
Appeal Decision

Inquiry Held on 30 January to 2 February and 7 to 8 February 2018

Site visit made on 2 February 2018

by Michael J Hetherington BSc(Hons) MA MRTPI MCIEEM

an Inspector appointed by the Secretary of State

Decision date: 16 March 2018

Appeal Ref: APP/L3815/W/17/3180078

Stable Field, Kirdford Road, Wisborough Green, RH14 0DB

- 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 Michael Gadd - Norfolk Square Limited against the decision of Chichester District Council.
 - The application ref. WR/16/02717/OUT, dated 15 August 2016, was refused by notice dated 31 January 2017.
 - The development proposed is: outline development proposal to include new village doctors' surgery (use class D1); village community uses (use class D2) to include outdoor activity area, activity room, gym, and community building; 30 extra-care units (use class C2) to include affordable accommodation; community allotments and landscaped recreational areas; new vehicle and pedestrian access; and associated ancillary uses and infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is submitted in outline, with all matters of detail apart from access reserved for future determination.
3. At the inquiry, it was agreed by both main parties that the drawings for consideration in this appeal are as follows: drawing nos. WIS02_P_007A (location plan and red line boundary), 06704-HYD-XX-XX-DR-TP-0102 P1 (proposed vehicular access) and 06704-HYD-00-XX-DR-TP-0300 P3 (proposed pedestrian access link). Other plans, including the site layout, are for the purposes of illustration only. I have determined the appeal accordingly.
4. Following the close of the inquiry, a Section 106 agreement dated 19 February 2018 was submitted in respect of the provision of the following matters: affordable housing; on-site open space; community building(s); on-site sport and leisure; allotments; doctors' surgery. The agreement also requires the Council's written approval of a care package for the development, including delivery, management and maintenance arrangements.

Main Issues

5. Bearing the above in mind, the main issues in this appeal are:
 - (a) whether the relevant part of the appeal scheme would comprise extra care accommodation within Use Class C2;

- (b) whether the scheme would accord with Local Plan and Neighbourhood Plan policies that seek to resist development in the countryside outside settlement boundaries and within a local gap;
 - (c) the effect of the proposal on the area's character and appearance, with particular reference to the scheme's landscape and visual effects;
 - (d) its effect on the significance of the Wisborough Green Conservation Area;
 - (e) its effect on the significance of the following listed buildings: Brookland Farmhouse, Loxwood Road; Gravatts, Kirdford Road; Shelen Cottage, Kirdford Road; and Wheelers Farmhouse, The Luth (all grade II).
 - (f) whether the scheme would have an adequate vehicular access;
 - (g) whether adequate pedestrian and cycle access would be available between the proposed development and the centre of Wisborough Green; and
 - (h) whether the scheme would accord with national policies that seek to promote sustainable transport.
6. The main parties also disagree about whether the Council can demonstrate a five year supply of land for housing, as is required by paragraph 47 of the National Planning Policy Framework (the Framework). However, for the reasons set out below, I do not consider this matter to be determinative in respect of the appeal.

Reasons

Extra Care Housing

7. Although raised as a concern at the time of refusing planning permission for the scheme, the Council now accepts that the nature of the proposal in terms of the Use Classes Order is no longer at issue. I share that view. The proposal is submitted in outline and, as such, the exact form of the accommodation to be provided is yet to be finalised. While a business model for the extra care accommodation has been submitted by the appellant¹, it is common ground that – notwithstanding the level of detail that it provides – this model should be regarded as illustrative only. The submitted Section 106 agreement requires that details of the care package, including delivery, management and maintenance arrangements, would need to be approved by the Council in the event of the appeal being allowed. It also states that, for each dwelling, one or more occupiers should qualify as care residents. This definition requires that residents are in need of care (for various stated reasons) and that, as a condition of their occupancy of the site, they are in receipt of the above-noted care package.
8. Bearing this in mind, and noting that the description of development refers to “30 extra-care units (use class C2)”, I am satisfied that, as a matter of principle, such a scheme could be brought forward at the reserved matters stage. I therefore conclude that the relevant part of the appeal scheme would comprise extra care accommodation within use class C2. For the avoidance of doubt, I have seen no substantive evidence to support the comments from some parties that the appeal scheme represents an attempt to introduce general (use class C3) housing into this location.

¹ Appendix JGM6 to Mr Montgomery's proof of evidence.

9. The main parties differ as to whether the arrangements set out in the business model would fall within the scope of use class C2. I appreciate that, were the appeal to have been allowed, it would have assisted the main parties in their future negotiations for my decision to have reached a view on whether this model would indeed amount to an extra care development within use class C2. However, given my overall conclusion that the appeal should be dismissed for other reasons, it is not necessary for me to make such an assessment.

Countryside Protection and Local Gap

10. Policy 2 of the Chichester Local Plan: Key Policies 2014-2029 (LP) establishes a hierarchy of settlements within the District. Wisborough Green is identified as a Service Village. The policy states that outside Chichester City and the Settlement Hubs, the Service Villages will be the focus for new development and facilities. Provision will be made for the following in Service Villages: small scale housing developments consistent with the indicative housing numbers in LP policy 5; local community facilities, including village shops, that meet identified needs within the village, neighbouring villages and surrounding smaller communities, and will help make the settlement more self-sufficient; and small scale employment, tourism or leisure proposals.
11. It is common ground that as LP policy 5 refers specifically to housing, rather than extra care development within use class C2, it is not directly relevant to the appeal scheme, notwithstanding that it was cited in the Council's relevant refusal reason. I have no reason to disagree.
12. LP policy 2 states that there is a presumption in favour of sustainable development within settlement boundaries which will be reviewed through the preparation of Development Plan Documents and/or Neighbourhood Plans. Development in the Rest of the Plan Area outside the listed settlements is restricted to that which requires a countryside location or meets an essential local rural need or supports rural diversification in accordance with LP policies 45-46.
13. The appeal site lies outside the settlement boundary identified in the Wisborough Green Neighbourhood Plan 2014-2029 (NP). The NP was 'made' in July 2016. NP policy OA3 states that development outside the settlement boundary will only be permitted on sites allocated in the NP (all of which lie outside the settlement boundary) or in accordance with the LP. As such, and notwithstanding the alternative view suggested by the appellant's planning witness, it is clear to me that the appeal site lies within the Rest of the Plan Area within which development requires to be assessed against LP policy 45. Indeed, both main parties have carried out such an assessment.
14. LP policy 45 contains three 'limbs'. The first states that within the countryside, outside settlement boundaries, development will be granted where it requires a countryside location and meets the essential, small scale, and local need which cannot be met within or immediately adjacent to existing settlements. The second 'limb' sets out criteria in respect of sustainable development in the countryside, while the third relates to retail development in the countryside.
15. Clearly, extra care accommodation does not, as a matter of principle, need a countryside location. Indeed, the evidence before me (for example the list in a

report submitted to West Sussex County Council²) shows that such developments are usually located within a built-up area.

16. Nevertheless, the appellant takes the view that, in the present case, the lack of available sites within settlement boundaries means that the appeal scheme *does* require a countryside location. However, I consider that such an interpretation is at odds with a reasonable reading of the policy: in my view, the clear implication is that the relevant requirement of LP policy 45 refers to a *type* of development that needs to be located in the countryside – for example a farm shop or other rural business. There is therefore an in-principle conflict with this policy requirement. To my mind, the appellant's argument relates more directly to the matter of the *need* for the scheme – which I consider in more detail below.
17. While the circumstances of the case are different, this assessment broadly accords with a recent appeal decision at Breach Avenue, Southbourne (cited by both main parties) where the Inspector accepted that housing development outside a settlement boundary did not comply with LP policy 45 even though a five year housing land supply could not then be demonstrated³.
18. Nevertheless, irrespective of whether or not the appeal scheme meets the test of needing a countryside location, compliance with the first 'limb' of LP policy 45 also requires that the 'essential, small scale and local need' is met.
19. In support of the application, the appellant submitted a Care Needs Assessment prepared by Pinders, dated March 2016. This examines a 5 mile catchment centred on the appeal site. Applying a standard proportion to the catchment's over-65 population, it provides an estimate of higher care needs. This concludes that there is an existing need (2015) for an additional 132 units of care accommodation, rising to 186 by 2025 and 252 by 2035⁴. The equivalent figures (within these totals) for extra care units are 117, 130 and 149 respectively.
20. The Council does not dispute the methodology underpinning this assessment. However, it raises concerns about its applicability to the present appeal and presents an alternative calculation of older persons' housing need in Wisborough Green Parish⁵. Excluding sheltered housing and enhanced sheltered housing (totalling some 23 units), this suggests an estimated current demand of 4 units of extra care 24/7 support, 10 units of residential care and 7 units of nursing care. This methodology, applying the Housing LIN population method to the latest sub-national population projections, appears to me to be both robust and based upon up-to-date data.
21. Clearly, there is a substantial difference between the above assessments. This can largely be explained by the respective areas upon which the two calculations have been based. The 5 mile catchment applied by the appellant includes a number of other settlements, notably Billingshurst and Pulborough which lie within the neighbouring local planning authority area. These two settlements are considerably larger than Wisborough Green: 2011 census population figures for the respective parishes are 9,379 for Billingshurst and 6,147 for Pulborough, compared with 1,414 for Wisborough Green.

² Inquiry document 15.

³ Appeal ref. APP/L3815/W/17/3173380.

⁴ Table on page 3 of the Pinders Care Needs Assessment.

⁵ Table 3 of Ms Nicol's proof of evidence, as amended at the Inquiry.

22. As already noted, LP policy 45 refers to the 'essential, small scale, and local need'. Bearing in mind that the Pinders need assessment covers settlements that are markedly larger than Wisborough Green, as well as Wisborough Green and its surrounding rural parishes, it seems to me that the resulting needs figures cannot be described as 'local' in the terms of this policy. While it is common ground that there is at least some degree of need for extra care housing in Wisborough Green, it has not been shown that it is 'essential' for the extra care needs of other larger settlements to be met in this location.
23. LP policy 45 does not define the meaning of 'small scale'. In that context, I share the appellant's view that the amount of housing development that is envisaged by LP policy 5 for Wisborough Green is not relevant to the present proposal for a C2 use. However, it seems to me that the requirement of LP policy 45 that development should be 'small scale' is consistent with the view that this policy provides for local needs rather than the needs of a wider catchment that includes markedly larger settlements.
24. Although not directly applicable to the present appeal, as the site lies outside the settlement boundary, the above view is also consistent with the provisions of LP policy 2 for development *within* Service Villages, which provides for (among other matters) 'local community facilities ... that meet identified needs within the village, neighbouring villages and surrounding *smaller* communities, and will help make the settlement more self-sufficient' (my italics). This does not support the principle of Service Villages making provision for the needs of markedly larger settlements: the focus is clearly upon the needs of the village, neighbouring villages and surrounding smaller communities.
25. The appellant has undertaken a sequential assessment of other sites locally which represent a readily available and suitable alternative to the appeal site, taking into account the requirements of the development. It concludes that there are no suitable alternative sites within the catchment area that are available for the proposed development. However, it was accepted by the appellant's planning witness at the inquiry⁶ that this assessment was based broadly upon a scheme of the scale that is now being proposed. The relevant search criteria refer to sites of 1 ha or more, to be able to provide 20-40 units. Had the sequential assessment have been based upon a smaller development, for example to meet the scale of needs suggested by the Council's assessment for Wisborough Green Parish, then the appellant's planning witness accepted that a wider range of sites would have needed to be considered. Given my comments above about the scale and type of development that is envisaged by LP policy 45, this significantly reduces the weight that can be attached to the assessment's findings.
26. Taking these matters together, it has not been demonstrated that the appeal scheme would meet an essential, small scale, and local need. As such, it seems to me that even if the appellant's reading of the 'requirement for a countryside location' element of LP policy 45 were to be correct, the appeal scheme would still conflict with the first 'limb' of LP policy 45.
27. I agree with the appellant that the inter-relationship between the three main 'limbs' of LP policy 45 is not immediately clear. I share the appellant's view that each of the three 'limbs' can effectively be read in isolation in terms of permitting development in the countryside. Given that the second 'limb' refers

⁶ Mr Montgomery in response to Inspector's questions.

to proposals that are complementary to and do not prejudice any viable agricultural operations on a farm and other existing viable uses and that the third 'limb' relates specifically to retail development, the policy would be difficult to apply in practice if there was a requirement that all three 'limbs' should be satisfied before development could be permitted. The three 'limbs' are not linked by the word 'and'. Nevertheless, there is no substantive evidence that either of the other two limbs is engaged in the present appeal. For the reasons set out above, I therefore consider that the appeal scheme conflicts with LP policy 45. As such, it also conflicts with LP policy 2.

28. I turn to the Neighbourhood Plan (NP). Policies of particular relevance to this main issue are NP policies OA2(a) and (c), OA3 and OA5. As already noted, NP policy OA3 states that development outside the settlement boundary will only be permitted on allocated sites or in accordance with the LP. As the appeal site is not allocated in the NP and the scheme conflicts with LP policies 2 and 45, it also conflicts with NP policy OA3. NP policy OA2(a) contains a similar provision, stating that new development will be located within the settlement boundary (unless on an allocated site): as such, NP policy OA2(a) does not support the appeal development.
29. NP policies OA2(c) and OA5 relate to local gaps. The appeal site lies within such a local gap, which also extends over land on the opposite (south-western) side of Kirdford Road. It is common ground that the NP's local gaps are identified as a strategic land use tool, rather than for their intrinsic landscape value. While NP policy OA2(c)'s statement that development should 'not consolidate the local gaps' may in itself lack clarity, I agree with the Council that its underlying meaning is made clear by the following text which adds 'as these must be kept open'.
30. NP policy OA5(a) states that 'the proposal must not consolidate the local gap by visually and physically reducing the break between the central core and outlying areas'. It seems to me that this sets out a clear policy test relating to visual and physical reduction of the gap. It also explains the underlying purpose of the policy, which is also set out in the accompanying text of reasoned justification. This is that the policy seeks to protect what has been identified as an important feature of the village – namely the separation of outlying development, such as the ribbon development along Kirdford Road to the north-west of the appeal site, from the central core, which in the present case relates to the built-up area to the south of The Luth that lies within the NP settlement boundary. The fact that these outlying areas of development can be considered to lie within the village in terms of, for example, the presence of the village sign on Kirdford Road, does not undermine this argument. It is the presence of distinctive green gaps within the village, forming an important feature of the village's character, that underlies this policy approach⁷.
31. Although the scheme's detailed design and layout remain to be finalised, the amount of built development that is proposed is not in dispute. This would involve 30 extra care units as well as a building (or buildings) containing a doctors' surgery, community uses, gym and warden's office. The illustrative layout suggests that the extra care units would be located around the site's periphery (notably its north-western and south-eastern boundaries), while the other uses would have a more central location. This would retain open land

⁷ NP page 33, paras 1 and 2.

towards the centre of the site (a walled garden, activity area and orchard are suggested). However, the resulting gap between built development within the site would be markedly smaller than at present, given that the local gap on this side of Kirdford Road is broadly equivalent to the full width of the presently open and undeveloped field. The local gap would therefore be physically reduced. While the above-noted layout is illustrative only, I have seen no evidence that the amount of development that is now proposed could be accommodated within the site without avoiding a similar outcome.

32. I address the scheme's visual impact in more detail below. However there is no dispute that the development would be visible from the field gate at the southern corner of the site⁸. In such views, buildings would be seen where at present there is an open field. The fact that some views through the site would be likely to be retained would not remove the impression that the field would contain built development and, as a result, that the degree of separation between the village core and the outlying ribbon of development along Kirdford Road had been materially reduced. This would amount to a visual reduction in the extent of the gap. This adverse effect would not be mitigated by the intention to allow public access within the appeal site: indeed, when within the site the amount of built development, and the resulting degree of visual reduction of the gap, would be likely to be even more apparent.
33. The appellant alleges that NP policy OA5 contains an internal inconsistency, in that the other criteria of the policy involve an inherent expectation of development within local gaps. While I note this argument, it does not seem to me to materially weaken the clear statement of policy that is set out in criterion (a). Application of the relevant criteria within policy OA5 is a matter of planning judgement. In the present case, for the reasons set out above, I consider that the appeal scheme would conflict with policy OA5(a). It is accepted that important trees and hedgerows would be retained (criterion (d)). However, with reference to my comments in respect of the scheme's landscape and visual effects below, I do not feel that either criteria (b) (no diminution in openness and views) or (c) (enhancement of local gap by planting and other amelioration) would be satisfied by the scheme. While the proposed community uses would enhance the range of facilities available and be likely to enhance biodiversity, it has not been shown that they would enhance visual impact (criterion (e)). Taking these matters together, the appeal scheme would conflict with NP policies OA2(c) and, taken overall, OA5.
34. For the above reasons, I therefore conclude that the scheme would conflict with Local Plan and Neighbourhood Plan policies that seek to resist development in the countryside outside settlement boundaries and within a local gap.

Character and Appearance – Landscape and Visual Effects

35. Following the refusal of planning permission by the Council, the appellant commissioned a Landscape and Visual Appraisal (LVA) (July 2017), which was prepared in line with relevant guidance (GLVIA3). The LVA concludes that the appeal site has the capacity for the development as proposed on the indicative site layout and that there is no landscape or visual reason why the site should not be developed. This assessment is disputed by the Council.

⁸ Viewpoint 4 in the appellant's Landscape and Visual Appraisal (LVA).

36. The LVA states, and the Council accepts, that in landscape terms the site has a moderate sensitivity to the proposed development and that the appeal scheme would constitute a very high magnitude of change to the character of the site. Its landscape would change from that of an undeveloped field to a built development, as outlined above. As such, the LVA considers that there would be a major/moderate, material, adverse level of effect overall. I agree with this conclusion. While there may be scope to introduce new planting and enhance the existing boundary treatment, these factors would not materially alter the fundamental landscape change that would occur within the site. Irrespective of the potential to introduce new landscape features in association with the proposed buildings, the open and undeveloped rural landscape of the site would be lost permanently. This would amount to material landscape harm. I do not therefore share the view of the appellant's landscape witness, who diverges from the LVA, that as a result of the new landscape to be created, this effect 'may be more neutral than adverse insofar as it provides a high quality landscape to be experienced by more people'⁹. In this regard I feel that the LVA presents a more robust assessment.
37. The main parties disagree about the scheme's landscape effects in respect of the site's immediate surroundings. The LVA takes the view¹⁰ that the site's context, which it considers to form part of the built-up area of the village, is capable of accommodating additional sensitive development on the site without material harm to its existing characteristics or those of the wider landscape character area. As such, it considers that the magnitude of change on the character of that immediate context would be very low, yielding a minor/negligible effect at most on relevant character areas.
38. In this case, I do not agree. As already mentioned, the settlement pattern of Wisborough Green village includes a number of undeveloped gaps that separate the village core from outlying areas of built development. The appeal site is one such gap. The appeal site does not therefore form part of the built up area of the village. It is undeveloped and has a strongly rural character – attributes that can be appreciated within the site's immediate setting, including the viewpoint into the site from the gate at the site's southern corner and views through gaps in the existing boundary treatment (both from Kirdford Road and from the footpath (Green Lane) along the site's eastern boundary). The site's undeveloped rural character can also be inferred from the largely unbroken hedge line that forms its boundary with Kirdford Road. The appeal scheme would introduce built development into these views. It would create a vehicular access onto Kirdford Road, breaking the hedge line and drawing attention to the presence of the appeal scheme. It is likely that views of the new buildings and associated hardstanding would be possible through the site access.
39. As a result, the landscape of the site's immediate surroundings would be materially, and adversely, changed. Given that much of the boundary treatment would be retained, it seems to me that the magnitude of change would be medium, giving an overall significance of at least moderate/minor adverse. This would also amount to landscape harm, albeit of a lesser degree than that applying to the site itself.

⁹ Paragraph 4.37 of Mr Lewis' proof of evidence.

¹⁰ Paragraphs 6.9 to 6.11 of the LVA.

40. I share the appellant's concern that the assessment undertaken by the Council's landscape witness does not seek to distinguish between landscape effects in respect of the appeal site and its setting. It also appears that this assessment misunderstood the likely amount of tree removal that would be associated with the appeal scheme. Nevertheless, for the reasons set out above I consider that the appellant's case markedly underestimates the adverse nature of the landscape effects that would result from the proposal.
41. In terms of visual effects, the Council's landscape witness identifies major/moderate adverse effects from three viewpoints: these are from Kirdford Road in the vicinity of the southern farm gate (viewpoint 1), from the southern farm gate itself (viewpoint 4) and from Brookland Farm (viewpoint 9, relating to residents rather than road users or pedestrians). The appellant's LVA identifies a major effect in respect of viewpoint 4 and a minor/negligible effect at viewpoint 1.
42. To my mind, viewpoint 4 is the most significant of those that have been assessed. It is the first point on Kirdford Road when people walking away from the village centre are able to experience a wider rural view through one of the above-noted gaps. It lies at the junction of Kirdford Road and the footpath of Green Lane: although the latter was very muddy at the time of my site visit, it is clear that this route is used by pedestrians. The presence of a lay-by at this point makes it easy to approach the field gate from the road.
43. I share the view of the appellant's LVA that the scheme would result in a major effect in respect of this view. Although built features can already be seen, including some pylons and buildings outside the appeal site (notably Brookland Farm and development at the former Greenways Nursery), the overall impression is of a view into the countryside. The undeveloped field dominates the foreground, while trees and woodland provide the main visual backdrop. The introduction of built form into this view would, to my mind, result in a major and adverse effect. Although it is suggested that the extra care units could be sited towards the boundaries of the appeal site, the overall result would likely be, at best, a more narrow view through the site to the trees and woodland beyond, framed by built development on either side. This would not materially reduce the adverse effect that I have described.
44. Taking the scheme's landscape and visual effects together, I conclude that the area's character and appearance would be materially harmed. In this regard, the scheme would conflict with LP policy 48 and NP policies OA2, OA5 and EN2.

Wisborough Green Conservation Area (CA)

45. The Wisborough Green Conservation Area (CA) adjoins the appeal site boundary for a short section along Kirdford Road and for part of the south-eastern side of the site next to Green Lane. The intended pedestrian route (which also lies within the red line boundary of the application site) linking the appeal scheme to the village core extends some distance into the CA. The Council raises no concern about the effect of the pedestrian route on the CA's character and appearance and I have no reason to take a different view.
46. The Wisborough Green Conservation Area Character Appraisal and Management Proposals document (CAMP) was published in September 2010. It represents an assessment of the CA's key characteristics and was subject to public consultation: I therefore afford it material weight. Among the key

features listed in the CAMP are the rural landscape setting of the CA, views across open green spaces in the village centre and the presence of a range of historic buildings. In the present case, it is common ground that the appeal site makes a positive contribution to the special interest of the CA, as it forms part of its agricultural surroundings. This contribution can be experienced from the farm gate at the south of the site. The appellant accepts that there would be some loss of openness and outward views from the CA if the appeal scheme would be implemented, and that this would amount to 'less than substantial harm' to the significance of the CA in the terms of the Framework.

47. However, the main parties do not agree about the degree of such 'less than substantial harm'. The appellant considers that the views concerned would be limited and localised, being well to the north of the village green, and that the aspects that are deemed to contribute most to the CA's special interest would not be changed by the appeal scheme, which is 'for the most part focused on a very enclosed and relatively nondescript piece of land topographically separated from the historic core of the settlement'¹¹.
48. I do not agree with this assessment. While the central core around the village green is clearly an important element in the CA's significance, the CAMP also refers to the CA's rural setting. As already discussed, the open and rural nature of the appeal site provides a gap between the village core and ribbon development further along Kirdford Road to the north-west. It therefore enables the rural setting of the CA to be experienced at the edge of the CA. Indeed, and in my view importantly, the view into the appeal site from the above-noted farm gate is specifically identified as an 'Important View' on the CAMP's Townscape Appraisal Map. While the appellant criticises the lack of reasoning behind the view's identification in the CAMP, it seems to me that its identification is in accordance with the significance of this viewpoint (equivalent to viewpoint 4 in the landscape evidence) as described above.
49. As such, I consider that the open and rural nature of the appeal site contributes significantly to the CA's immediate setting. This view is consistent with that of an Inspector who dismissed an appeal relating to a dwelling on the opposite side of Kirdford Road to the appeal site: in his opinion, the open nature of that site provided the function of separating the CA from the ribbon development further along Kirdford Road¹². In the present case, I consider that the amount of built development that is proposed would materially reduce the appeal site's contribution to the rural setting of the CA. Given the importance of the view concerned, and noting that the open and rural nature of the appeal site would be permanently affected, I conclude that the significance of the heritage asset would be unacceptably harmed. In my view, this would lie towards the high end of 'less than substantial harm' in the terms of the Framework. The proposal would conflict with LP policy 47 and NP policies OA2(d) and EN4.
50. The appellant considers that LP policy 47 and NP policy EN4 do not accord with national policy on heritage assets in the Framework. I agree with this view. Both policies require developments to 'conserve *and* enhance' (my italics) the special interest and settings of heritage assets. Clearly, this exceeds the requirements of national policy – and indeed relevant statutory duties. Furthermore, there is no mention in either policy, or indeed in NP policy

¹¹ Paragraph 4.156 of Mr Crutchley's proof of evidence.

¹² Appeal ref. APP/L3815/W/16/3142675 (inquiry document 6).

OA2(d), of the balance against public benefits that the Framework requires in respect of heritage assets, for example at paragraph 134.

51. The Council's case is that this balancing exercise is imported into LP policy 1, which states that planning applications that accord with LP policies, and where relevant NP policies, will be approved unless material considerations indicate otherwise. However, this is merely a version of the relevant statutory duty. It does not include the criteria that are set out in paragraphs 133 and 134 of the Framework and it does not make specific reference to harm to heritage assets or public benefits. Its provisions do not affect whether a scheme would or would not be compliant with the above-noted LP and NP policies. To my mind, the terms of LP policy 1 do not therefore prevent LP policy 47 or NP policies OA2(d) and EN4 from being inconsistent with the Framework insofar as they refer to heritage assets. Taking into account paragraph 215 of the Framework, this reduces the weight that can be afforded to the scheme's conflicts with these policies in respect of heritage assets.

Listed Buildings

52. Although the relevant refusal reason does not specify the listed buildings involved, the Council has clarified that it relates to four buildings – all listed grade II. I can deal with two of these briefly. Wheelers Farmhouse, sited on The Luth, is well separated from the appeal site. There appears to be no intervisibility between the building and the appeal site and no specific visual or functional linkage between the two has been demonstrated. Although Shelen Cottage lies closer to the appeal site, the pedestrian entrance of which would be visible from outside the entrance to the property's driveway, the appeal development would be well separated from the listed building. In both cases, I consider that the appeal site would not fall within the setting of the listed building. Harm to their significance would not therefore arise.
53. Gravatts – a former farmhouse – is an attractive timber-framed building, mostly refaced with red brick and grey headers and a tiled roof. It lies broadly opposite the above-noted southern field gate. I saw on my visit that views into and across the appeal site are available from within the property's front garden (viewed from a point to the north-east of the listed building). As such, I consider that the appeal site falls within the listed building's setting.
54. Nevertheless, such views are filtered by the vegetation on the appeal site boundary. Bearing in mind that this boundary would be strengthened by additional planting, it is unlikely that the buildings now proposed would be prominently visible from the listed building or its front garden. Given the presence of the intervening road and boundary treatments, I do not therefore feel that the appeal scheme would materially affect the significance of the listed building – notwithstanding its original use as a farmhouse.
55. I therefore conclude that the appeal scheme would not adversely affect the significance of the three above listed buildings. In that regard, the scheme would accord with LP policy 47 and NP policy EN4.
56. I reach a different conclusion with regard to Brookland Farmhouse, which lies to the north-east of the appeal site¹³. In this case, there is clear intervisibility

¹³ It is common ground that the map in the statutory list entry for Brookland Farmhouse is in error. The listed building lies a short distance east of the building highlighted on that plan. While the buildings are labelled as 'Brooklands Farm' on some submitted maps, I have used the statutory list's terminology in this decision.

between the appeal site and the farmhouse, which is a brick-faced timber-framed dwelling with a hipped roof. Unlike the three listed buildings referred to above, there is little visual separation from the appeal site. Together with the intervening field, the appeal site provides a rural backdrop that rises up the slope to the south-west of the listed building and the nearby group of farm buildings. This relationship can, to some extent, be appreciated in public views from Green Lane nearby. In addition, the listed building can be easily seen from within the appeal site across the intervening open land. In that context the close-up image provided by the appellant's heritage witness (image AC15) which purports to be from the 'north end of the appeal site' is in error: this is taken from a point some distance within the appeal site¹⁴. Taking these matters together, I consider that the appeal site forms part of the rural setting of the listed building.

57. For the reasons already described, the proposed development would materially reduce the open and rural nature of the appeal site. The rural setting of the listed building, and therefore its significance as a former farmhouse, would be diminished. However, an open and undeveloped gap would remain between the appeal site and the listed building. It would also be possible to introduce planting towards the northern boundary of the site. These factors would act to reduce the adverse effect described above. To my mind, the resulting degree of harm would be therefore towards the low end of 'less than substantial'. Nevertheless, this would amount to material harm and the proposal would therefore conflict with LP policy 47 and NP policy EN4. However, for the reasons noted above, the weight to be afforded to these policy conflicts, insofar as they relate to heritage assets, is reduced as a result of their inconsistency with the Framework's approach.

Vehicular Access

58. A new vehicular access is proposed from the appeal site onto Kirdford Road. The Council's main concern in this regard relates to the visibility that would be achieved to the right (north-west) when exiting the appeal site. Although traffic travelling towards the site can be seen from a considerable distance in this direction (in excess of 120 metres), the presence of a dip in Kirdford Road creates a restriction in the degree of the vertical visibility on part of this approach. The resulting vertical visibility distances from the proposed site access are as follows: 0.6m can be achieved for 72m; 0.81m can be achieved for 80m; and 0.9m can be achieved for 120m¹⁵.
59. The main parties differ as to which standard should be applied. Guidance in Manual for Streets 2 (MfS2) states that where actual speeds are above 40mph for significant periods of the day, then the standards in the Design Manual for Roads and Bridges (DMRB) for stopping sight distances are recommended, subject to local context. The proposed site access would lie within the 40mph speed restriction on Kirdford Road: the start of the 30mph restriction lies a short distance to the south-east.
60. The appellant has undertaken traffic surveys on Kirdford Road in the vicinity of the proposed access. Although not specified in MfS2, I share the Council's view that adopting 85th percentile wet weather speeds is an appropriate and well-used methodology in this context. This method has been used in other appeal

¹⁴ Accepted by Mr Crutchley in response to a question by the Inspector.

¹⁵ Paragraph 5.6.9 of Mr Chapman's proof of evidence.

decisions produced by the appellant. It is clear from the submitted traffic surveys that 85th percentile wet weather speeds are indeed generally above 40mph for significant parts of the days concerned (over at least 60% of the day on most days). While the degree of exceedance in terms of the speeds themselves is not substantial, I therefore agree with the Council that the DMRB standards are relevant in the present case. However, notwithstanding that DMRB refers to 'mandatory' standards in this regard, the fact that MfS2 merely 'recommends' their application, with the caveat that this is 'subject to local context', suggests that a flexible approach should be taken to their application.

61. In terms of vertical visibility, the DMRB states that it should be possible to see obstructions down to a point of 0.26m throughout a 120 metre visibility splay. As already noted, this cannot be achieved in the present case. The proposed access would therefore conflict with the DMRB standard and, in consequence, with the recommendation of MfS2.
62. Nevertheless, it is necessary to take into account local context. In the present case, it is clear from the evidence submitted – and indeed my own site observations – that a car approaching the site access from the right remains visible at all points during its approach through the above-noted dip. While only the upper part of a car can be seen when passing through the dip, I do not agree with the Council that this renders the vehicle 'not sufficiently noticeable' during daytime conditions. I saw on my visit that the presence of an approaching car could clearly be appreciated, even when only the upper part of it could be seen. Although the direct beam of headlights would be blocked at night, it is likely that their glow would be apparent – illuminating the adjoining hedgerows, for example.
63. As such, and bearing in mind that the recorded speeds on this route do not substantially exceed 40 mph (in terms of the 85th percentile wet weather speed) and that vehicles passing the site are likely to be decelerating as they approach the start of the 30 mph speed limit, I therefore consider that the local context of the site access is sufficient to over-ride the conflict with the above-noted guidance in this instance.
64. In terms of its geometry, the proposed site access would not be out-of-keeping with other accesses along the section of Kirdford Road to the north-west of the site, including the access to Greenways which can be anticipated to involve the manoeuvring of large vehicles carrying mobile homes. Large vehicles attempting to access the appeal site would be easily seen by other road users. In the event that such a vehicle was prevented from entering the site by, for example, the presence of another vehicle emerging, then I see no reason why the resulting short delay to the flow of traffic along Kirdford Road would create a material highway safety problem.
65. For the above reasons, and notwithstanding the conflict with relevant guidance discussed above, I conclude that the scheme would have an adequate vehicular access. In this context, it would accord with LP policies 8 and 39.

Pedestrian and Cycle Access

66. It is common ground that details of the proposed pedestrian route could be appropriately secured by a Grampian condition were the scheme otherwise acceptable. I agree with the Council that provision of this route would be a necessary part of the appeal scheme, owing to the lack of a footway on this

part of Kirdford Rd and the unsuitability of existing verges, where present, and the local green space area to be used for that purpose in their present condition. Given the appeal scheme's intended use, this concern would apply particularly to people with mobility difficulties.

67. In terms of the practicality of the arrangements now proposed, I am satisfied that there is adequate space within the site's red line boundary and adjoining highway land to enable a route of adequate width to be achieved. Necessary details including the intended surfacing and the route's relationship to a nearby culvert along part of the Kirdford Road verge could, in principle, be secured by a condition.
68. It is accepted that there are no specific cycle facilities in the site's vicinity. However, while advice from the Department for Transport¹⁶ suggests that dedicated cycle lanes are likely to be needed for cycling to be safe and suitable, this amounts to guidance only. In the present case, Kirdford Road is a rural road with no history of cycle-related accidents. I therefore see no justification for the introduction of on-street cycle facilities on this stretch of road.
69. I therefore conclude that adequate pedestrian and cycle access would be available between the proposed development and the centre of Wisborough Green. In this regard, the scheme would also accord with LP policies 8 and 39.

Sustainable Transport

70. Concerns in this context relate to the site's relationship to existing services within the village and to the more general issue of the village's wider accessibility to sustainable transport modes. In respect of the first of these, the appeal scheme would be located somewhat further away from facilities such as the post office/ general store and place of worship than the 400 metres indicated for extra care schemes in the 'More Choice, Greater Voice' document. However, this amounts to guidance only. Bearing in mind that the resulting difference (approximately an additional 150 metres from the centre of the site) is not great and that a new pedestrian route would be put in place, it seems to me on balance that the resulting arrangement would be unlikely to lead to an unacceptable level of private car use for such journeys.
71. Despite the presence of two limited bus services and a shared taxi service, Wisborough Green is poorly served in respect of sustainable transport options. This was accepted by an Inspector in a planning appeal decision on the adjoining Greenways site in 2014¹⁷ who commented that residents of that site would need fairly frequent trips to higher order centres for which they would be highly reliant on their cars. Although the present scheme proposes pedestrian improvements that were not part of the Greenways scheme, I have seen no evidence that the village's wider accessibility to sustainable transport has materially improved since that date.
72. Nevertheless, this has not prevented land being allocated in the village for new development through the NP. The Greenways Inspector commented, albeit for a different type of scheme, that given the inevitable compromises that apply in rural areas, development at Wisborough Green should not be ruled out solely for reasons concerning transport and access to services. As has been noted by

¹⁶ Local Transport Note 02/08 Cycle Infrastructure Design (inquiry document 11).

¹⁷ Appeal ref. APP/L3815/A/13/2209917 (appendix JGM1 to Mr Montgomery's proof of evidence).

the Court¹⁸, the Framework recognises that the general policy of locating development where travel is minimised, and use of public transport maximised, has to be sufficiently flexible to take account of the differences between urban and rural areas. Bearing this flexibility in mind, and for the reasons set out above, I therefore conclude that the appeal scheme would accord with national policies that seek to promote sustainable transport.

Other Matters

73. Both main parties presented evidence on the supply of housing in the District. However, given that the proposal relates to an extra care development rather than general housing, it seems to me that this matter does not bear directly upon the main issues in this appeal. As already noted, it is common ground that LP policy 5 is not directly relevant to the appeal scheme, notwithstanding that it was cited in the Council's decision notice. At the inquiry, the Council clarified that the provision of extra care accommodation is not included in its objective assessment of housing needs and that sites for extra care accommodation are not set out in its housing land supply evidence¹⁹.

Planning Balance

74. As paragraph 132 of the Framework makes clear, when considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the asset's conservation. Given that the harm identified above in respect of both the Wisborough Green CA and the listed building of Brookland Farmhouse would be less than substantial, it is necessary – in line with paragraph 134 of the Framework – that in both cases this should be weighed against the scheme's public benefits. As a matter of principle, it should be noted that a finding of less than substantial harm should not be equated with a less than substantial planning objection. In addition, section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard shall be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest that it possesses.
75. The scheme's public benefits can be grouped under the three dimensions of sustainable development set out in the Framework. In the social dimension, the provision of extra care accommodation is seen by the appellant as the main benefit of the proposal²⁰. However, the weight to be afforded to this matter is reduced by the factors discussed above, specifically by my view that it has not been demonstrated that the appeal scheme would meet an essential, small scale and local need and therefore that the proposal would conflict with relevant policies. Nevertheless, given that there is some degree of local need, the provision of extra care accommodation would clearly remain a benefit. It would also assist the supply of general housing by providing alternative accommodation for those people wishing to move to an extra care facility, thereby improving the supply of general housing in the areas concerned.
76. Other public benefits would include the provision of a doctors' surgery, meeting a need that results from the past relocation of a facility away from Wisborough Green. This need is referred to in the NP. A mobile dispensary and treatment

¹⁸ Braintree DC v SCLG and others [2017] EWHC 2743 (Admin).

¹⁹ Ms Jones, in response to Inspector's questions.

²⁰ Mr Montgomery, evidence in chief.

room available to a range of local health care uses are also proposed. Public access would be available to the site and its facilities, including a community building, café and gym. Affordable units would be put in place. The improved pedestrian access that is proposed along Kirdford Road would also benefit other users of that route.

77. In the economic dimension, the appeal scheme would provide on-site employment, estimated as 10 full time equivalent jobs. It would boost the local economy in terms of construction jobs, and lead to an increased local spend. It would therefore support local services and businesses, as well as the likely local care provider. In environmental terms, the scheme would be likely to deliver ecological improvements and biodiversity enhancement to the appeal site. A landscape management plan is also proposed, although the weight to be afforded to this benefit is materially reduced by the overall landscape harm identified above.
78. For the avoidance of doubt, I apply the paragraph 134 balance to each heritage asset separately. Notwithstanding the duty of section 66(1) referred to above, the combination of benefits that I have outlined above seems to me to be great enough to outweigh the degree of harm that would result to the significance of Brookland Farmhouse, which I have assessed as being towards the low end of 'less than substantial' for the reasons set out above.
79. However, for the reasons that I have outlined, the harm that would be caused to the significance of the Wisborough Green CA would be markedly greater. As set out above, I consider that the significance of the heritage asset would be unacceptably harmed and that in terms of the Framework the resulting effect would lie towards the high end of 'less than substantial harm'. Applying the balance in paragraph 134, and noting in particular the importance of the view that would be adversely affected by the appeal development and the permanent nature of the scheme's effect on the open and rural nature of the appeal site, I consider that such harm would be of a scale that would outweigh the scheme's benefits.
80. For the reasons set out above, I consider the LP policy 47 and NP policies OA2(d) and EN4, insofar as they relate to heritage assets, are not consistent with national policy in the Framework. This reduces the weight that can be afforded to the scheme's conflicts with these policies.
81. Nevertheless, in respect of the significance of the CA, I have concluded in terms of the paragraph 134 balancing exercise that the identified harm outweighs the scheme's public benefits. Accordingly, this policy of the Framework indicates that development should be restricted. Therefore, footnote 9 of the Framework's paragraph 14 is engaged and, notwithstanding the out-of-date nature of these policies, the 'tilted balance' contained in the final part of paragraph 14 does not apply in the present case.
82. The appellant argues that the 'tilted balance' should apply to the present appeal because, with reference to paragraph 14 of the Framework, the development plan is silent with regard to the provision of extra care accommodation. Given my comments above regarding the application of footnote 9, I do not feel that the 'tilted balance' would apply even if the appellant's argument on this matter was justified. However, for the avoidance of doubt, I consider this matter below.

83. Although neither the LP nor the NP includes a specific policy for the provision of extra care accommodation, the stance of the LP in that regard is made clear by the supporting text. Among other matters, LP paragraph 17.9 states that the Council will support the delivery of housing for older persons including extra-care housing where it meets identified needs and does not conflict with other priorities. It adds that extra-care housing will be expected to provide both market and affordable housing on-site.
84. Furthermore, with reference to the decision of the Court in Trustees of the Barker Mill Estates and Test Valley Borough Council v SSCLG²¹, I am satisfied that the development plan, comprising both the LP and NP, contains sufficient policy content to enable a decision to be made as to the acceptability of the proposed development on the application site. The relevant policy context has been rehearsed in this decision. Taking these matters together, I therefore consider the development plan is not silent in respect of the appeal scheme.
85. The benefits of the proposed development have been described above. I have concluded that the scheme would have an adequate vehicular access, that adequate pedestrian and cycle access would be available between the proposed development and the centre of Wisborough Green and that there would be no conflict with national policies that seek to promote sustainable transport. The scheme would not adversely affect the significance of three listed buildings (Wheelers Farmhouse, Shelen Cottage and Gravatts). While harm would be caused to the significance of the listed building of Brookland Farmhouse, this would be outweighed by the scheme's benefits.
86. However, these factors are outweighed by my conclusions that the scheme would conflict with Local Plan and Neighbourhood Plan policies that seek to resist development in the countryside outside settlement boundaries and within a local gap, that the area's character and appearance would be materially harmed with regard to the scheme's landscape and visual effects, and that the unacceptable harm that would be caused to the significance of the Wisborough Green CA would outweigh the scheme's benefits. In reaching this assessment, I am mindful that the appeal scheme would conflict with the NP. Paragraph 198 of the Framework states that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted. To my mind, allowing the present appeal would act to undermine confidence in the neighbourhood planning process that has taken place in Wisborough Green.
87. For these reasons, I consider that the appeal proposal would not amount to sustainable development in the terms of the Framework. Notwithstanding that I have found that less weight should be afforded to the scheme's conflict with specific heritage policies, material considerations do not outweigh the other conflicts that I have identified with LP and NP policies.

Overall Conclusion

88. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should not succeed.

M J Hetherington

INSPECTOR

²¹ [2016] EWHC 3028 (Admin) – appendix JGM2 to Mr Montgomery's proof of evidence.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Andrew Parkinson	of Counsel Instructed by Ms Nicola Golding, Principal Solicitor, Chichester District Council (CDC)
He called:	
Mrs Robyn Butcher BA(Hons) DipLA CMLI	terra firma Consultancy for CDC
Mr Edmund Booth BA DipUD MRTPI IHBC FSA	The Conservation Studio for CDC
Mr Peter Hayward BEng(Hons) CEng MICE MCIHT DMS	Island Highway & Transport Consultants Ltd for West Sussex County Council (WSSC)
Ms Holly Nicol BSc(Hons) MSc	Housing Delivery Manager, CDC
Mr Ivan Western MCIH	Commissioning Manager for Supported Housing WSSC
Mr Alex Roberts BSc(Joint Hons) AssocRTPI	SPRU (DLP Planning Ltd) for CDC (round table session)
Mr Jeremy Bushell BA(Hons) DipTP MRTPI	Principal Planning Officer, CDC (round table session)
Ms Rhiannon Jones BSc(Hons) MSc MA MRTPI	Senior Planning Officer, CDC

FOR THE APPELLANT:

Mr Scott Stemp	of Counsel Instructed by Plainview Planning Consultants
He called:	
Mr M Hewett	Intelligent Land (round table session)
Mr Michael Gadd	Appellant (round table session)
Mr Dai Lewis BA(Hons) PgDipLA CMLI	Environmental Design Partnership (EDP)
Mr Andrew Crutchley BA(Hons) PGDip(Oxon) MCIfA	Environmental Design Partnership (EDP)
Mr David Chapman BA(Hons) MSc CMILT	Hydrock
Mr John Montgomery FRICS MRTPI	Tanner and Tilley Development Consultants

INTERESTED PERSONS:

Mr Andrew Jackson	Wisborough Green Parish Council
Mr Peter Drummond	Wisborough Green Parish Council
Dr Jill Sutcliffe	Local resident

List of Documents tabled at the Inquiry

- Document 1: Proof of evidence and appendices by Mr Roberts for Chichester District Council (CDC).
- Document 2: Draft Section 106 agreement.
- Document 3: Opening note on behalf of the appellant.
- Document 4: Opening comments on behalf of CDC.
- Document 5: Appeal decision ref. APP/X2410/W/16/3163501.
- Document 6: Appeal decision ref. APP/L3815/W/16/3142675.
- Document 7: Written comments by Dr Jill Sutcliffe.
- Document 8: Extracts from *Manual for Streets 2* (CIHT).
- Document 9: *Planning for Walking* (CIHT).
- Document 10: *Inclusive Mobility* (DfT).
- Document 11: Extracts from Local Transport Note 2/08 *Cycle Infrastructure Design* (DfT).
- Document 12: Mark Hewett (Intelligent Land) – experience statement.
- Document 13: Extract from Cala Group (Holdings) Ltd Annual Report & Accounts 2017.
- Document 14: Visibility calculations submitted by Mr Chapman.
- Document 15: Report by Director of Public Health, Commissioner of Health and Social Care, West Sussex County Council (May 2014).
- Document 16: Additional visibility calculation submitted by Mr Chapman.
- Document 17: Further draft of Section 106 agreement.
- Document 18: Closing comments on behalf of CDC.
- Document 19: Closing note on behalf of the appellant.

Document submitted after the Inquiry

- Document 20: Signed Section 106 Agreement dated 19 February 2018.