



Appeal Decision

Inquiry held on 30 January 2018 – 2 February

Site visit made on 2 February 2018

by Robert Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 March 2018

Appeal Ref: APP/P1425/W/17/3180632

Buckles Wood Field, North Chailey, East Sussex BN8 4JB

- 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 Mr Tim Maltby against the decision of Lewes District Council.
 - The application Ref LW/16/0637, dated 25 July 2016, was refused by notice dated 24 January 2017.
 - The development proposed is the erection of 30 dwellings (including 15 affordable dwellings) with provision for vehicular access, parking and children's play facilities.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Inquiry sat for 4 days from 30 January 2018 to 2 February 2018. It was then held open for the signing of a Section 106 legal agreement and for further written submissions in relation to the potential impact of the development on the Ashdown Forest Special Area of Conservation with particular regard to the likely impact of vehicle emissions on plant life. The Inquiry was closed in writing on 27 February 2018 after further evidence had been received from both sides.
3. The application was made in outline to include access, layout, and scale, whilst reserving landscaping and appearance for subsequent determination. At the Inquiry it was agreed by the parties that the scale and layout includes the access roads, the layout of the open space, and the position and external envelope of the buildings. It does not include the appearance of the building elevations or their internal floorspace layout. The submitted drawings are to be treated as only indicative in those latter regards.
4. The access details are a matter to be determined at this stage. The second reason for refusal claimed that the access on the A275 would be provided with insufficient visibility splays. At the Inquiry the parties clarified that this related not to the dimensions of the visibility splays but to concern about a lack of control over the land on the site frontage needed to provide that visibility. The Council is now satisfied that all of the necessary land is either highway land or is controlled by the Appellant and is therefore not pursuing this reason.
5. At the appeal stage the Appellants have proposed an amendment to the access whereby a section of the proposed footway on the A275 to the north of the vehicular access that would have extended to the Banks Road junction (and

which is not now supported by the Council) would be deleted. Instead a permissive path would be provided through the development between Banks Road and the A275.

6. The amended drawing Revision J also shows an additional section of footway along the frontage to the A275 between the proposed vehicular and pedestrian access points. However as the construction of that footway would require the excavation of a bank with the loss of a hedge and a risk of harm to mature trees of amenity value it was agreed that were the appeal to be allowed the footway should be deleted by use of a planning condition. There would still be available pedestrian access from the development to the proposed bus stops and to the existing footway on the east side of the A275 using the crossing points that feature in that and previous drawings.
7. Applying the Wheatcroft principles I am satisfied that, subject to that change, the minor amendments to the access arrangements would not prejudice the interests of any other person. The appeal has been determined on the basis of the amended drawing except for the deletion of that section of footway. For that reason highway safety is not a main issue for the appeal.
8. Ms Teresa Ford, the highways and transportation witness from East Sussex County Council, submitted a proof of evidence but was unable to attend the Inquiry due to illness. However neither side requested an adjournment and the questions which the Appellant's advocate would have put to Ms Ford were instead put by agreement to Mr Wright.

Policy Context

9. The appeal is required by statute to be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan here includes the Lewes District Local Plan Part 1: Joint Core Strategy 2010-2030 (2016) (the JCS), and the saved policies of the Lewes Local Plan (2003) (the LP).
10. Other material considerations here may include the National Planning Policy Framework (2012) (the Framework), national Planning Practice Guidance (PPG) and the emerging Lewes District Local Plan Part 2 (the LPpt2). The LPpt2 proposes housing development allocations in North Chailey and changes to the settlement boundary but it remains at an early stage following the publication of a consultation draft and therefore merits only limited weight. The Chailey Neighbourhood Plan is at an early pre-publication stage and is not intended to include proposals for housing development.

Main Issues

11. The main issues are considered to be:
 - The principle of housing development at this location in the countryside
 - The effect of that development on the character and appearance of the countryside and the particular effects on that character of the proposed scale and layout of the development
 - Whether development at this location would facilitate the use of sustainable modes of transport

- What effect the development may have on the Ashdown Forest Special Area of Conservation and whether any such effects can be adequately mitigated
- Whether any identified harm and associated conflict with the development plan would be outweighed by the benefits of housing provision to meet identified needs and by any other material considerations.

REASONS

Principle of Housing Development in the Countryside

12. Chailey is a large parish with several defined settlements. It is not disputed that the appeal site lies well outside the planning boundary for North Chailey as currently defined in the development plan by saved LP policy CT1. The planning boundary at its nearest point is about 1km to the south. It includes a nucleus of development around the A272/A275 junction but does not include the more dispersed housing to the north along the A275. The appeal site is thus in the countryside for the purposes of planning policy.
13. The development plan would allow the development in the countryside of affordable homes on exception sites. However JCS Policy CP1 and Saved LP Policy RES10 would only permit development of up to 14 dwellings on exception sites, all of which should be affordable. Of the proposed 30 dwellings, 15 would qualify as affordable using the definition in the Framework and there would also be 15 houses for disposal on the open market. Whilst the Framework provides at paragraph 54 that local planning authorities should consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs, the recently adopted JCS does not make such provision in policy. The JCS has been found sound at examination. Neither does the proposal otherwise qualify as development which the development plan would support outside planning boundaries.
14. I conclude that the proposed development at this location is in conflict with the LP Policy CT1 because it is outside the planning boundary as currently defined and is not one of the exceptional forms of development that the development plan would permit in the countryside (subject to criteria).
15. The Appellant argues that saved LP Policy CT1 is out of date in the terms of paragraph 14 of the Framework. The Council does not dispute that the planning boundaries set in the 2003 Local Plan cannot accommodate the housing requirement set out in the JCS. However the JCS Inspector would have been aware of this when concluding that the JCS is sound with the current planning boundaries and that the necessary further site identification (with boundary changes) would come forward through the proposed LPpt2 and Neighbourhood Plans.
16. The Secretary of State concluded in the Wivelsfield appeal¹ that Policy CT1 was up to date in relation to that development. I acknowledge that the circumstances were different in that, by the time he issued his decision the Wivelsfield planning boundary had already been updated in the Neighbourhood Plan. That does not apply at North Chailey. Nevertheless where, as here, that boundary review is on-going, I consider that LP Policy CT1 is in effect a temporary policy to provide necessary certainty on the application of policy

¹ APP/P1425/W/16/314053

- pending the adoption or making respectively of those further development plan documents.
17. Changes to the planning boundaries at North Chailey and elsewhere are being proposed in the LPpt2 in order to accommodate the additional housing. The emerging plan is proposing one housing allocation at Layden Hall, North Chailey on a site adjoining the current planning boundary (which would then be extended to include the site).
 18. A second proposed allocation on a site at Glendene Farm would remain outside and detached from the planning boundary. However in that case a specific development plan allocation would override the conflict with the restrictive policies for the countryside. Elsewhere the adoption of housing allocations would be simultaneous with the adoption of revised planning boundaries.
 19. Those 2 sites, together with the 14 net gain in the number of dwellings at the Kings Head site in the centre of North Chailey (within the planning boundary) would make up the minimum 30 dwellings that the JCS seeks to be identified. That the Kings Head development is on a permitted site and not an allocated one is explained in the LPpt2. I consider it probable that the Kings Head site would have been allocated in the LPpt2 had a planning application not already been made and permitted. The early start on that development in advance of the LPpt2 has boosted the short term supply of market and affordable housing.
 20. I conclude that Policy CT1 is not out of date and that the conflict with that policy continues to merit the full weight to be accorded to a development plan policy. To permit the development would risk harm to the core planning principle at paragraph 17 of the Framework that planning should be plan-led. It nevertheless remains to be considered below whether there would be specific adverse impacts or benefits from the development and whether any benefits or other material considerations may outweigh that and any other conflict with the development plan and that core principle.

Character and appearance

21. JCS Core Policy 10 provides amongst other things for the conservation and enhancement of the natural environment including landscape assets by: '*1(i) Maintaining and where possible enhancing the natural, locally distinctive and heritage landscape qualities and characteristics of the countryside including hedgerows, ancient woodland and shaws, as informed by the East Sussex County Landscape Assessment (2016) (the CLA) and the Lewes District Landscape Capacity Study (2012)(the LCS)*'.
22. At the Inquiry the Council acknowledged that the appeal site is not directly subject to one of the development constraints (National Park, road capacity etc) that were listed at paragraph 25 of the Inspector's Report on the JCS as justifying a housing requirement figure for the district below that of the Objectively Assessed Housing Need which the Framework seeks to be met. However that is not an exclusive list of the constraints. It is also highly material to this issue that the Inspector at paragraph 31 of that Report also referred to the landscape character of the Low Weald as a constraint on development capacity.
23. The term Low Weald is on common parlance. I take the Inspector's reference to the Low Weald to apply to all of the District Council's area which is not within

the South Downs National Park, the developed coastal strip, or the High Weald AONB. The CLA uses a finer scale definition of landscape character areas. There the appeal site is part of the extensive Upper Ouse Valley Landscape Character Area and close to the Western Low Weald Landscape Character Area. But I take both sub-areas to be part of the Low Weald to which the JCS Inspector was referring.

24. The CLA describes the current condition of the Upper Ouse Valley as a: '*largely unspoilt and tranquil rural landscape with few intrusive features*' where '*the historic field patterns of small fields and significant hedgerows remain intact*' but '*Creeping suburbanisation and urban fringe pressures are evident around the towns and larger villages*'.
25. The LCS predates the CLA and has been used to inform the allocation of land for housing development in the emerging LPpt2. However it is evident that the LCS only assessed land that lies closer to existing defined planning boundaries than does the appeal site. That would be consistent with the filtering process adopted by the Council for the Strategic Housing and Economic Land Availability Assessment (SHELAA) which excluded sites that are more than 500m from the edge of the existing settlement boundaries. It follows that the LCS did not include an assessment of the suitability or otherwise of the appeal site for development.
26. The appeal site is disused greenfield land formerly in use as a smallholding for horticulture and for animal husbandry. It is open land apart from a few small ramshackle structures associated with its previous use. The site lies alongside the A275 about 1km north of the settlement boundary for North Chailey. The development would take vehicular access directly to and from the A275. There is a field hedge backed by a line of mature trees along this frontage. Across the A275 to the east, there are scattered houses or small groups of houses interspersed with open land and woodland. The area between the appeal site and the settlement boundary to the south is similarly characterised by scattered housing development interspersed with paddocks and woodland.
27. To the north is Banks Road, a narrow hedge-lined country lane. Beyond Banks Road the land falls away and there are long views northwards across open countryside towards Sheffield Park (a National Trust garden), and to Ashdown Forest which is an extensive area of heathland of international importance.
28. To the west is an area of wildflower meadow and ponds, beyond which is the recent New Heritage Way development of 71 houses that was permitted by the Secretary of State to replace former hospital buildings on a brownfield site. Beyond that development is a large area of common heathland which is a Local Nature Reserve. There is a further smaller area of common heathland to the north of the appeal site on the opposite side of the A275. There is some evidence from the site visit and photographs that deer and other wildlife migrate between these areas by crossing the appeal site.
29. The appeal site has no landscape designation and neither has it been claimed to be a '*valued landscape*' in the terms of paragraph 109 of the Framework. Nevertheless it is countryside for the purposes of planning policy and paragraph 17 of the Framework enjoins the recognition of the '*intrinsic character and beauty of the countryside*'. Neither does the development plan limit landscape protection and enhancement to only designated landscapes.

30. The Landscape and Visual Impact Assessment (LVIA) submitted by the Appellant's landscape witness predated the CLA. It seeks to define landscape character zones at an even smaller scale. The appeal site itself is the smallest defined zone. It is ascribed a low landscape value and low landscape sensitivity on the basis that it is disused and because it adjoins the recent housing development to the west which is itself assessed as of low value and low sensitivity. By contrast the area between the appeal site and the settlement boundary of North Chailey is described as '*Enclosed Weald*' and of medium value and medium sensitivity.
31. Mature boundary planting is claimed to screen views to and from the appeal site. However the LVIA acknowledges that distant views are available from the northern boundary over the high value and high sensitivity agricultural landscape to the north. I saw that the boundary trees provide little screening from the A275 and that the deciduous field hedges only provide limited low level filtering. In views from the north and east the proposed built development would be seen above the boundary hedges and below the tree canopies, allowing the adverse effect on landscape character and openness to spill out well beyond the site boundaries.
32. I consider the urbanising influence on the site of the recent housing development to the west to be overstated. Most of the adjoining part of that site is a large open wildflower meadow with reedbeds. The nearest housing is set back and away from the road. Indeed the relatively large extent of the New Heritage Way development as a whole is not obvious when seen either from the site or from adjoining roads and footpaths and it has less influence on the landscape character of its surroundings than might be expected given its large size.
33. The appeal site occupies a more prominent position adjoining the main road. Moreover, if developed as proposed it would have more influence on the adjoining areas of '*Enclosed Weald*' to the south and east than New Heritage Way has on the appeal site. Since the open buffer areas at the site edges would be reduced compared to the New Heritage Way development I consider that the adverse impact of built development on the open rural landscape character would extend further into adjoining areas on all sides (including into the high value landscape to the north) than has been assessed in the LVIA.
34. I attach little weight to the fact that the land is currently disused. It could be readily brought back into use and, if a self-contained smallholding would not be viable, then it could be let for grazing or other agricultural purposes or planted as woodland. It should then have similar '*medium*' landscape value as the many open areas of land within the '*Enclosed Weald*' area to the south, much of which is itself closely related to dwellings or groups of dwellings. If left unused then it appears likely that the appeal site would in time revert to woodland characteristic of the area and of medium or high landscape value. There are already mature and self-seeded semi-mature oak trees on parts of the site. Birch trees seem to be able to establish themselves on the nearby commons in spite of grazing by deer or other wildlife.
35. As first proposed in pre-application discussions the layout to the development would have been formally rectilinear and very urban in character. It has been revised in the submitted scheme to a more informal layout with areas of open space at the site edges and especially at the north east corner near the access.

It is not clear how these areas would be planted and managed. The indicative landscaping proposals do not include significant screen planting of the type which the CLA recommends to define the edges of some settlements. Nevertheless the form of development has similarities with that adopted at New Heritage Way. It should be generally successful in creating a sense of place that is different from denser forms of contemporary suburban development and which nods to a more informal character. That it includes terraced housing is not out of character with development in other parts of Chailey Parish that also feature short terraces. Such smaller houses would help to make some houses more affordable than would be the case if they were all detached or semi-detached properties.

36. Notwithstanding those improvements since the pre-application stage, the development would obviously be more dense and closely built-up than the scattered housing that exists to the east and south. It would be an example of the creeping suburbanisation of which the CLA warns.
37. In relation to visual impact the development would have significantly greater visual prominence than does the New Heritage Way site and it would appear incongruous in this predominantly unspoilt and tranquil rural landscape. The development would be seen from the A275, including by those travelling to and from Sheffield Park, the Bluebell Railway and Ashdown Forest which are all important visitor attractions. These locations would attract along the A275 those seeking to appreciate the countryside and who could be expected to be more sensitive to their surroundings than for example drivers making more functional journeys for business purposes.
38. The development and its adverse impacts on landscape character would also be seen by recreational (and thereby sensitive) walkers enjoying the countryside on Banks Road and on the public footpath that leads up to Banks Road from the north. Those walkers are also expected to continue through the site on the permissive path when they would be fully exposed to the site's suburban character. Whilst it may be difficult to pick out the site in longer views from Sheffield Park and Ashdown Forest, the buildings are likely to be prominent on the skyline in nearer views including from the public footpath that leaves the A275 to the north of the site.
39. I conclude that the proposed development would not maintain or enhance the natural, locally distinctive and heritage landscape qualities and characteristics of the countryside or the appearance of the countryside and that it would conflict with JCS Core Policy 10.

Sustainable Travel

40. JCS Core Policy 13 provides that development will be supported that encourages travel by walking, cycling and public transport and which reduces the proportion of journeys made by car by, amongst other things: '*1. Ensuring that new development is located in sustainable locations with good access to schools, shops, jobs and other key services by walking, cycling and public transport in order to reduce the need to travel by car (unless there is an overriding need for the development in a less accessible location)*'.
41. Paragraph 34 of the Framework seeks to ensure that: '*...developments that generate significant movement are located where the need for travel will be minimised and the use of sustainable transport modes can be maximised.*

However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas'.

42. The Framework does not define what is meant by '*significant movement*'. The Appellant suggests that the threshold should be the same as that above which a Travel Plan is required. This is because the Framework at paragraph 36 uses the phrase '*significant amounts of movement*' in that context, but again without definition. In East Sussex the County Highway Authority applies its own 80 dwelling threshold for requiring a Travel Plan. However there are other factors relevant to setting the threshold for a travel plan, not least whether the scale of development and the available funds would justify the appointment of a coordinator and be likely to result in viable measures to materially improve sustainable travel choices such as an improved bus service.
43. In this case the Appellants have suggested a travel plan for a development of only 30 dwellings, albeit with a thin package of suggested measures that would be unlikely to materially affect the choice of travel mode or to significantly improve accessibility for those without a car. It is also instructive that when the Secretary of State approved the adjacent 71 dwelling New Heritage Way development (on the basis that it replaced a hospital that would already have generated similar levels of traffic) a Travel Plan was put forward for which the principal measures have not since come to fruition. In particular: there is no travel plan coordinator; no car sharing scheme; a proposed community minibus has not been provided; an intention to provide a footway along the access road from the A275 has been abandoned; and funds intended to support these measures have been diverted to the provision of traffic signals at a primary school about 3km away.
44. In any event JCS Policy CP13(1) does not apply only to development that generates significant movement. Its aim to locate development in sustainable locations would apply to all development. That the reasoned justification at paragraph 119 provides that '*major new developments*' should help to enhance travel choices and mitigate any adverse impacts on transport does not contradict or override that objective. Major developments are not defined in the JCS and may include the appeal proposal. But in any case if a minor development is already to be sustainably located in accordance with CP13(1) then the need to enhance travel choices or mitigate such impacts will not arise.
45. The Council has acknowledged that there are high levels of car use and dependency in the Low Weald. JCS paragraph 7.118 recognises that there are accessibility issues in the Council's rural areas, in particular the needs of the elderly, the disabled, and young people in terms of accessing employment, education, health and entertainment facilities. Limited public transport is identified as a key issue and people on lower incomes are more likely to rely on public transport, as the JCS acknowledges.
46. The enhancements proposed in the Appellant's travel plan would facilitate access to school buses and to the scarce weekend bus service but would be unlikely to significantly improve access to the regular daytime bus services available centrally in North Chailey. The proposed voucher scheme may also encourage some residents to acquire a modestly priced bicycle (only 1 per dwelling) that they may use to cycle along a back road to Newick, which has some additional facilities. Recreational footpath users may choose to divert from Banks Road to walk through the estate and cross the A275 at a new

unmarked crossing but that would be unlikely to affect their choice of mode of travel. Nevertheless the inconveniently long distance to walk from the appeal site alongside a busy road to reach the centre of North Chailey (in order to access its limited facilities and bus stops) would make this an unlikely and rare choice of travel mode for anyone with the use of a car or who could obtain a lift from a member of the household. Neither would the main A roads be attractive as cycling routes. Levels of car ownership and use are thus likely to be high, as they reportedly are at the adjacent New Heritage Way development. The high proportion of affordable housing in that development does not appear to have resulted in households that are not car dependent. The same conditions are likely to occur at the appeal site.

47. The Appellant suggests that accessibility by sustainable modes would be similar at the housing sites which the Council is promoting in the draft LPpt2 but which are closer to the centre of the village. However there are key differences. In the first place both of the housing allocations in the emerging LPpt2 are within easy walking distance of the shop, pub and café, as is the Kings Head development under construction in the centre of the village. Secondly these 3 sites are in easy walking distance of the bus stops which are served by regular weekday daytime services to Haywards Heath, Lewes, Newick and Uckfield as well as the more limited weekend services. Only those limited weekend services would be available close to the appeal site and typically at inconvenient times such as on Sunday afternoon but not on Sunday morning and only on summer Sundays.
48. Also of relevance is that the relatively weak accessibility of North Chailey compared to larger settlements would have been a factor in the only modest provision for housing development in the village as set out in the JCS spatial strategy. It is acknowledged that the 30 dwelling figure for North Chailey is expressed as a minimum but the appeal proposal would double that provision. It would probably increase car movements by more than double (given the appeal site's weaker accessibility by more sustainable modes).
49. The Appellant suggests that most car trips would be short. However they would be longer than from development in more sustainable locations nearer the towns. Moreover local residents familiar with travel patterns suggest that there would be relatively long distance commuting north by car to East Grinstead and Tunbridge Wells. The Appellant's own rough estimates of the distribution of traffic indicate that half of the daily traffic movements to and from the site would traverse Forest roads in the direction of these more distant settlements. The figure may be higher as any traffic using the A26 or B2026 towards Crowborough and Tunbridge wells would also cross part of the Forest.
50. I conclude on this issue that, even allowing for its rural location, the development would not be located in a sustainable location as it would lack good access to schools, shops, jobs and other key services by walking, cycling and public transport in order to reduce the need to travel by car. Its location would be inferior in these regards to other potential rural locations for housing development such as those proposed for North Chailey in the emerging LPpt2. There is no overriding need for the development to be in a location with such poor accessibility and it would be likely to encourage long distance commuting by car. The proposal would conflict with JCS Core Policy 13 and with objectives of the Framework to locate development where the need for travel can be minimised and sustainable transport can be maximised.

Ashdown Forest

51. Planning permission was refused in part because satisfactory provision had not been made for the creation and maintenance of a Site of Alternative Natural Green Space (SANGS) in order to reduce the additional recreational pressures on the Ashdown Forest Special Area of Conservation (SAC) which could otherwise harm its protected wildlife. The Appellant has since submitted a Section 106 Legal Agreement with the Council which does make such provision and with this mitigation no significant likely adverse effect on the SAC is expected in this regard.
52. At the Inquiry I did however raise as a main issue a matter that had not previously been addressed in the parties' evidence and which related to a legal challenge previously brought against the Council and the South Downs National Park Authority (SDNPA) concerning potentially adverse in-combination effects of traffic generated by the development proposed in the JCS in respect of any additional Nitrogen Dioxide deposits on plant life adjoining roads through Ashdown Forest². That challenge had succeeded in part against the SDNPA but was judged out of time in respect of Lewes District outside the National Park.
53. Such effects are not included in the Council's reasons for refusal. Nevertheless the Habitats Regulations impose a duty on the decision-maker when development is likely to be permitted to consider whether there would be likely adverse significant effects of development in question upon the habitat including in-combination effects of more than one development.
54. Subsequent to the court's decision the Council and the SDNPA jointly commissioned a Habitats Regulations Assessment Addendum concerning the Traffic-Related Effects on Ashdown Forest SAC to support the JCS and the emerging LPpt2. The Addendum was published in September 2017 and it seeks to take into account the in-combination effects of all planned development in Lewes District as well as that in Wealden District, Mid Sussex District, Tunbridge Wells, Sevenoaks and Tandridge. In Districts where the current plan period is shorter than in Lewes District, and where the latest Objectively Assessed Need figure is higher than the adopted plan requirement, then the higher OAN figure was used in the traffic model on a precautionary basis. However the Addendum did not include an allowance for additional unplanned development such as the appeal proposal.
55. The broad conclusion of the HRA Addendum is that, in spite of anticipated traffic growth, expected improvements in vehicle emissions and background would mean that for all modelled links NOx concentrations within 200m of the roadside would be below the critical level. It is also concluded there that on the A26 and A275 roads the South Downs Local Plan/Lewes JCS retards this improvement slightly but only within 5m of the roadside and by 0.01 kgN/ha/yr.
56. The overall conclusion of the Addendum is that no adverse effect upon the 'integrity' of Ashdown Forest SAC is expected to result from development provided for by the South Downs Local Plan and Lewes Joint Core Strategy even in combination with other plans and projects. That conclusion employs the terminology of an 'Appropriate Assessment' which would normally only be triggered where there has first been a conclusion that there would be a 'likely

² Document 26

significant effect'. Elsewhere the Addendum includes the conclusion that deposition associated with traffic from the Lewes JCS/SDNPA Local Plan would be '*ecologically insignificant*.' I take that to be a conclusion that the JCS/Local Plan development on its own would not have a likely significant effect.

57. The Addendum Report does not explicitly state that the in-combination effects of development in all the districts would not have a likely significant effect but that would seem to be the conclusion to be drawn from the report, at least at the end of the study period in 2033, if the forecast reduction in vehicle emissions by then has outpaced the growth in emitting vehicle traffic.
58. One qualification is that there would appear to be the possibility that traffic growth may come before vehicle emissions reduce sufficiently to mitigate that impact, for example if electric vehicles only become popular towards the end of the period after much of the development has already occurred in which case there would be additional, if temporary, harm.
59. An Ashdown Forest Working Group has been established that includes representatives of the relevant authorities. There is no evidence that it has agreed or endorsed the conclusions of the addendum. However the Council states that Natural England has endorsed the methodology.
60. The appeal proposal was not included in that HRA assessment. Neither were Wealden District Council or the other members of the Working Group consulted upon the application.
61. After the sitting days for the Inquiry the parties have submitted further evidence on this matter in writing. The Appellant estimates that a maximum of 90 additional vehicles associated with the appeal site (or about half of all vehicle movements) would travel through Ashdown Forest on the A275 and A22 near Wych Cross. That would represent a 0.7% increase on the 2017 base flows traffic load on the A22 or a 2.0% increase on the 2017 base on the A275. Against predicted traffic figures in the 2033 Do Something scenario the increase would be 0.6% on the A22 and 1.6% on the A275. These figures assume that all traffic turning north out of the site continues on the A275 whereas some may turn off onto other roads or reach its destination before it enters the Forest SPA.
62. No separate figure is provided for traffic that may use the A26 or the B2026 through the eastern part of the SPA towards Tunbridge Wells. However this could only be a fraction of the 15 daily movements each way through Newick that is forecast and which would include journeys towards other destinations such as Uckfield and Eastbourne that would avoid the Forest.
63. Having regard to the conclusions of the HRA Addendum the Appellant asserts that the increase (including in-combination effects) would not have a likely significant effect and may already have been accounted for under other allowances for housing development in the HRA Addendum.
64. The Council disputes the Appellant's assertions that some or all of the housing proposed in the appeal scheme would qualify under any of the allowances for housing development that were included in the HRA Addendum. The Council also considers that it is not possible to conclude on whether there would be a likely significant effect unless and until the traffic and other data had been interpreted by an Air Quality expert.

65. My own view is that it is not possible to make a definitive judgement on whether there would be a likely significant effect including in-combination effects based on the information before me. However as the appeal is to be dismissed for other reasons it is not necessary to apply the precautionary principle or to make an Appropriate Assessment.

Housing Supply

66. Paragraph 47 of the Framework provides that Local Plans should meet the full objectively assessed needs for market and affordable housing: *'...as far as is consistent with the policies set out in this Framework'*. The paragraph also requires the identification and annual update of a supply of specific deliverable sites sufficient to provide 5 years' worth of housing with an additional 5% buffer moved forward from later in the plan period.
67. The JCS has been examined for soundness including for consistency with national policy. It has been found sound notwithstanding that the plan makes provision for significantly less than the full assessed need for either market or affordable housing. This is due to the environmental and other constraints on development that have been confirmed by the Inspector who examined the Plan. In these circumstances it is appropriate that the 5 year supply of deliverable sites is assessed against the housing requirement in the adopted development plan and not against the objectively assessed need.
68. The Council's Annual Monitoring Report claims a housing supply at 1 April 2017 of 5.36 years. For the Inquiry the Council provided updated figures to 1 October 2017 with a slightly reduced figure of 5.28 years (District Wide) or 5.26 years if the National Park is excluded. Either figure would remain in excess of the minimum 5 year requirement.
69. Parts of the supply calculation are disputed by the Appellant. In particular the Appellant questions the deliverability of some unimplemented housing allocations in the 2003 Local Plan. However these have recently been reviewed and are proposed for retention in the LPpt2. The Appellant also disputes the rate of delivery within the 5 year period of several other sites namely: Newhaven Marina; Caburn Field; Land South of Valley Road; Seaford Constitutional Club; Reprodex; and Bishops Lane, Ringmer. Overall the Appellant contends that the supply figure should be reduced by 144 units giving a total supply of 1,646 dwellings and a 4.83 year supply based on a requirement for 1,703 dwellings.
70. The contribution of housing delivery to be expected within 5 years from some of these sites was already an issue at the Wivelsfield appeal 18 months ago where it seems that there was more evidence before the Inspector and the Secretary of State. The Appellant in that case was claiming only a 2.6 years supply but the Inspector concluded that there was then 5.14 years of supply. The current claimed supply reflects key conclusions of that appeal including a reduced contribution from the Valley Road site. Further time has elapsed and a different 5 year period now applies. Nevertheless the Council has supported the inclusion and delivery rates of these sites with evidence that inevitably includes a degree of judgement. The Appellant's questioning of some of the Council's evidence and assumptions expresses scepticism but few hard facts to contradict the Council's judgement. It has not significantly undermined the Council's case given also the Appellant's acknowledgement that national policy does not require a demonstration of certainty of delivery.

71. The housing supply position is marginal but I favour the Council's figures. Even were the Appellant correct that there is not a 5 year supply and that housing supply policies were consequently out of date then the undersupply would also be marginal. It would remain necessary to consider whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
72. I conclude on the balance of probabilities that there is a 5 year supply of housing and that the housing supply policies in the development plan are not out of date and the tilted balance within paragraph 14 of the Framework does not apply. Thus there is no presumption in favour of development.

Other Matters

73. I have taken into account all other matters raised in representations. In particular, whilst it was not a reason for refusal concern has been expressed by local people about surface water drainage matters. The planning application form indicated that surface water would discharge to soakaways. However this was queried by the County Council and further evidence was sought. The subsequent Drainage Strategy Report instead proposed a sustainable drainage system that would discharge into the existing ditch adjacent to Banks Road which also takes some drainage from the adjacent New Heritage development. There was some evidence to the Inquiry from local people of existing problems with that ditch including insufficient culvert capacity and consequent overflows onto and across the highway in storm conditions. The Council has requested a pre-commencement condition which would require advance approval of a sustainable drainage system and that would need to take account of the capacity of the ditch and culverts to accept flows from the site. Neither that nor the other matters raised outweigh my conclusions on the main issues.

Overall Conclusions

74. The adverse impacts have been set out above and they demonstrate that the development would be in overall conflict with the development plan. Whilst the tilted balance in favour of the development does not apply it remains material to consider whether there are any considerations that would outweigh that conflict. The provision of market housing and more especially the affordable housing would be a significant benefit of the scheme given the high demand for housing in the District and the high ratio of house prices to local incomes. However the identified harms are not minimal as the Appellant claims and they include harm to the landscape character of the Low Weald which is an important constraint identified by the Local Plan Inspector as part of the justification for a housing requirement less than the objectively assessed need. The site's poor accessibility, even by comparison with other parts of North Chailey, is a further significant constraint.
75. I conclude overall that the benefits of the development do not outweigh the identified harm and are not material considerations of sufficient weight to outweigh the conflict with the development plan. The appeal should therefore be dismissed.

Robert Mellor INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Giles Atkinson	of Counsel, instructed by the Assistant Director of Legal and Democratic Services at Lewes District Council
He called	
Mr Christopher Wright	Specialist Planner, Lewes District Council
BA(Hons) MA MRTPI	
Miss Natalie Carpenter	Senior Planning Officer, Lewes District Council
BA(Hons) MA MRTPI	

FOR THE APPELLANT:

Mr Robert Williams	of Counsel, instructed by WS Planning and Architecture
He called	
Mr Spencer Copping	Planning Consultant, WS Planning and Architecture
BA(Hons) DipTP MRTPI	
Mr Robert Petrow	Managing Director of Petrow Hartley Ltd, Landscape Architects
Mr Christopher Vaughan	Principal Consultant at The Stilwell Partnership - Safety Traffic and Highway Engineering Consultants

INTERESTED PERSONS:

Mr Ken Jordan	Parish Councillor, on behalf of Chailey Parish Council
Dr John Kay	Campaign for the Protection of Rural England, Lewes District Branch
Mrs Sarah Droscher	Local Resident
Mr David Droscher	Local Resident
Mrs Elizabeth Berry	Local Resident
Mr Mike Berry	Local Resident and Director of Chailey Commons Residents Management Co Ltd
Mr Mark Evans	Local Resident
Ms Ashley Casson	Local Resident
Mr Colin Thatcher	Local Resident
Mr Medhurst	Local Resident

DOCUMENTS

- 1 Opening Statement for the Appellant
- 2 Opening Statement for Lewes District Council
- 3 Statement by Chailey Parish Council
- 4 Statement by Cllr Sharon Davy
- 5 Signed 106 Planning Obligation Agreement between the Appellant, Lewes District Council and East Sussex County Council Dated 20 February 2018

- 6 Statement by Dr Kay
- 7 Statement by Mr Evans
- 8 Statement by Mrs Berry
- 9 Statement by Mr Berry
- 10 Statement by Ms Casson
- 11 Lewes Local Plan Policy CT1
- 12 Statement by Mrs Droscher
- 13 Statement by David and Jeanne Heasman
- 14 Statement by Mrs Droscher
- 15 Extract from East Sussex Landscape Character Appraisal
- 16 Travel to work data for North Chailey in 2011 census
- 17 Letter of notification of inquiry venue and list of persons notified
- 18 Inspector's note of 31 January 2018 to parties concerning the Ashdown Forest Issue
- 19 Inspector's supplementary note to the parties concerning the Ashdown Forest issue
- 20 Drawing list agreed between the Appellant and the Council
- 21 Council's List of draft planning conditions with comments of Inspector and subsequent comments of the Council
- 22 Signed statement of common ground submitted on Day 4
- 23 Council's closing statement (except Ashdown Forest Issue)
- 24 Appellant's closing statement (except Ashdown Forest Issue)
- 25 Council's response to questions raised by Inspector on Ashdown Forest issue (received 6 February 2018)
- 26 Court Judgement: *Wealden DC v SSCLG, Lewes DC, SDNPA and Natural England [2017] EWHC 351*
- 27 Email of 8 February 2018 from Planning Inspectorate to Lewes DC and Lewes DC response also dated 8 February 2018
- 28 Lewes Local Plan Part 2 Habitat Regulations Assessment (October 2017) including:
 - Appendix A – Location of European Designated Sites
 - Appendix B - South Downs NPA/Lewes JCS Habitats Regulation Assessment Addendum - Traffic Related Effects on Ashdown Forest SAC (September 2017)
- 29 Appellant's response to Inspector's Questions in Document 18
- 30 Note from Vaughan for the Appellant concerning potential traffic impact on Ashdown Forest
- 31 Email from Wright dated 26 February 2018 commenting on Document 29