

PHOTOGRAPHS

- 1 Enlarged Photo looking east from Conservation Area towards the 3 cornered field (Core Document 5.17 image 32)

DOCUMENTS SUBMITTED AFTER THE INQUIRY

- 1 Appeal decision ref. APP/X1355/W/16/3163598, Land at Former Sedgefield Community Hospital, Salters Lane, Sedgefield
- 2 Appellant's comments on appeal decision ref. APP/X1355/W/16/3163598
- 3 Council's comments on appeal decision ref. APP/X1355/W/16/3163598
- 4 Sedgefield Village Action Group's comments on appeal decision ref. APP/X1355/W/16/3163598

CORE DOCUMENTS

CD1 *Documents and Plans forming and supporting the Appeal Proposals*

- 1.1 Proposed Site Access ITM10108-GA-001 Rev B June 2015
- 1.2 Proposed Pedestrian Refuge on Stockton Road ITM10108-GA-002 Rev B June 2015
- 1.3 Proposed Site Access Impact on Trees 51, 54, 57, 58, 80, 82 & 85 of Providing 1.8m Footway ITM10108-GA-005 November 2015
- 1.4 Highway Verge Trees – Mitigation Strategy 1532-2-5 November 2015
- 1.5 Built Form Masterplan HG3011-b-BFM Revision b
- 1.6 Site Location Plan HG3011/001 dated 29/07/2015
- 1.7 Planning Application Form – Application for Outline Planning Permission With Some Matters Reserved
- 1.8 Final Bat Report September 2015 by Graeme Smart Ltd
- 1.9 Archaeological Geophysical Survey September 2015 by AD Archaeology project no 149
- 1.10 Archaeological Evaluation October 2015 by AD Archaeology project no 150
- 1.11 Covering Letter SM/DS/NE2836 dated 10 December 2015 by Signet Planning
- 1.12 Agricultural Land Classification November 2015 by Soil Environment Services Ltd
- 1.13 Arboricultural Impact Assessment AE/ARB/1063 November 2015 by Elliott Consultancy Ltd
- 1.14 Heritage Response Document by Archaeo-Environmental Ltd
- 1.15 Technical Note SEE/dc/ITM10108-004 TN 26 November 2015 by i-Transport
- 1.16 Sustainability Appraisal December 2015 by Signet Planning
- 1.17 Travel Plan SEE/JDW/dc/ITM10108-002 B R 12 November 2015 by i-Transport
- 1.18 Transport Assessment SEE/JDW/dc/ITM10108-001 A R 12 August by i-Transport
- 1.19 Statement of Community Involvement by Signet Planning
- 1.20 Planning Statement by Signet Planning
- 1.21 Extended Phase 1 Habitat Survey and Ecological Impact Assessment August 2015 by Graeme Smart Ltd
- 1.22 Preliminary Investigation Report D6829 July 2015 by Dunelm Geotechnical & Environmental
- 1.23 Noise Assessment August 2015 by Wardell Armstrong
- 1.24 Desk based Historic Environment Assessment of Land South of Beacon Lane, Sedgefield, County Durham AE Report AE-0169-2015 by Archaeo-Environment Ltd
- 1.25 Flood Risk Assessment July 2015 by Billingham George & Partners
- 1.26 Design and Access Statement August 2015 by Bett and Signet
- 1.27 Air Quality Assessment August 2015 by Wardell Armstrong

- 1.28 Affordable Housing Statement by Signet Planning
- 1.29 Archaeological Desk-based Assessment June 2015 by AD Archaeology
- 1.30 Archaeological Evaluation January 2016 by AD Archaeology project no 150

CD 2 *Superseded Documents and Plans accompanying the Planning Application*

- 2.1 Arboricultural Impact Assessment AE/ARB/1063 July 2015 by Elliott Consultancy Ltd
- 2.2 Travel Plan SEE/JDW/dc/ITM10108-002 A R dated 12 August 2015 by i-Transport
- 2.3 Landscape Strategy Plan 1532-2-1 Revision A July 2015
- 2.4 Built Form Masterplan HG3011/011/E dated 23/11/2015
- 2.5 Built Form Masterplan HG03011/011/D dated 29/07/2015

CD 3 *Appeal Questionnaires, Statements of Case, Statements of Common Ground and Other Appeal Documents*

- 3.1 Appellant Appeal Questionnaire
- 3.2 DCC Appeal Questionnaire
- 3.3 Appellant Statement of Case and Appendices
- 3.4 DCC Statement of Case
- 3.5 Sedgefield Village Action Group Statement of Case
- 3.6 Planning Statement of Common Ground
- 3.7 Housing Statement of Common Ground
- 3.8 Notification of Appeal and List Notified
- 3.9 Notification of Inquiry Date and List Notified
- 3.10 Copies of 3rd Party Correspondence in response to appeal notifications

CD 4 *Planning Application Consultation Responses (excluding public responses), Committee Report and Decision*

- 4.1 Historic England
- 4.2 Natural England
- 4.3 Northumbrian Water
- 4.4 Environment Agency
- 4.5 Highways England 1
- 4.6 Highways England 2
- 4.7 Highways England 3
- 4.8 Durham Constabulary Architectural Liaison Officer
- 4.9 DCC Economic Development (Employability)
- 4.10 DCC Education
- 4.11 DCC Affordable Housing
- 4.12 DCC Access and Rights of Way
- 4.13 DCC Drainage and Coastal Protection
- 4.14 DCC Environment Health and Consumer Protection - Air Quality
- 4.15 DCC Environment Health and Consumer Protection - Contaminated Land
- 4.16 DCC Environment Health and Consumer Protection - Nuisances
- 4.17 DCC Highways Development Management 1
- 4.18 DCC Highways Development Management 2
- 4.19 DCC Highways Development Management 3
- 4.20 DCC Ecology 1
- 4.21 DCC Ecology 2
- 4.22 DCC Landscape 1
- 4.23 DCC Landscape 2
- 4.24 DCC Archaeology 1

- 4.25 DCC Archaeology 2
- 4.26 DCC Sustainable Travel
- 4.27 DCC Spatial Planning/Planning Policy 1
- 4.28 DCC Spatial Planning/Planning Policy 2
- 4.29 DCC Sustainability 1
- 4.30 DCC Sustainability 2
- 4.31 DCC Travel Planning
- 4.32 DCC Design and Conservation 1
- 4.33 DCC Design and Conservation 2
- 4.34 Sedgefield Town Council 1
- 4.35 Sedgefield Town Council 2
- 4.36 Sedgefield Civic Trust (Letter of 18/01/16)
- 4.37 Committee Report DM/15/02626/OUT February 2016
- 4.38 Committee Meeting Minutes DM/15/02626/OUT February 2016
- 4.39 Decision Notice DM/15/02626/OUT February 2016

CD 5 *Other Core Documents*

- 5.1 The Planning Inspectorate – Procedural Guide 2016
- 5.2 National Planning Policy Framework (March 2012)
- 5.3 National Planning Practice Guidance Extracts (March 2014)
- 5.4 Letter from Brandon Lewis (Minister for Housing and Planning) to the Landscape Institute 27 March 2015
- 5.5 Historic England Historic Environment Good Practice Advice in Planning Note 2 “Managing Significance in Decision-Taking in the Historic Environment” (March 2015)
- 5.6 Historic England Historic Environment Good Practice Advice in Planning Note 3 “The Setting of Heritage Assets” (March 2015)
- 5.7 Department for Communities and Local Government Housing White Paper “Fixing Our Broken Housing Market” (7 February 2017)
- 5.8 Relevant Saved Policies of the Sedgefield Borough Local Plan (1996)
- 5.9 County Durham Plan – The Next Steps and Assessing Development Proposals in County Durham – Cabinet Report April 2016
- 5.10 DCC Strategic Housing Land Availability Assessment Report (SHLAA) 2013
- 5.11 DCC (SHLAA) Site 7/SF/123 Extract
- 5.12 DCC (SHLAA) Site 7/SF/123 Extract Landscape Analysis
- 5.13 County Durham Strategic Housing Market Assessment (2016)
- 5.14 County Durham Settlement Study (2012)
- 5.15 County Durham Landscape Character Assessment (2008) a Introduction b Durham Landscape c Classification d Tees Lowland
- 5.16 County Durham Landscape Guidelines – Durham County Council
- 5.17 DCC Sedgefield Conservation Area Character Appraisal (May 2016)
- 5.18 Sedgefield Neighbourhood Plan
- 5.19 Sedgefield Neighbourhood Plan Examiner’s Report
- 5.20 Sedgefield Neighbourhood Plan Tracked Changes
- 5.21 County Durham Plan Issues and Options (2016)
- 5.22 County Durham Plan Issues and Options - Cabinet Report (15 June 2016)
- 5.23 Durham County Council Cabinet Meeting Minutes (15 June 2016)
- 5.24 Issues and Options – Viability Assessments in County Durham June 2016 and Appendices 1 and 2
- 5.25 Local Plan Expert Group Report to the Communities Secretary and to the Minister of Housing and Planning (March 2016)

- 5.26 Edge Analytics – County Durham Demographic Analysis and Forecasts (February 2016)
- 5.27 PAS – Objectively Assessed Need and Housing Targets Technical advice note (July 2015)
- 5.28 Guidelines for Landscape and Visual Impact Assessment 3rd Edition LI and IEMA 2013 Part 1 Part 2
- 5.29 Landscape Character Assessment: Guidance for England and Scotland (The Countryside agency and Scottish Natural Heritage 2002)
- 5.30 The County Durham Landscape Strategy (2008)
- 5.31 Historic England List Entry Summary Church of St Edmund (Listing 1121482)
- 5.32 National Character Area Profile 23: Tees Lowlands (Natural England 2013)
- 5.33 Sedgefield Local Plan Saving Direction under Paragraph 1 (3) Schedule 8 Planning and Compulsory Purchase Act (2004)
- 5.34 DCC Sustainable Drainage Systems (SUDS) Adoption Guide 2016
- 5.35 The Institution of Highways & Transportation – Guidelines for Providing for Journeys on Foot (2000)

CD 6 *Relevant Caselaw, Appeal Decisions and associated documents*

- 6.1 Supreme Court Decision - Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant) (10 May 2017)
- 6.2 High Court Decision - Stroud District Council v Secretary of State - CO/4082/2014 - (6 February 2015)
- 6.3 High Court Decision – Forest of Dean District Council vs Secretary of State For Communities and Local Government and Gladman Developments Ltd (4 March 2016)
- 6.4 High Court Decision - Forest of Dean District Council vs Secretary of State For Communities and Local Government and Gladman Developments Ltd (4 October 2016)
- 6.5 High Court Decision – The Queen (on the application of The Forge Field Society, Martin Barraud and Robert Rees) v Sevenoaks District Council (12 June 2014)
- 6.6 High Court Decision - Barnwell Manor Wind Energy Ltd v E.Northants DC, English Heritage, National Trust & Secretary of State – C1/2013/0843 – (18 February 2014)
- 6.7 High Court Decision – Phides Estates (Overseas) Ltd vs Secretary of State For Communities & Local Government and Shepway District Council and David Plumstead (26 March 2015)
- 6.8 High Court Decision – Cawrey Limited v Secretary of State For Communities and Local Government, Hinckley and Bosworth Borough Council (23 May 2016)
- 6.9 Court of Appeal Decision - North Wiltshire District Council v. Secretary of State for the Environment and Clover (15 April 1992)
- 6.10 Court of Appeal Decision – Barnwell Manor Wind Energy Ltd v East Northants District Council, English Heritage, National Trust and SSCLG (18 February 2014)
- 6.11 Court of Appeal Decision – Palmer v Herefordshire Council and Anr (04 November 2016)
- 6.12 Recovered Appeal Decision – Land at Kidnappers Lane, Leckhampton, Cheltenham (5 May 2016)

- 6.13 Appeal Decision - Land off Beacon Lane, Sedgefield (3134870) (27 April 2016)
- 6.14 Appeal Decision – Land to the south of Eden Drive, Sedgefield (3150609) (4 October 2016)
- 6.15 Eden Drive Public Inquiry – Proof of Evidence of Brian Denney (Pegasus Group) (11 July 2016)
- 6.16 Eden Drive Public Inquiry – Proof of Evidence of Helen Smith (Southern Green Ltd) on behalf of Durham County Council (12 July 2016)
- 6.17 Eden Drive Public Inquiry – Planning Committee Report (05 April 2016)
- 6.18 Eden Drive Public Inquiry – Internal Landscape Consultation Advice (04 July 2014)
- 6.19 Appeal Decision – Land south of Cirencester Road, Fairford (2213318) (22 September 2014)
- 6.20 Appeal Decision – Land to the west of Mount Park Drive and to the north of Newbiggen Lane, Lanchester, County Durham (3135895) (20 July 2016)
- 6.21 Lanchester Public Inquiry – Proof of Evidence of Darren Wisher (Regeneris Consulting) (15 March 2016)
- 6.22 Lanchester Public Inquiry – Darren Wisher Proof Appendices (15 March 2016)
- 6.23 Appeal Decision – Land south of Marske Road, Saltburn (3006780) (16 December 2015)
- 6.24 Court of Appeal Decision - Gladman Developments Limited v Daventry District Council v The Secretary of State for Communities and Local Government (23 November 2016)
- 6.25 House of Lords (Scotland) Decision – City of Edinburgh Council v Secretary of State for Scotland (16 October 1997)

CD 7 *Proof of Evidences and Rebuttal Notes*

- 7.1 DCC Proof – Judith Miller
- 7.2 DCC Summary – Judith Miller
- 7.3 DCC Proof – Tom Charrier
- 7.4 DCC Summary – Tom Charrier
- 7.5 DCC Proof – David Usher
- 7.6 DCC Summary – David Usher
- 7.7 DCC Proof – Thomas Bennett
- 7.8 DCC Summary – Thomas Bennett
- 7.9 DCC Proof – Henry Jones
- 7.10 DCC Summary – Henry Jones
- 7.11 Appellant Proof – Simon Chadwick (WYG)
- 7.12 Appellant Summary – Simon Chadwick (WYG)
- 7.13 Appellant Proof – Stephen Carter (Headland Archaeology)
- 7.14 Appellant Summary – Stephen Carter (Headland Archaeology)
- 7.15 Appellant Proof – Philip Barker (Glen Kemp)
- 7.16 Appellant Summary – Philip Barker (Glen Kemp)
- 7.17 Appellant Proof – Richard Ellam (i-Transport)
- 7.18 Appellant Summary – Richard Ellam (i-Transport)
- 7.19 Appellant Proof – Ricardo Gomez (Regeneris Consulting)
- 7.20 Appellant Summary – Ricardo Gomez (Regeneris Consulting)
- 7.21 Appellant Proof – Matthew Elliott (WYG)
- 7.22 Appellant Summary – Matthew Elliott (WYG)
- 7.23 Sedgefield Village Action Group (SVAG) Opening Statement
- 7.24 SVAG Proof

- 7.25 SVAG History and Character of the Area Submission
- 7.26 SVAG Housing Needs and Issues Submission
- 7.27 SVAG Roads and Traffic Submission
- 7.28 SVAG Village Map