



Appeal Decision

Hearing held on 10 December 2024

Site visits made on 9 and 11 December 2024

by Mark Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2025

Appeal Ref: APP/C3810/W/24/3343922

Land West of Bilsham Road, Yapton BN18 0LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by BoKlok Housing Ltd against the decision of Arun District Council.
 - The application Ref is Y/52/23/PL.
 - The development proposed is erection of 170 residential dwellings with access and parking, the provision of open space, play space and ecology areas with associated vehicular and pedestrian access, attenuation ponds and landscaping and associated works.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of 170 residential dwellings with access and parking, the provision of open space, play space and ecology areas with associated vehicular and pedestrian access, attenuation ponds and landscaping and associated works at Land West of Bilsham Road, Yapton BN18 0LA in accordance with the terms of the application, Ref Y/52/23/PL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of the proposal is taken from the planning application form with minor editing to omit aspects that are not acts of development.
3. The revised National Planning Policy Framework (Framework) came into force on 12 December 2024. Accordingly, I gave the appellant and the Council an opportunity to comment on any implications of this to the appeal. The 2023 Housing Delivery Test results were published on the same date. These show a slight improvement in housing delivery in the district compared with the results from 2022. However, the presumption in favour of sustainable development, as set out by paragraph 11(d) of the Framework, remains applicable as a consequence of the results. Moreover, the presumption applies in any case as the Council cannot demonstrate 5 years supply of deliverable housing sites. Hence, I have not sought the views of the main parties about the latest results.
4. The Council's objections to the proposal do not fully reflect the refusal reasons specified on its decision notice. This follows a review of its position after the decision was made and the submission of a Section 106 legal agreement¹ dated 15 October 2024 to support the appeal. The main issue below is based on the outstanding substantive dispute between the appellant and the Council.

¹ Together with a corresponding Deed of Variation dated 17 December 2024

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the site and the surrounding area.

Reasons

6. The site principally comprises part of an agricultural field that is outside but adjacent to the south-western limits of Yapton's Built-Up Area Boundary (BUAB) as defined by the Arun Local Plan (LP). It extends alongside and is accessed from Bilsham Road to the south-east, with seemingly 20th century residential properties leading out of the settlement and then allotments present opposite. A recent, cohesively designed housing estate is accessed from Bittern Avenue to the north-east. A watercourse marks the north-western boundary, beyond which are further fields. There is also a field to the south-west followed by the hamlet of Bilsham. Public rights of way crossing or at the boundaries of the fields are to the south and west. The site is mostly flat and at a higher land level than Bilsham Road. Vegetation is present beside the road and the south-western boundary.
7. The site is perceived as countryside at the edge of a settlement when viewed from surrounding land including Bilsham Road, Bittern Avenue and the public rights of way. Its undeveloped, open and rural characteristics contribute positively to Yapton's setting. Varying ages, sizes and designs of housing are present within and at the edges of Yapton. In contrast, Bilsham is characterised largely by a loose pattern of mostly traditional properties sited within countryside. These are appraised in detail in the Bilsham Area of Character Designation document, which supports Yapton Neighbourhood Development Plan 2 (NP).
8. The proposal would mainly include 2 storey dwellings with pitched and gabled roofs set among gently curving roads and shared drives in a similar way to the new housing to the north-east. Although 3 storey buildings are also proposed, most would be located away from the site's boundaries and appear congruent in the context and against the backdrop of the rest of the development and 3 storey housing elsewhere in Yapton, including in Taylor's Close which is visible from Bilsham Road.
9. The Council and others contend that the proposed housing would be harmful in adopting a contemporary design approach with a sense of uniformity. However, residential development off Cinders Lane² demonstrates that contemporary approaches can be successful near the settlement's edge. While NP policy SA2 identifies there as an allocated former horticultural nursery site, it is nevertheless now an established part of Yapton that is compatible with adjacent countryside. The appeal scheme would be comparatively prominent as Bilsham Road is a key route in and out of Yapton, but there are no compelling reasons why a similarly modern approach would be inappropriate in the site's location.
10. In particular, concerns have been raised that proposed features such as clean lines, low squat roofs and unusually shaped windows would be incongruous with the surrounding built environment. However, the Yapton Contextual Appraisal and Design Guide to the NP acknowledges that there is no dominant architectural character or vernacular style to provide a reference for future development. Indeed, I saw no strongly prevailing aesthetics, roof forms, or fenestration

² Identified as 'The Potteries' in the appellant's Design and Access Statement

arrangements in the vicinity, except where housing forms part of a single scheme, such as to the north-east and at Lambs Cottages leading out of the settlement. The proposal would be no different in having its own cohesive design, identity and sense of uniformity. While the Design and Access Statement acknowledges there is limited scope to amend the form and architectural style of the housing, there would be sufficient variety in their forms, finishes and detailing. Further, these would be in 3 distinct character areas that would provide variation in a broader sense through the changing uses and landscaping of open spaces, for example.

11. Concerns have also been raised about the promotion of modular construction methods for the housing and the quality of the external finishes achievable. However, the construction method is not relevant to how the housing would look and feel in its local context. In addition, following suggestions by attendees at the event, I visited another of the appellant's schemes which is under construction off Fitzalan Road. While it occupies a different setting to the proposal, I nevertheless saw that the construction method has no bearing on the quality of its finish. Hence, an appropriately high quality finish could be achieved for the housing proposed.
12. The scheme would not therefore contrast negatively with nearby development or appear or feel incongruous on entering or leaving Yapton or from the surrounding countryside. It thereby accords with the Arun Design Guide Supplementary Planning Document (SPD), insofar as it adopts a contemporary design that takes cues from well-designed elements of the existing environment while expressing its own complementary character.
13. Furthermore, the Council agrees with the findings of the appellant's Landscape and Visual Impact Assessment. Although negative short to medium term visual impacts of the development are identified, after 15 years its effects would either be neutral or beneficial, except from 3 viewpoints that would be slightly adversely affected. This corroborates with my assessment when I visited. In many cases, level changes or existing and proposed landscaping would screen or filter views of the scheme. Views from Bittern Road, its junction with Bilsham Road and the public rights of way would be most affected, but in these cases the scheme would be viewed alongside existing housing or with the settlement in the background. No long term adverse effects from viewpoints in or near Bilsham have been identified. Open space in the southerly part of the site combined with boundary vegetation would provide an appropriate transition to the countryside and retain a strong sense of separation with the Bilsham Area of Character. The scheme would not be harmful to the hamlet or its surroundings in that context.
14. The Landscape and Visual Impact Assessment also concludes that the landscape impacts would be beneficial in all respects except for localised, slightly adverse effects on the Bilsham Coastal Plain Landscape Character Area. Clearly a considerable proportion of the site would change fundamentally as its undeveloped, open and rural qualities would be replaced by housing, but this does not necessarily equate to harm. On the contrary, only a small part of the Landscape Character Area would be affected, with the development well-contained by buildings and vegetation next to or slightly beyond its boundaries. The characteristics of the wider landscape would be maintained. Overall, the development would be a well-related and logical extension to the built-up area of Yapton that would be compatible with its countryside setting.

15. It is also relevant that the scheme follows the approval of applications³ enabling the construction of 140 dwellings at the site, with 110 dwellings granted in outline and the rest with full permission. No design parameters have been fixed for the outline element and thus a scheme promoting modern construction methods could be delivered with similarities to the one now proposed, subject to the approval of the reserved matters. While the appeal scheme would not have an unacceptable effect on the character and appearance of the site or the surrounding area in its own right, this finding is reinforced by the appellant's fallback position.
16. The proposal would not harm the character and appearance of the site and the surrounding area. In these respects, it complies with LP policies D DM1 and LAN DM1 and NP policy H4. Among other things, these seek that development that reflects or improves upon the character of the site and the surrounding area, is sympathetic to local design, protects landscape character and accords with the Arun Design Guide SPD and the Yapton Contextual Appraisal and Design Guide.

Other Matters

Whether the site is a suitable location for housing, having regard to the development plan's spatial strategy and the loss of agricultural land.

17. The site is within the countryside for the purposes of planning policy. Consequently, the proposal conflicts with LP policies SD SP2 and C SP1 and NP policies BB1 and H1. Taken together, these direct development to within BUABs and support development in the countryside in prescribed circumstances and locations that are not applicable to the scheme.
18. Additionally, the site constitutes Grade 1 and 2 agricultural land and was last used for arable purposes. LP policy SO DM1 and NP policy E1 resist development of such land. The former states that the protection of agricultural land can be outweighed if several criteria are satisfied. A condition to require that the development is carried out in accordance with a Soil Resource Plan would ensure some of the best and most versatile soil would be used productively in the interests of environmental sustainability. This would comply with part (g) of LP policy SO DM1, but evidence demonstrating compliance with its other criteria has not been provided. The proposal thus conflicts with these policies too.
19. The main parties attribute limited weight to the above policy conflicts in the context of the Council's housing and delivery issues and the fallback scheme. Notably, the Council accepts that sites need to be found outside BUABs and its Housing and Economic Land Availability Assessment and Interim Housing Statement from 2021 suggest that the site could be suitable for development, albeit these are not policy. It is also pertinent that the site was omitted from the Yapton BUAB despite the NP being adopted after the hybrid permission was granted, whereas other permissions were included. Cogent reasons for this have not been provided. In any case, I must be mindful that the permission has been granted for development outside the BUAB and, when compared to the proposal, a lesser but nonetheless significant amount of agricultural land would be lost as a result of the fallback scheme.
20. The Framework's approach to housing in rural areas and agricultural land must also be considered. The site is accessibly located near services, facilities and sustainable transport options in Yapton and, through future occupiers spending

³ Council references: Y/3/22/OUT; Y/15/24/NMA

money locally, the housing would be located where it would enhance the vitality of the rural community in accordance with paragraph 83 of the Framework. Furthermore, the proposal recognises the intrinsic character and beauty of the countryside as per paragraph 187 of the Framework insofar as this pertains to character and appearance matters, in line with my findings for the main issue. Conversely, however, the loss of the agricultural land would clearly not accord with that part of the Framework.

21. A rigid application of the spatial strategy would further constrain housing supply and delivery in the district. For this and the other reasons identified, the conflict with the spatial strategy and the associated policies attract limited weight. While the foregoing reasoning is also applicable to the loss of the agricultural land, I attribute moderate weight to the conflict with LP policy SO DM1 and NP policy E1 having regard to their degree of consistency with the Framework's objectives to conserve and enhance the natural environment.

Flood risk, drainage and water supply

22. The land adjacent to the watercourse and to the south-west of the site would be within Flood Zones 2 and 3 but most of it, including the proposed dwellings, would be in Flood Zone 1. The Council's Strategic Flood Risk Assessment also identifies that the site is in an area with a 50 to 75 percent susceptibility of groundwater flooding. However, the appellant's site-specific Flood Risk Assessment (FRA) indicates that there are low risks of flooding from other sources. Interested parties disagree, but technical evidence comparable to the FRA has not been provided to substantiate an alternate conclusion.
23. Sequential and exceptions tests have not been undertaken, and the Council anecdotally indicated at the hearing that areas at lower risk of flooding than the site are likely to exist. However, the main parties contend this should not be a barrier to the development having regard to the approved scheme, and as management and mitigation measures could be secured to reduce the risks of flooding. No objection is raised by the Environment Agency. While the layout of the outline element of the permitted scheme is yet to be finalised and the FRA indicates that groundwater levels are broadly lower to the north of the site, the fluvial and groundwater risks for the approved and appeal schemes would be comparable. Moreover, paragraph 175 of the Framework does not require sequential testing if no built development in a site would be at risk of flooding, which would be the case for the residential buildings in fluvial terms.
24. Nevertheless, the proposal conflicts with LP policy W DM2, NP policy E11 and section 14 of the Framework, which direct development away from areas at highest risk of flooding. However, my above findings lead me to conclude that this issue and the corresponding policy conflicts attract limited weight.
25. The Council believes that an adequate drainage strategy can be delivered through the use of conditions. The Lead Local Flood Authority objects to the scheme, but the Council reported with confidence that this was based on outdated information. In the absence of clear reasons indicating differently, the proposal would be satisfactory in respect of drainage matters. However, this would necessarily be subject to conditions to require the approval of a surface water drainage scheme that addresses outstanding concerns particularly regarding groundwater, secure

appropriate maintenance and management measures and relating to discharge to and any other impacts on watercourses.

26. Similarly, the proposal would be acceptable in terms of foul drainage, sewerage capacity and water supply, with no objections made by Southern Water, subject to a necessary condition to require occupation of the dwellings to be phased to align with any sewerage network reinforcement required and make sure that adequate waste water capacity is available. However, to accommodate for consequences that may arise from the surface water drainage scheme ultimately taken forward, conditions would also need to require details of the foul drainage scheme and its maintenance and management to be approved.

Parking and other highway implications

27. The proposal would provide 2.5 percent fewer parking spaces than required by NP policy PK1. However, this is unlikely to give rise to tangible highway issues, especially given that the site is in an accessible location and a travel plan would encourage use of sustainable transport modes. Consequently, this matter and the policy conflict attracts negligible weight.
28. The appellant's Transport Assessment provides robust analysis of the highway implications of the scheme in other respects and, moreover, technical evidence to counter it has not been submitted. A single vehicular access would be provided with visibility splays appropriately reflecting speed survey work. Swept path analysis shows no issues in respect of vehicle turning. Pedestrian links and crossings would aid safe walking in the vicinity including to bus stops and the centre of Yapton. It was also confirmed at the event that pedestrian links to the housing to the north-east can be achieved. Additionally, trip generation analysis suggests there would only be a modest increase in the amount of traffic generated, especially in the context of the approved scheme.
29. A condition to secure the provision and retention of the access, parking and turning areas, footways and visibility splays, and ensure that the splays would be free from obstructions would be needed for highway safety purposes. Additionally, a pre-commencement condition to require the approval of a Construction and Environmental Management Plan (CEMP) would also be required to address highway impacts during construction. Subject to those conditions, the development would have acceptable highway impacts in the respects identified above.
30. Notwithstanding this, based on the Transport Assessment's analysis, Highway Authority and Highways England correspondence and my observations, improvements to the nearby A27/Yapton Lane and A259/Yapton Road junctions are needed to ensure the safe and efficient operation of the strategic and local highway networks. The main parties are content that these matters could be addressed by a condition preventing occupation of the dwellings until works to the A27/Yapton Lane junction are completed and a financial contribution secured towards the latter in the legal agreement. It was also put forward that this would not jeopardise the scheme's delivery, with the A27/Yapton Lane junction reportedly funded. In the absence of clear evidence to the contrary, the approaches are appropriate. Moreover, the obligation is necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development, in accordance with the tests at paragraph 58 of the Framework.

Housing mix, supply and delivery

31. Policy H DM1 of the LP seeks a mix of dwelling types and sizes to address the nature of local housing needs and market demand whereas NP policy H2 requires a mix falling within prescribed ranges of bedroom numbers. The scheme would fail to provide any 1-bed dwellings and overprovide in other respects when compared to the prescribed ranges. However, the proposed mix is supported by the appellant's Housing Mix Assessment which based on demographics and market trends finds an increasing local need for family sized housing. Comparable evidence indicating otherwise has not been provided. It should also be noted that the proposal would include accessible and adaptable dwellings and wheelchair user dwellings in the terms of Approved Document M of The Building Regulations 2010, in excess of the requirements of NP policy H3, and thereby has the scope to satisfy varying needs. As such, the housing mix would be appropriate and limited weight should be attached to the conflict with NP policy H2.
32. The most recent Authority Monitoring Report dated January 2024 indicates 4.17 years supply of deliverable housing sites can be demonstrated, but the Council explained that a new report will soon be published which will show supply having dropped to somewhere between 3 and 4 years. Increases to the district's housing need as a result of changes to the standard method set out in Planning Practice Guidance⁴ are also likely to further impact on supply. I have also been referred to a recent appeal decision⁵ that discusses lower figures. However, as information enabling detailed scrutiny of the alternate figures has not been provided, I have taken forward 4.17 years supply as a best-case scenario.
33. In terms of delivery, the latest Housing Delivery Test results show that the number of homes delivered has fallen below the amount required, such that its test result is 70 percent. The appellant contends that modular housing could come forward more quickly than conventional housing but interested parties have put forward that there are supply chain issues. The appellant set out a few different options for ensuring delivery in a timely manner, including by using a range of suppliers and varying the specific type of modular construction, which would continue to provide a range of sustainability benefits over conventional housing such as in terms of carbon and construction waste reduction. I do not doubt that adjustments could be made if needed so the scheme would contribute to housing supply and delivery.
34. It is important to note that 30 percent of the scheme is secured for affordable housing in line with LP policy AH SP2. The submissions indicate a significant and rapidly increasing need for affordable housing alongside the acute need for further market housing. Loose clustering of the affordable housing as proposed would facilitate its management satisfactorily. Interested parties contend that the quantity of affordable housing could be reduced in the future due to claims that the scheme is unviable. However, there is no evidence that this would or is more likely to occur than for comparable schemes elsewhere in the district and beyond.
35. It is argued that Yapton has contributed significantly to addressing the housing supply shortfall in the district, which is corroborated by the approach to its housing requirement in the NP. Nevertheless, this does not diminish the need for housing across the district. Having regard to the Council's supply and delivery positions,

⁴ Reference ID: 2a-004-20241212

⁵ Appeal reference: APP/C3810/W/24/3343785

including the extent of the shortfalls, the proposed provision of the market and affordable housing weighs substantially in favour of the scheme.

Infrastructure provision

36. LP policy INF SP2 identifies a need for a new secondary school arising from growth in the district, but it does not designate land for such a purpose and an appropriate site has not yet been found. West Sussex County Council (WSCC) explains that existing schools in the district are unable to expand to accommodate pupils from the LP's strategic allocations and thus new housing schemes. Furthermore, the evidence indicates that demand for secondary school places is or will soon exceed anticipated capacity. As such, WSCC seek a contribution for transporting children from the development to the nearest school with capacity.
37. The appellant does not dispute the necessity of the contribution in principle. Moreover, Planning Practice Guidance⁶ suggests that transport costs are within the scope of education contributions. However, such a contribution is not secured by the approved scheme and, on that basis, the appellant and the Council agree that the contribution should be based on an uplift of 30 dwellings beyond those already permitted. At the time the application was determined this was also the stance of WSCC, but it now seeks a contribution based on the whole scheme. These positions are reflected as Option B and Option A respectively within the legal agreement. There is also misalignment between the parties in respect of the number of years of transport that should be provided.
38. Notwithstanding the disputes, the methodology for calculating the contributions is otherwise considered to be fit for purpose. There was much discussion about whether the terminology used in the legal agreement accurately reflects the calculation inputs. However, the parties to it are ultimately content that it reflects the established approach of WSCC to school transport contributions and I am confident that the relevant headline contribution figure for whichever of the options would be payable if the appeal is allowed.
39. Both options would finance transport for a maximum of 16 years. However, the legal agreement includes provisions and phasing which would ensure that payments are only made until a new school has been provided. This is an appropriate approach which will ensure that payments are only made where necessary. Accordingly, I am satisfied that this would not disincentivise the procurement of a school site, which would clearly be contrary to the interests of the district, the Council and WSCC in any case.
40. WSCC reportedly began requesting contributions towards secondary school transport in general terms prior to the determination of both the approved and proposed schemes. Additionally, there are no documented alterations to its established approach since the application subject to this appeal was refused, and the change in WSCC's stance has not otherwise been justified. Having regard to the evidence presented and the fallback position, a contribution based on the uplift of 30 dwellings is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. The Option A contribution would thus logically exceed what is necessary to grant permission. As such, the Option B contribution would need to be made in the event the appeal is allowed.

⁶ Reference ID: 23b-008-20190315

41. Local infrastructure capacity concerns are raised in various other respects. However, the development would be liable to a Community Infrastructure Levy charge, and there is insufficient evidence demonstrating specific infrastructure provision beyond that already secured by the scheme would satisfy paragraph 58 of the Framework. Additional infrastructure cannot therefore be required.

Other considerations

42. A range of other considerations have been raised. Several grade II listed buildings are located broadly to the south of the site⁷. Each gains special interest and significance in part from their setting within historic Bilsham and the agricultural landscape. Nevertheless, the settings and thus special interest and significance of the listed buildings would be preserved due to their distance from the development, changes in land levels and intervening vegetation. Accordingly, the proposal does not conflict with the expectations of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
43. The separation distances between some of the proposed dwellings would fall slightly short of the guidelines within the Arun Design Guide SPD, but the relationship between buildings for the scheme overall would be satisfactory in terms of privacy, outlook and light receipt. No mitigation measures such as obscured or fixed shut windows would be necessary as a result.
44. Noise concerns have been lodged particularly in respect of cumulative impacts of air source heat pumps proposed for the dwellings. The appellant's Acoustic Planning Assessment does not consider such implications, but there is sufficient scope for a condition to require the dwellings to be constructed so that internal noise levels would be within acceptable limits. The occupiers would benefit from satisfactory living conditions subject to that condition, together with ones relating to land levels and the timing of the installation of boundary treatments, to control the time periods for construction, and the CEMP condition, which could also require mitigation of amenity impacts such as noise experienced by any early occupiers. Additionally, due to the distance between the existing and proposed housing and subject to safeguards in the CEMP, there would be no significant living conditions impacts on occupiers of surrounding land.
45. I am also content with the conclusions of the appellant's Ecological Assessment, which sets out that with mitigation there would be no residual negative ecological impacts. Those measures could be secured by condition. Further conditions pertaining to external lighting and ongoing management through the approval of a Landscape and Ecological Management Plan would also be necessary for ecological purposes. The CEMP could also mitigate ecological impacts. Moreover, the scheme would bring about ecological enhancements and biodiversity net gain provision, and include a significant amount of public open space and facilities for children and young adults. Conditions could ensure that these are provided and managed to meet the needs of the development.

Whether the NP contains policies and allocations to meet its identified housing requirement

46. The proposal conflicts with the NP for the reasons given above. The NP will have been part of the development plan for less than 5 years by the time my decision is

⁷ National Heritage List for England references: 1237749, 1222544, 1274593 and 1274594

made. In these circumstances, paragraph 14 of the Framework indicates that the adverse impact of allowing the development is likely to significantly and demonstrably outweigh the benefits, provided that the NP contains policies and allocations to meet its identified housing requirement.

47. This matter was a consideration for the aforementioned appeal and another following it⁸. These conclude that the NP contains policies and allocations to meet its identified housing requirement, and the appellant acknowledged that arguments beyond those considered for those appeals have not been made. Consequently, I have no reason to come to different conclusions to the Inspectors for those appeals. The presumption in favour of sustainable development must be considered in that context.

Conditions

48. The appellant and the Council have agreed to a schedule of conditions in the event that the appeal is allowed. Pre-commencement condition wording has also been agreed. I have considered if the conditions meet the tests set out at paragraph 57 of the Framework. Editing of some would be necessary for precision and clarity. In particular, several refer to phasing of the development. However, justification for this, other than to account for waste water network capacity as explained above, has not been provided. Hence, phasing for other reasons has not been demonstrated to be necessary. Conversely, I do not doubt that allowances would be needed for certain 'enabling works' to be carried out where there would otherwise be pre-commencement requirements, to facilitate the delivery of the modular housing. The conditions would need to be drafted accordingly.
49. In addition to the conditions referenced throughout this letter, the standard time limit condition and one to require the development to be carried out in accordance with the approved drawings would be needed for certainty. A pre-commencement condition to require archaeological work to be undertaken as set out in the appellant's Written Scheme of Investigation would also be required in the interests of preserving any archaeological features present on site prior to potentially damaging works being carried out.
50. Conditions to require compliance with the appellant's Energy and Sustainability Statement and the optional requirements for water consumption for dwellings in The Building Regulations 2010 would be necessary to achieve the energy, climate change mitigation and water supply requirements of LP policies ECC SP2 and W DM1. Furthermore, the provision of communications infrastructure facilitating connections to the highest available broadband speeds would need to be secured to improve access to goods and services and opportunities to work from home in accordance with LP policy TEL SP1.
51. Additionally, the provision and maintenance of fire-fighting apparatus such as hydrants within the site and address any unexpected contamination would be necessary for public safety. A condition relating to any temporary show homes or sales areas would also be required so the development reverts to its otherwise approved following disposal of the dwellings. The approval of elevational details for the proposed boundary treatments and cycle storage would also be necessary to protect the character and appearance of the area. The cycle storage would be needed prior to occupation to encourage the use of sustainable transport modes.

⁸ Appeal reference: APP/C3810/W/23/3330541

52. The Council has recommended a condition to require a landscaping scheme to be submitted yet it has also agreed that hardworks and softworks masterplans should be included as approved drawings. There are no obvious deficiencies with the details already submitted and so there would be no need to require an amended scheme. However, a condition relating to the timing of planting and seeding, and the replacement of any trees or plants that fail, would be necessary in the interests of the character and appearance of the area and to preserve the settings and significance of listed buildings.
53. A condition relating to the provision of electric vehicle charging facilities would be unnecessary as this is addressed by the requirements of Approved Document S of The Building Regulations 2010. The submission of a dedicated Biodiversity Enhancement Strategy would also be unnecessary as its potential content would be addressed by the detail specified on the drawings and the Ecological Assessment and Landscape and Ecological Management Plan conditions.
54. The Environmental Health Officer has suggested conditions to require the investigation of potential air quality and asbestos impacts, but these have not been put forward by the Council in its capacity as local planning authority. Given this, the site's edge of settlement location and the number of trips generated by the scheme, the air quality condition would not be necessary. The other would be unnecessary as the contaminated land condition would protect against any unexpected asbestos. Similarly, the Highway Authority's recommended travel plan condition would not be needed as this is secured by the legal agreement.

Planning Balance and Conclusion

55. The proposal would not harm the character and appearance of the site and the surrounding area but adverse impacts and conflicts with LP and NP policies have been identified in respect of the spatial strategy and matters relating to the loss of agricultural land, flood risk, parking provision and housing mix. Taken together these considerations attract moderate weight for the reasons given above; however, the proposal resultantly conflicts with the development plan as a whole.
56. Notwithstanding this, the presumption in favour of sustainable development must be considered. Given that the development would be located in an area at risk of flooding, it conflicts with policy referenced at footnote 7 of the Framework that protects areas or assets of particular importance. However, I have explained above factors indicating that this issue attracts limited weight and so the application of the policy does not provide a strong reason for refusal. The scheme does not conflict with any other policies of the Framework referenced at footnote 7.
57. Accordingly, the presumption indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination, which relate to specific paragraphs identified by footnote 9 of the Framework.
58. The weight I attribute to the development's contribution to housing supply and delivery is substantial. Moreover, on applying the Framework's policies, I consider that the scheme would be in an accessible location served by sustainable modes of transport, provide an appropriate mix of affordable homes to meet identified local

needs, and make efficient use of land in providing different types of housing that reflects market conditions in a sympathetic manner appropriate to local character and the setting of the area. Overall, the benefits of the development attracts considerable weight. The adverse impacts do not significantly and demonstrably outweigh the benefits. This is the case despite the conflicts with the NP and the provisions of paragraph 14 of the Framework.

59. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any determination must be taken in accordance with the development plan unless material considerations indicate otherwise. In this case the presumption in favour of sustainable development is a material consideration which outweighs the conflicts with the development plan. A decision should thus be taken otherwise than in accordance with the development plan.

60. I conclude that the appeal should be allowed.

Mark Philpott

INSPECTOR

Appearances

FOR THE APPELLANT:

S Sykes – ECE Planning
A Harper – BoKlok Housing Ltd

FOR THE LOCAL PLANNING AUTHORITY:

S Davis – Planning
K McLaughlin – Flooding and drainage
S McDougall – Councillor, Planning Committee
F Tandy – Councillor, Planning Committee

FOR WEST SUSSEX COUNTY COUNCIL:

D Innes – Education
T Dunn – Education

INTERESTED PARTIES:

A Worne – Ward Councillor, Arun District Council
V Newman – Parish Councillor, Yapton Parish Council
C Inglis – Local resident
A Knight – Local resident
D Lownsborough – Local resident
D Robinson – Local resident
K Roy – Local resident

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan BRY-ECE-XX-XX-DR-A-SL-5010_P03
 - Block Plan BRY-ECE-XX-XX-DR-A-SL-5011_P03
 - Site Layout BRY-ECE-XX-XX-DR-A-SL-0512_P06
 - Hardworks Landscape Masterplan BRY-NTA-XX-XX-DR-L-PL-0501-P06
 - Softworks Landscape Masterplan BRY-NTA-XX-XX-DR-L-PL-0502-P06
 - Landscape GA Softworks Sheet 1 of 2 BRY-NTA-XX-XX-DR-L-PL-0503-P06
 - Landscape GA Softworks Sheet 2 of 2 BRY-NTA-XX-XX-DR-L-PL-0504-P06
 - Topographical Survey BRY-ECE-XX-XX-DR-A-SL-5013_P02
 - Parking Provision and Cycle Stores BRY-ECE-XX-XX-DR-A-SL-0514_P03
 - Refuse Stores and Tracking BRY-ECE-XX-XX-DR-A-SL-5015_P03
 - Tenure-Affordable Plan Allocation BRY-ECE-XX-XX-DR-A-SL-5016_P05
 - Building Heights BRY-ECE-XX-XX-DR-A-SL-5018 P02
 - Building Materials BRY-ECE-XX-XX-DR-A-SL-5019 P02
 - Boundary Treatments Plan BRY-ECE-XX-XX-DR-A-SL-5020_P02
 - Houses 165-170 (3 Bed Terrace) BRY-ECE-T01-ZZ-DR-A-XX-5100 P02
 - Houses 21-22 (4 Bed Semi) BRY-ECE-HC908-ZZ-DR-A-XX-5101 P02
 - Houses 7-10_30-33 Aff (2 Bed Terrace) BRY-ECE-T02-ZZ-DR-A-XX-5102 P02
 - Houses 23-25 (2 Bed Terrace) BRY-ECE-T03-ZZ-DR-A-XX-5103 P02
 - Houses 141-143 (2 Bed Terrace) BRY-ECE-T04-ZZ-DR-A-XX-5104 P02
 - Houses 102-103_144-145_161-162 (4 Bed Semi) BRY-ECE-HC908-ZZ-DR-A-XX-5105 P02
 - Houses 112-13_137-138_153-154_163-164 (4 Bed Semi) BRY-ECE-HC908-ZZ-DR-A-XX-5106 P02
 - Houses 1-2_15-16_104-105_155-156 (2 Bed M4(3)) BRY-ECE-HC602-ZZ-DR-A-XX-5107 P02
 - Houses 128-132_147-152 (3 Bed_Study Detached) BRY-ECE-HC401-ZZ-DR-A-XX-5108 P02
 - Houses 86-87_133_146 (3 Bed_Study Detached) BRY-ECE-HC401-ZZ-DR-A-XX-5109 P02
 - Houses 26-27_75-76_90-93_98-99_116-117_122-125_139-140 (3 Bed Semi) BRY-ECE-HC308-ZZ-DR-A-XX-5110 P02
 - Houses 17-20_42-45_49-52_61-62_88-89_126-127_100-101_114-115_159-160 (3 Bed Semi) BRY-ECE-HC308-ZZ-DR-A-XX-5111 P02
 - Houses 77-79 (3 Bed Terrace) BRY-ECE-T05-ZZ-DR-A-XX-5112 P02
 - Houses 59-60 (3 Bed Semi) BRY-ECE-HC308-ZZ-DR-A-XX-5113 P02
 - Houses 108-109 (3 Bed Semi) BRY-ECE-HC302-ZZ-DR-A-XX-5114 P01
 - Houses 106-107 (3 Bed Semi) BRY-ECE-HC302-ZZ-DR-A-XX-5115 P02
 - Houses 82-85 (3 Bed Semi) BRY-ECE-HC302-ZZ-DR-A-XX-5116 P02
 - Houses 53-54_110-111 (3 Bed Semi) BRY-ECE-HC302-ZZ-DR-A-XX-5117 P02
 - Houses 37-38 (3 Bed Semi) BRY-ECE-HC302-ZZ-DR-A-XX-5118 P02

- Houses 28-29_63-66_96-97_118-119 (2 Bed Semi) BRY-ECE-HC211-ZZ-DR-A-XX-5119 P02
 - Houses 55-58_67-68_94-95_120-121_157-158 (2 Bed Semi) BRY-ECE-HC211-ZZ-DR-A-XX-5120 P02
 - Houses 34-36 (2 Bed Terrace) BRY-ECE-T06-ZZ-DR-A-XX-5121 P02
 - Houses 80-81 Aff (2 Bed Semi) BRY-ECE-HC208-ZZ-DR-A-XX-5122 P02
 - Houses 39-41 Aff (2 Bed Terrace) BRY-ECE-T07-ZZ-DR-A-XX-5123 P02
 - Houses 72-74 Aff (2 Bed Terrace) BRY-ECE-T08-ZZ-DR-A-XX-5124 P02
 - Houses 134-136 Aff (2 Bed Terrace) BRY-ECE-T09-ZZ-DR-A-XX-5125 P02
 - Houses 69-71 Aff (2 Bed Terrace) BRY-ECE-T10-ZZ-DR-A-XX-5126 P02
 - Houses 3-6_11-14 Aff (2 Bed/3 Bed Terrace) BRY-ECE-T11-ZZ-DR-A-XX-5127 P02
- 3) Development shall not take place until archaeological work has been carried out in accordance with the Written Scheme of Investigation by Development Archaeology Services Ltd.
- 4) Development shall not take place until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The approved CEMP shall be adhered to throughout the construction period.
- 5) Development shall not take place, other than for enabling works, until details of proposed land levels across the site and finished floor levels for the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) Development shall not take place, other than for enabling works, until a Soil Resource Plan (SRP) has been submitted to and approved in writing by the local planning authority. The SRP shall set out how the best and most versatile soils on the site are to be protected during construction and then recycled or reused. The development shall be carried out in accordance with the approved SRP.
- 7) Development shall not take place, other than for enabling works, until details of a foul drainage scheme and a phasing plan have been submitted to and approved in writing by the local planning authority. The phasing plan shall align the occupation of the dwellings hereby permitted with capacity in the waste water network to adequately drain the development. The development shall be carried out in accordance with the approved details and the dwellings shall be occupied in accordance with the phasing plan.
- 8) Development shall not take place, other than for enabling works, until details of a surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The details shall include results of winter groundwater monitoring and percolation testing to support the design of any infiltration drainage. The scheme shall be implemented, and a completion report prepared by an independent engineer confirming that it has been built in accordance with the approved details and is fit for purpose shall be submitted to the local planning authority, prior to the occupation of the dwellings hereby permitted.

- 9) Development shall not take place, other than for enabling works, until details of any discharge flows to watercourses; or for the culverting, diversion, infilling or obstruction of any watercourse on or adjacent to the site, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 10) Development shall not take place, other than for enabling works, until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The LEMP shall be implemented in accordance with the approved details.
- 11) Development shall not take place, other than for enabling works, until a scheme of communications infrastructure enabling access to the highest available broadband speeds to each dwelling hereby permitted has been submitted to and approved in writing by the local planning authority. The communications infrastructure shall be provided prior to the occupation of the dwellings in accordance with the approved details.
- 12) Development shall not take place, other than for enabling works, until details of a scheme for protecting occupiers of the dwellings hereby permitted from noise have been submitted to and approved in writing by the local planning authority. The scheme shall be provided prior to the occupation of the dwellings in accordance with the approved details.
- 13) Prior to the occupation of the dwellings hereby permitted, a scheme for the provision and maintenance of fire-fighting apparatus within the site shall be submitted to and approved in writing by the local planning authority. The fire-fighting apparatus shall be installed prior to the occupation of the dwellings and maintained thereafter in accordance with the approved details.
- 14) Prior to the occupation of the dwellings hereby permitted, elevation details of the proposed walls, fences and gates identified on drawing reference BRY-ECE-XX-XX-DR-A-SL-5020_P02 shall be submitted to and approved in writing by the local planning authority. The walls, fences and gates shall be constructed prior to the occupation of the dwellings in accordance with the approved details.
- 15) Prior to the occupation of the dwellings hereby permitted, elevation details of the cycle storage identified on drawing reference BRY-ECE-XX-XX-DR-A-SL-5014_P03 shall be submitted to and approved in writing by the local planning authority. The cycle storage shall be provided prior to the occupation of the dwellings in accordance with the approved details.
- 16) Prior to the occupation of the dwellings hereby permitted, details of any external lighting shall be submitted to and approved in writing by the local planning authority. The lighting shall be installed in accordance with the approved details.
- 17) Prior to the occupation of the dwellings hereby permitted, the vehicular access parking and turning areas, footways and visibility splays serving the development shall be constructed in accordance with the approved plans and retained for their intended uses thereafter. The visibility splays shall be kept free of all obstructions over a height of 0.6 metres above the adjoining carriageway level.

- 18) Prior to the occupation of the dwellings hereby permitted, details of the public open space and play provision within the site and associated management arrangements shall be submitted to and approved in writing by the local planning authority. The public open space and play provision shall be implemented prior to the occupation of the 85th dwelling hereby permitted and maintained and managed in accordance with the approved details.
- 19) Prior to the occupation of the dwellings hereby permitted, details of the maintenance and management of the approved surface water drainage and foul drainage schemes shall be submitted to and approved in writing by the local planning authority. The schemes shall be maintained and managed in accordance with the approved details.
- 20) No dwellings hereby permitted shall be occupied until the improvements to the A27/Yapton Lane junction shown on drawing reference ITB11324-GA-014 Rev C dated 30 August 2017 have been completed and are open to the traveling public.
- 21) No individual dwelling hereby permitted shall be occupied until the optional requirement set out by Regulation 36(2)(b) of The Building Regulations 2010 to limit wholesome water consumption to 110 litres per person per day has been complied with for that dwelling.
- 22) The development hereby permitted shall be carried out in accordance with the ecological mitigation and enhancement measures specified at paragraph 6.2 of the Ecological Assessment, reference DFA23031V2.
- 23) The development hereby permitted shall be carried out in accordance with the energy efficiency and renewable energy measures specified within the Energy and Sustainability Statement, reference YPT-HYD-XX-ZZ-RP-ME-0001.
- 24) Prior to any show home(s) and/or sales area(s) being created details of such including a timetable for their subsequent removal from the site shall be submitted to and approved in writing by the local planning authority. The show home(s) and/or sales area(s) shall be created and then removed from the site in accordance with the approved details.
- 25) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings hereby permitted or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 26) If during development, any visible contaminated or odorous material (for example, asbestos containing material, stained soil, petrol /diesel/solvent odour, underground tanks or associated pipework) not previously identified is found to be present at the site, no further development shall be carried out until it has been investigated. The local planning authority shall be informed immediately of the nature and degree of any contamination present and a method statement detailing how it will be dealt

with shall be submitted to and approved in writing by the local planning authority before being implemented. If no contamination is identified, a statement to this effect must be submitted to and approved in writing by the local planning authority.

- 27) No demolition/construction activities shall take place other than from 08:00 hours until 18:00 hours Monday to Friday and from 08:00 hours until 13:00 hours on Saturdays with no noisy work (defined as not involving any machinery/plant) on Sundays or Bank/Public Holidays.
- 28) For the purposes of conditions 5 to 12, 'enabling works' shall be limited to the following: site investigations and surveys; ecological preparatory works; the provision of security fencing, hoarding and sales signage; the clearance of the site; the provision of any temporary site point of access for construction traffic; provision of temporary welfare and accommodation facilities; and provision of facilities for temporary utility supplies (e.g. electricity, water and data) during the construction period.