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Local Government

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Our Refs: APP/D3830/A/13/2198213  
and 2198214

Your Ref: 02/507

1 May 2014

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 78  
APPEALS BY HALLAM LAND MANAGEMENT LTD AND THE HYDE ESTATE  
LAND AT HANDCROSS, WEST SUSSEX  
(APPLICATION REFS: 12/04033/OUT and 12/04032/OUT)**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, John Chase MCD Dip Arch RIBA MRTPI who held a public local inquiry on 24-27 September 2013 into your clients' appeals under Section 78 of the Town and Country Planning Act 1990 against the refusal of Mid Sussex District Council ("the Council") to grant outline planning permission for

Appeal A

Up to 90 dwellings (including 30% affordable); a 60 bed care home and new community hall with caretaker's flat and associated parking; removal of the existing parish hall and caretaker's cottage and relocation of the existing bowling green; provision of areas of public open space and a new vehicle access onto the B2114, creation of pedestrian/cycle links and new planting. (Application reference 12/04033/OUT dated 21 November 2012.)

Appeal B

Up to 75 dwellings (including 30% affordable); a 60 bed care home with associated parking; use of the existing access onto the B2114; provision of areas of public open space; creation of pedestrian/cycle links and new planting. (Application reference 12/04032/OUT dated 21 November 2012.)

2. On 31 July 2012, the appeals were recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the

Town and Country Planning Act 1990 because they involve proposals which raise important or novel issues of development control and/or legal difficulties.

### **Inspector's recommendation and summary of the decision**

3. The Inspector recommended that both appeals be allowed and outline planning permission granted. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendations. He has decided to allow the appeals and grant planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

### **Procedural matters**

4. The Secretary of State has had regard to the Inspector's remarks (IR6) about the planning agreement of 1938 (document ID27). The Secretary of State has considered whether the agreement means that the developments could not proceed if planning permission was granted and whether the agreement has any implications for the planning obligations (documents ID19, 20, 21 and 22). However, he observes that, even if the agreement remains in force, it includes provisions for review and arbitration and other mechanisms may also be available for releasing the land from this agreement. In such circumstances he is satisfied that the agreement does not constitute a reason to dismiss the appeals.
5. Having considered the Inspector's comments at IR7, the Secretary of State agrees with him that the matters raised are matters of private ownership rights which do not carry significant weight in these decisions.

### **Matters arising after the close of the inquiry**

6. Following the close of the inquiry, the Secretary of State received representations from you dated 17 December 2013 and 31 January 2014. These representations included a letter dated 2 December 2013 from Inspector David Hogger to Mid Sussex District Council about the Mid Sussex District Plan and a report dated 17 January 2014 by the Independent Examiner of the Slaugham Parish Neighbourhood Plan.
7. On 6 March 2014, Government published new Planning Practice Guidance (the Guidance) and withdrew previous planning practice guidance documents and, on 14 March 2014, the Secretary of State wrote to you inviting comments from you and other parties on this matter and also on your representations dated 17 December 2013 and 31 January 2014. On 1 April, the Secretary of State circulated the representations he had received (a representation from you dated 28 March and a representation from the Slaugham Parish Council dated 24 March) and invited any further comments from the parties on those representations. No further comments were received. In reaching his decision on these appeals, the Secretary of State has taken account of the material considerations raised in those letters.
8. In addition to the representations referred to in the preceding paragraph, the Secretary of State received a letter from Irwin Mitchell LLP dated 14 November 2013. The Secretary of State has carefully considered this representation, but as it did not raise new matters that would affect his decision, he has not considered it necessary to

circulate it to all parties. A copy of this letter will be provided on written application to either of the addresses at the bottom of the first page to this letter.

### **Policy considerations**

9. In deciding the appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
10. In this case, the development plan comprises the saved policies of the Mid Sussex Local Plan, adopted in 2004 (LP). The Secretary of State considers that the development plan policies most relevant to the proposals are those summarised by the Inspector at IR12.
11. Other material considerations which the Secretary of State has taken into account include: the National Planning Policy Framework (the Framework) published in March 2012; the Guidance referred to at paragraph 6 above; and the Community Infrastructure Levy (CIL) Regulations 2010 as amended. He has also taken account of Development and Infrastructure Supplementary Planning Document for Mid Sussex.
12. Like the Inspector (IR13 – 15), the Secretary of State has had regard to the emerging Mid Sussex District Plan and to the submission version of the Slaugham Neighbourhood Plan 2013-2031. The Secretary of State has taken account of the Inspector's comments about the objections raised against the emerging District Plan (IR13 and IR19) and the fact that, as set out in your letter of 17 December 2013, the Council has been advised to withdraw the Plan as it had failed to meet the Duty to Cooperate. In these circumstances, the Secretary of State does not consider that the emerging District Plan carries significant weight in this case. He has considered the weight to be attributed to the emerging Neighbourhood Plan below.

### **Main issues**

13. The Secretary of State has taken account of the Inspector's comments at IR19 including that the Council accepts that it is not possible to demonstrate a five year supply of deliverable housing land as required in paragraph 47 of the Framework and that the Council did not raise any significant objection to the appellants' estimates that the supply lies in the range of 1.66 to 2.02 years. He has also had regard to the fact that the parties agreed that a buffer of 20% should be applied to the housing target (IR19). The Secretary of State has considered the Inspector's comments at IR69 and he agrees with the parties that the Local Plan's policies concerning the supply of housing are out of date and that the structure for consideration of these appeals is determined by the process set out in paragraphs 14 and 49 of the Framework (IR69). The Secretary of State agrees with the Inspector that the main issues in this case are those identified by the Inspector at IR70.

### Whether the proposals are a sustainable form of development capable of meeting the housing need in the District

14. The Secretary of State has given very careful consideration to the Inspector's analysis at IR71 – 73. For the reasons given by the Inspector, the Secretary of State agrees

with his conclusion (IR74) that, subject to the potential environmental impact on the AONB, and within the limitations imposed by a rural setting, the site meets the objectives of paragraph 7 of the Framework by providing economic and social benefits, and occupying a position easily accessible to the range of local shops and services available within the village and that in these respects it is a sustainable form of development capable of meeting the housing need of the District.

The weight to be accorded to the emerging Neighbourhood Plan, and whether the proposals would prejudice the outcome of the plan making process

15. The Secretary of State has taken account of the Inspector's comments at IR75 -77. The Inspector states that the submission version of the Neighbourhood Plan has been prepared and is subject to consideration by an Examiner (IR76). The Inspector goes on to say that a number of factors create some uncertainty about the final outcome which restricts the weight that may be applied to the emerging plan but that, as it has progressed further than was the case at the time of the Pease Pottage appeal and has received a period of publicity carried out by the District Council, it is on balance entitled to some weight (IR76). The Secretary of State observes that, as explained in your letter of 31 January 2014, the Examiner's Report into the Neighbourhood Plan was issued in January 2014. The Examiner concluded that the Neighbourhood Plan does not meet the basic conditions and recommended to the Council that it should not proceed to a referendum. Having had regard to paragraph 41-006-20140306 of the Guidance and to the letter dated 24 March 2014 from Slaugham Parish Council and your own letter of 28 March 2014, the Secretary of State considers that the emerging Neighbourhood Plan is a material consideration in this case. However, also bearing in mind the Inspector's concerns about support for the Neighbourhood Plan (IR76) and the Examiner's recommendation that further work be undertaken before it proceeds to referendum, he does not consider that the document carries great weight in his determination of this appeal. Like the Inspector (IR77), the Secretary of State has gone on to consider whether allowing these appeals would prejudice the delivery of the emerging Neighbourhood Plan.
16. For the reason given by the Inspector at IR78 the Secretary of State shares his view that the appeals proposals would be contrary to policies in the emerging Neighbourhood Plan. Whilst the Secretary of State notes the Inspector's remarks about the relevance of paragraph 49 of the Framework (IR79), he sees no reason to reach conclusions on this matter in respect of these appeals given his comments at paragraph 15 above on the status of the emerging Neighbourhood Plan and the views he sets out at paragraph 17 below.
17. Having given careful consideration to the Inspector's analysis at IR80, the Secretary of State agrees with him that overall there is not a substantial case that the housing proposed by the appeals would be unduly harmful to the infrastructure or character of the village, nor reason to consider that it could not take place alongside the housing proposals contained in the Neighbourhood Plan (IR81).
18. For the reasons given by the Inspector at IR83, the Secretary of State shares his view about the weight to be accorded to Neighbourhood Plan Policy 10. The Secretary of State observes that, in any event, the Examiner has now concluded that this policy does not accord with the Framework and has recommended that it be deleted in its entirety. The Secretary of State has given very careful consideration to the Parish

Council's continuing opposition to the appeals scheme (as set out in its letter of 24 March 2014). However, for the reasons given by the Inspector (IR84 – 85) he sees no reason to disagree with the Inspector's conclusion that the possible effect on morale and confidence does not form part of the main criteria for assessing an emerging plan and is not entitled to significant weight (IR85).

19. Turning to the Inspector's conclusions on this issue (IR86), the Secretary of State observes that *The Planning System: General Principles* has been withdrawn with the publication of the Guidance, and the Guidance published on 6 March differs from the draft Guidance to which the Inspector refers in this paragraph. However, the Secretary of State shares the Inspector's view that the emerging Neighbourhood Plan tackles a much broader range of issues than those affected by these appeals and that there are not substantial grounds to show that the appeals schemes would be fundamentally incompatible with it (IR86). Having taken account of your letter of 28 March, in respect of arguments on prematurity and section 21b-012-20140306 of the Guidance, the Secretary of State does not consider that there is substantial evidence to show that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits in this case. In conclusion on this matter, the Secretary of State sees no reason to disagree with the Inspector's opinion (IR86) that there are adequate grounds to consider that the appeals proposals would not unduly prejudice the outcome of the plan making process.

#### The effect on the character and appearance of the locality and in particular the landscape quality of the Area of Outstanding Natural Beauty (AONB)

20. The Secretary of State has given careful consideration to the Inspector's remarks at IR87 – 88 and he agrees with the Inspector that, on balance, there is adequate reason to consider that these schemes should be regarded as major developments to which paragraph 116 of the Framework should apply in this case (IR87).

21. Having had regard to the Inspector's reasoning at IR89 – 93, the Secretary of State agrees with his conclusion (IR94) that, alongside the relatively limited effect of the appeals proposals on the prevailing character of the AONB, there are adequate grounds to consider that the exceptional circumstances referred to paragraph 116 of the Framework and LP policy C4 arise in this case, and that there is not a substantial environmental reason to refuse the schemes. In common with the Inspector he agrees that they would not have an unduly harmful effect on the character and appearance of the locality and in particular the landscape quality of the AONB (IR94).

#### Planning Obligations and Conditions

22. The Secretary of State agrees with the Inspector that there is sufficient evidence to conclude that the obligations identified by him at IR95 would meet the tests in Regulation 122 of the CIL Regulations. He also agrees with the Inspector that there would be a need for a new community hall to replace the existing structure if the present parish hall site was redeveloped in accordance with Appeal A (IR95). For the reasons given by Inspector, the Secretary of State agrees that the matters set out in IR96 do not meet the tests in Regulation 122 and he gives them no weight.

23. The Secretary of State has considered the proposed conditions at Annex 3 of the IR, the Inspector's comments at IR58 – 63 and IR97, national policy as set out at in the

Framework and the Guidance. He is satisfied that the conditions are necessary, reasonable and otherwise comply with the tests set out in the Framework.

### Overall Conclusions

24. Having considered the Inspector's overall conclusions at IR100-101, the Secretary of State sees no reason to disagree with his reasoning. He is satisfied that, in terms of paragraph 14 of the Framework, the appeal proposals are sustainable forms of development entitled to the presumption in favour of development. He considers that any potential harm to the emerging Neighbourhood Plan would not be of such weight as to significantly and demonstrably outweigh the benefits arising out of the supply of market and affordable housing. Furthermore, as set out at paragraph 15 above, he has had regard to the fact the Plan has been found not to meet the basic conditions and he considers it likely that further work will be required before it proceeds to referendum. This reduces the weight to be applied to policies in the current version of the Neighbourhood Plan. While the Framework specifically restricts development within Areas of Outstanding Natural Beauty, the Secretary of State considers that there are adequate grounds to consider that the impact in this case would be sufficiently limited to enable exceptional circumstances to apply. In these respects, he considers that the developments would meet the criteria to justify granting planning permission. The Secretary of State is satisfied that, subject to the consideration of detailed designs which respect the quality of the existing landscaping and minimise the impact on surrounding areas, there is no reason why the land should not provide satisfactory forms of residential development which are compatible with the social, economic and environmental character of the existing village, and which would contribute to the shortfall of housing land in the District.
25. Like the Inspector (IR102), he considers that there are no substantial grounds to suggest that one scheme should be allowed and the other dismissed.

### **Formal Decision**

26. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendations and hereby allows your clients' appeals and grants outline planning permission for

#### Appeal A

up to 90 dwellings (including 30% affordable); a 60 bed care home and new community hall with caretaker's flat and associated parking; removal of the existing parish hall and caretaker's cottage and relocation of the existing bowling green; provision of areas of public open space and a new vehicle access onto the B2114, creation of pedestrian/cycle links and new planting.

#### Appeal B

up to 75 dwellings (including 30% affordable); a 60 bed care home with associated parking; use of the existing access onto the B2114; provision of areas of public open space; creation of pedestrian/cycle links and new planting.

at land at Handcross, West Sussex in accordance with application references 12/04033/OUT (Appeal A) and 12/04032/OUT both dated 21 November 2012.

27. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

28. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

**Right to challenge the decision**

29. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

30. A copy of this letter has been sent to Mid Sussex District Council and to Slaugham Parish Council. A notification letter or e-mail has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

**Christine Symes**  
**Authorised by Secretary of State to sign in that behalf**

## CONDITIONS

### APPEALS A AND B

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") for each phase of development shall be submitted to and approved in writing by the local planning authority before commencement of that phase and the development shall be carried out as approved. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 2) No part of the development hereby permitted shall be commenced until a phasing strategy has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved phasing strategy.
- 3) Notwithstanding the details shown on the approved drawings, no development shall commence until details of arrangements for vehicle access from the public highway to serve the development have been submitted to and approved in writing by the local planning authority. No building hereby approved shall be occupied until the access serving it has been carried out in accordance with the approved details.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors
  - ii) the means of access and proposed road routing for all construction traffic associated with the development
  - iii) loading and unloading of plant and materials
  - iv) storage of plant and materials used in constructing the development
  - v) the erection and maintenance of security enclosures
  - vi) measures to control the emission of dust and dirt during construction including wheel washing facilities
  - vii) measures to control the emission of noise and vibration during construction, including any piling
  - viii) external lighting to be used during the course of construction
  - ix) the hours of construction, including deliveries
  - x) compliance with the Code of Considerate Practice set out under the Considerate Constructors Scheme
- 5) No phase of development shall take place until details of existing and proposed ground and building levels for that phase have been submitted to and approved in writing by the local planning authority, and development shall be carried out in accordance with the approved details.



- 6) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
- 7) No building hereby approved shall be occupied until a scheme for the management of all areas outside the private curtilage of individual properties has been submitted to and approved in writing by the local planning authority. The scheme shall include details of maintenance arrangements, and the setting up of any management company. The areas shall thereafter be managed in accordance with the approved scheme.
- 8) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, and the results of the assessment provided to the local planning authority. The submitted details shall: provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 9) No external lighting of any areas outside the private curtilage of individual properties shall be installed except in accordance with details that have first been approved in writing by the local planning authority.
- 10) No development shall take place until a scheme showing the means of complying with the summary recommendations of the FPCR Ecological Assessment dated November 2012 have been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details.
- 11) No development shall take place until details for the protection of residents within buildings from noise intrusion from the A23 road 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.



The Planning  
Inspectorate

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# Report to the Secretary of State for Communities and Local Government

by J C Chase MCD Dip Arch RIBA MRTPI

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

Date: 26 November 2013

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**TOWN AND COUNTRY PLANNING ACT 1990**

**MID SUSSEX DISTRICT COUNCIL**

**APPEALS BY**

**HALLAM LAND MANAGEMENT LTD AND THE HYDE ESTATE**

Inquiry held on 24 – 27 September 2013

Land at Handcross, West Sussex

File Refs: APP/D3830/A/13/2198213 AND APP/D3830/A/13/2198214

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### **Appeal A File Ref: APP/D3830/A/13/2198213**

#### **Land at Handcross, West Sussex**

- 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 Hallam Land Management Ltd and the Hyde Estate against the decision of Mid-Sussex District Council.
- The application Ref 12/04033/OUT, dated 21 November 2012, was refused by notice dated 30 April 2013.
- The development proposed is an outline planning application for up to 90 dwellings (including 30% affordable); a 60 bed care home and new community hall with caretaker's flat and associated parking; removal of the existing parish hall and caretaker's cottage and relocation of the existing bowling green; provision of areas of public open space and a new vehicle access onto the B2114, creation of pedestrian/cycle links and new planting.

**Summary of Recommendation: That the Appeal be allowed subject to the conditions set out in the annex to this report**

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### **Appeal B File Ref: APP/D3830/A/13/2198214**

#### **Land at Handcross, West Sussex**

- 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 Hallam Land Management Ltd and the Hyde Estate against the decision of Mid-Sussex District Council.
- The application Ref 12/04032/OUT, dated 21 November 2012, was refused by notice dated 30 April 2013.
- The development proposed is an outline planning application for up to 75 dwellings (including 30% affordable); a 60 bed care home with associated parking; use of the existing access onto the B2114; provision of areas of public open space; creation of pedestrian/cycle links and new planting.

**Summary of Recommendation: That the Appeal be allowed subject to the conditions set out in the annex to this report**

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### **Procedural Matters**

1. The Inquiry took place over four days from 24th to 27th of September 2013, with an accompanied site visit on 30th September.
2. Both applications were submitted in outline, with all matters reserved except access. Each application was accompanied by illustrative layouts and elevations (*Docs PL1-PL9*), along with a design and access statement and a range of technical reports (*Docs AS1-AS25*). Appendix 6 of the appellants' landscape proof (*Doc AD4*) includes alternative illustrative layouts.
3. The Council refused both appeals on the grounds that i) the site lies in a countryside area of restraint which should be protected for its own sake from development which does not need a rural location, ii) the proposals would fail to conserve and enhance the High Weald Area of Outstanding Natural Beauty, there being alternative sites with the potential to cause less harm, and iii) there is no provision for meeting the infrastructure requirements arising out of the development, nor for securing a proportion of affordable housing (*Doc AD2 Appendices 19 and 20*).
4. To address the third reason for refusal, planning agreements concerning affordable housing and infrastructure contributions have been made under

Section 106 of the Town and Country Planning Act 1990. In addition, Unilateral Undertakings have been submitted in respect of both appeals to provide for the replacement or repair of a village hall, and to transfer property to the County Council. The documents were in draft form at the end of the Inquiry, and it was agreed that further time would be allowed for the production of completed versions, which are now included as *Docs ID19-ID22*.

5. Screening opinions of the need for an Environmental Impact Statement are contained in *Doc SD2*. It is concluded that no statement is necessary, having regard to the scale and localised effect of the development.
6. After the close of the Inquiry, the Council produced a planning agreement of 1938, made under the Town and Country Planning Act 1932, restricting the use of land around Handcross, including the main part of the appeals site. It is the Council's opinion that the agreement remains in force. In view of the late emergence of this document, the response of the appellants has not been obtained. However, whether or not the Council are correct in their opinion about the enforceability of this agreement, it does not bear on the main considerations in these appeals, and any action arising out of it would be separate from the present planning process. For this reason, the existence of the agreement has not been taken into account in this report. (*Doc ID27*)
7. Representatives of the Parish Council have indicated that the replacement community hall proposals in Appeal A would require their consent as land owners, which would not be forthcoming, whilst the appellants claim legal impediments to the alternative proposals in the Neighbourhood Plan (disputed by the Parish Council). It may well be that these issues would be resolved in due course, having regard to the status of the Hyde Estate as long standing land owners in the village, and the role of the Parish Council as representatives of the community's interests. Either way, they are matters of private ownership rights which fall outside the remit of these appeals, and they are not given significant weight in this report. (*Docs AD5 para 5.45 and AD1 para 3.18*)
8. The appeals were recovered for determination by the Secretary of State on 31 July 2013 because they involve proposals which raise important or novel issues of development control.

## **Background**

### ***The Site and Surroundings***

9. There is an agreed site description in the Statement of Common Ground (*Doc AD8 paras 2.1-2.8*). Plans *PL2* and *PL7* illustrate the extent of the application site in Appeal A and Appeal B respectively. The 'main part' of the site is common to both appeals and comprises about 5ha of undeveloped grassland and wooded areas to the north of the village of Handcross. It forms part of the Hyde estate, and is separated from the rest of this estate by the realignment of the A23 trunk road, which is set in a cutting along the western boundary. The previous route of the A23 is now incorporated into the site as a grassed strip, running alongside a recreation ground which separates the site from the village centre. The outer boundaries of the land are defined by tree and hedge lines, including a heavily planted bund alongside the A23, and trees on either side of the previous road alignment. The site is crossed by the vegetation of an earlier field boundary, and by a wooded area around a former water course (or 'ghyll').

10. Appeal A includes two further parcels of land: the northern portion of the recreation ground adjoining the main part of the site, and 0.4ha of land within the village to the south, which is presently occupied by a parish hall, bowling green, and caretaker's cottage. This latter is set behind the main line of development in the village street, from which it has access via a driveway. Photographs of both sites are available in Appendix 2 of the appellants' landscape proof (*Doc AD4*).
11. The High Weald AONB 'washes over' the settlement, which is set within the characteristic Wealden landscape of a patchwork of small fields and ancient woodland. The village has grown up alongside the London-Brighton road and, whilst now by-passed, it remains as a local centre, with a retail frontage along the High Street, and a range of local facilities and services which are itemised in Table 2.1 in the Statement of Common Ground (*Doc AD8*). The more intensively developed part of the village ends at the southern edge of the recreation ground. The area to the north, including the main part of the appeals site and the recreation ground, falls outside the Local Plan settlement boundary, in a predominantly open area, but with sporadic development, especially alongside the B2114 London Road, which is the extension of the village High Street. Land uses within this area include two schools, a doctors' surgery, a café and petrol station associated with the A23 road, and small groups of houses, including a row of estate cottages on Hoadlands private road immediately north of the appeals site. Appendix 1 of the appellants' landscape proof (*Doc AD4*) contains a range of maps of the locality, including those defining land uses and the settlement boundary, whilst appendices 3 and 4 of the same proof, and appendices C and E of the Council's landscape proof (*Doc AD7*) contain context photographs.

## ***Planning Policy***

### *Local Plan*

12. The development plan comprises saved policies from the Mid Sussex Local Plan, adopted 2004 (*Doc CD2*). Policy C1 designates all parts of the District outside the settlement boundaries as a Countryside Area of Development Restraint where the countryside will be protected for its own sake. Proposals that would extend the built-up areas will be firmly resisted. Policy C4 gives priority to the aim to preserve and enhance the natural beauty of the AONB, restricting development to uses which must be located within the countryside, or are essential for local social or economic needs, or which are in the national interest and no suitable sites are available elsewhere. Policy H4 seeks 30% affordable housing in larger scale developments, and Policy G3 includes provision for the collection of contributions towards infrastructure made necessary by new development. The Handcross village centre is designated a Conservation Area, the northern boundary of which abuts the parish hall portion of the site in Appeal A. The Development and Infrastructure Supplementary Planning Document (SPD) sets out the justification for planning obligations and formulae to calculate the levels of contribution (*Doc CD3*).
13. The emerging Mid Sussex District Plan has been submitted for Examination. Policy DP5 sets a housing requirement of 10,600 homes between 2011 and 2031, of which 2,000 are allocated outside the main settlements, which are expected to come forward through the Neighbourhood Planning process. There

are a number of objections to the proposed housing policy, including from neighbouring planning authorities (*Docs ID23 and AD2, Appendix 22*)<sup>1</sup>.

#### *Neighbourhood Plan*

14. Slaugham Parish Council published the submission version of its Neighbourhood Plan 2013-2031 in May 2013. Scrutiny by an independent Examiner commenced on 21 August 2013, and it is likely that a public session will take place during November. Amongst its provisions, Policy 3 allocates land for the development of up to 130 homes, which should take place either within the settlement boundary where there is sufficient control over the land to provide 50% affordable housing and to deliver custom built homes, or on previously developed land within the built up area. Policy 4 identifies the sites to meet this requirement, the Handcross portion of which is 76 dwellings on land south of the village at St Martin Close/Coos Lane, and 24 houses on the parish hall site off the High Street. Policy 5 of the Neighbourhood Plan refers to windfall sites of six or fewer dwellings on previously developed land within the built up area, and Policy 7 amends the settlement boundary in Handcross to incorporate the St Martin Close/Coos Lane land referred to in Policy 4. (*Doc CD4*)
15. Policy 10 allocates the main part of the appeals site, along with the adjoining recreation ground, as Local Green Space which should be protected from development, being of particular significance to the community by virtue of its landscape beauty and tranquillity, historic significance as part of the Hyde Estate, and recreational value for casual walking and sports events. Policy 15 envisages the replacement of the parish hall and bowling green with a new community centre on land adjoining the recreation ground. Both the community centre and the St Martin Lane/Coos Lane housing proposal are subject to Community Right to Build Orders which will be considered by the Examiner alongside the Neighbourhood Plan. (*Docs CD4, CD5 and CD6*)

#### *National Policy*

16. Reference has been made to a range of National Planning Policy Framework (NPPF) policies, including: Section 6 'Delivering a wide choice of high quality homes' and its impact on decision taking in para 14; Section 11 'Conserving and enhancing the natural environment' and in particular the provisions for conserving the landscape quality of the Area of Outstanding Natural Beauty (AONB) in paras 115 and 116; issues surrounding the designation of local green space in paras 76 and 77; the role of neighbourhood plans in paras 183-185; and the weight to be given to emerging plans in para 216. In addition, the issue of prematurity was discussed during the Inquiry in relation to the advice in paras 17-19 of The Planning System: General Principles, and to relevant paragraphs in the draft National Planning Practice Guidance (NPPG). (*Docs CD8 and CD9*)

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<sup>1</sup> At the Inquiry the Council tabled the report of a meeting of 10 September 2013 with adjoining authorities containing a joint statement which, amongst other matters, acknowledged that Mid Sussex would be unlikely to have the potential to make a strategic contribution to the cumulative shortage of housing in the sub region and agreed to further cooperation (*Doc ID6*).

## ***The Proposals***

17. Both appeals concern the residential development of the main part of the site, served by a new access off the Hoadlands private estate road at the northern end. The illustrative plans indicate a road system throughout the site, serving a range of detached, semi-detached and terraced houses, and a care home on the western boundary, adjacent to the A23 cutting. A tree preservation order applies to part of the site and it is intended that the layout should preserve the more significant trees, including the area around the ghyll. (***Plans PL2 and PL7 and Doc SD1***)
18. The lease on the present parish hall land expires in 2014, and the proposals make provision for either developing the parish hall site for housing and replacing the hall on the northern part of the recreation ground (Appeal A) or making a contribution to the repair of the existing hall (Appeal B). In addition it is proposed to transfer either a building known as the Pheasantry and its associated land (Appeal A) or the land alone (Appeal B) to the County Council for use by the local school/play group. The schemes would make contributions to the enhancement of the village High Street, subject to the appeals decisions determining that such contributions would meet the tests in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010.

## ***Other Facts not in Dispute***

19. The other agreed facts are set out in the Statement of Common Ground (***Doc AD8***). It is accepted that the Local Plan housing policies are out of date as they do not make provision for housing beyond 2006. At the Inquiry the Council confirmed that the targets from the former South East Plan are accepted as the most recent, tested figures, and reliance is not placed on any later figures, in light of the preliminary stage of the District Plan and the objections raised to it. It is accepted that it is not possible to demonstrate a five year supply of deliverable housing land as required by para 47 of the NPPF. An appeal decision concerning land in Pease Pottage of March 2013 (***Doc AD2 appendix 8, para 60***) found that the supply was appreciably less than 2.73 years and the Council have not raised any significant objection to the appellants' estimates that the supply lies in the range 1.66 to 2.02 years (***Doc AD1 table 6.2 on pages 48 and 49***), nor offered alternative figures. It is agreed that a buffer of 20% should be applied to the housing target, as advised in NPPF para 47.
20. The Council also accept that the proposals would satisfy development plan policies concerning access and traffic, and that they would not have an unacceptable impact on ecology and biodiversity. It would be possible to overcome issues of noise intrusion and flood control by appropriate planning conditions. There is no dispute that the development would benefit the local economy, and that the care home would generate 70 full time equivalent jobs.

## **The Cases of the Parties**

### ***The Case for the Council***

#### *The AONB*

21. Para 115 of the NPPF gives great weight to conserving the landscape and natural beauty of the AONB, and para 116 indicates that major development in the AONB should be refused other than in exceptional circumstances. Case law



(*Aston v SSCLG* [2013] EWHC 1936, (*Doc ID11, para 93*)) makes clear that the word 'major' should take on its natural meaning, and the appeals proposals should be construed as major in this case, having regard to the quantity of land lost from the AONB, the impact on the village, and the amount of new development. The provisions of para 116 apply to these appeals.

22. The High Weald AONB falls within National Character Area (NCA) 122 as defined by Natural England, being an area of fields within woodland with dispersed and isolated settlements. In this context, the site forms part of the parkland of the Hyde Estate, containing a number of groups of sizeable trees, some of which would be lost by the development. Apart from the urbanising influence of the A23 trunk road, the area is predominantly open, creating a transition between the countryside and the built up part of the village. (*Doc AD4, Appendix 7*)
23. Whilst it is accepted that the site is contained, and not visible in long range views within the AONB, its development would have an impact on the local area, both from specific viewing points, and the suburbanising influence on the approach to the village and its setting. Particular attention is drawn to views from the London Road at its junction with Hoadlands, and from the recreation ground through a gap in the existing tree belt (*Doc AD7, Appendix E, Photos 3, 9 and 10*). The absence of a footpath on the London Road to the north of Hoadlands makes it likely that the main perception of the entry to the village is from vehicles, and photographs in the Council's landscape proof (*Doc AD7, Appendix C*) illustrate a range of views which would be affected by the development, and which would lead to the loss of the transition between the built up part of the village and the countryside.
24. The High Weald Management Plan was adopted by the Council in 2004 and includes suburbanisation amongst the key pressures on the AONB, and NCA 122 identifies the need to protect the distinctive character of settlements in the AONB, including their separation. The proposals would be contrary to these objectives by eroding the rural hinterland of the village, and would set a precedent for further development within the green corridor between Handcross and Pease Pottage. Overall, they would harm the AONB, contrary to the provisions of paras 115 and 116 of the NPPF, not protecting the intrinsic character and beauty of the countryside referred to in para 17. The appeals proposals do not amount to the exceptional circumstances set out in para 116, and the harm to the AONB would not be outweighed by any public benefits. (*Doc AD4, Appendices 7 and 8*)

#### *Neighbourhood Plan*

25. Since determination of the planning applications, the Neighbourhood Plan (*Doc CD 4*) has been submitted for independent examination, and is sufficiently advanced to be a material consideration. Amongst other matters, it makes adequate provision for new housing in the village without the need for the appeals site. The allocation of 130 dwellings is twice the level that would arise if the 2,000 homes referred to in the draft Mid Sussex District Plan policy DP5 were distributed in proportion to the existing households in the rural parts of the District, and provides sufficient capacity to avoid the necessity for early review. Local housing needs have been established in consultation with the community (*Doc ID8*), revealing a requirement for affordable housing and for custom built

- homes, adequate levels of which could only be provided where there is sufficient control over the land.
26. The land adjoining St Martin Close/Coos Lane, which is in the ownership of, or controlled by, the Parish Council is the only site meeting this criterion. Unlike the appeals site, this land abuts the existing settlement boundary, with housing on two sides, is surrounded and screened by vegetation, and would not affect the approach into the village. It would have a lesser impact on the AONB, and the benefits arising out of its development would amount to the exceptional circumstances set out in para 116 of the NPPF, including the choice of homes and widened ownership opportunities promoted in para 50. There are no objections to the proposals from the High Weald AONB Unit (*Doc AD6, Appendix B*) or Natural England.
  27. In addition, the Neighbourhood Plan proposals provide for housing on the Parish Hall site, and replacement and enhancement of the community facilities on land adjoining the recreation ground, without the need for the appellants' enabling development. The benefits to the local economy and construction industry claimed for the appeals schemes would apply equally to the Neighbourhood Plan proposals. The type of jobs available in a care home would not meet the employment needs of the local population.
  28. The acceptance of the appeals proposals would have a prejudicial effect on the emerging Neighbourhood Plan. The addition of a further 75 houses over the 130 allocated in the Plan would be an excessive increase in the size of the village, and would lead to the inevitable extension of the settlement boundary, to incorporate the site and the existing housing to the north, preventing the designation of the main part of the appeals site as Local Green Space. It is likely that confidence in the Neighbourhood Planning process would be undermined and it would not be possible to achieve the 50% vote necessary for acceptance.
  29. The appellants' principal objection to the Neighbourhood Plan is its approach to setting a policy for the amount of housing, but the Plan would form part of the Development Plan, and there is no indication in the NPPF that its scope should be limited in this respect. In particular, para 16 expressly provides for the inclusion of housing policies in a neighbourhood plan, para 183 gives power to local communities to deliver the sustainable development they need, and para 7 recognises that sustainable development is not unlimited. There is no sound basis for excluding the ability to plan for the amount of housing.
  30. The appellants have drawn attention to an appeal at Pease Pottage which noted that little weight could be allocated to the emerging District Plan and it was not, therefore, possible to conclude that the Neighbourhood Plan would comply with its strategic objectives. However, the Examination Report of the Tattenhall and District Neighbourhood Plan concluded that there was no legislative requirement for housing numbers to be allocated at a district level before a neighbourhood plan could proceed. (*Docs AD2, Appendix 8, paras 25-28 and ID12, Page 17*)
  31. Turning to the question of whether the Neighbourhood Plan should immediately be considered out of date if the Council cannot demonstrate a five year housing supply, the provisions of NPPF paras 47 to 49 are directed at local planning authorities and their policies and not neighbourhood plans. Para 185 makes

clear that, when there is no strategic allocation at a district level, neighbourhood plans take precedence.

32. The decision of the Parish Council to give its land to a community land trust to enable the delivery of 50% affordable housing was a key factor in the selection of housing sites, but the evidence given on behalf of the Neighbourhood Planning Committee of the Parish Council indicated that sustainability issues had also been taken into account.
33. The Planning System: General Principles sets out the circumstances when an application may be refused on the grounds of prematurity, including where the scheme is so substantial as to prejudice proposals for the location of development in an emerging plan. The appeals schemes would have such an effect on the Neighbourhood Plan, and it is noted that the draft National Planning Practice Guidance indicates that refusal on the grounds of prematurity may be justified where the Neighbourhood Plan has passed the local planning authority publicity period, as in this instance. (*Docs CD8, paras 17-19 and CD9*)

### ***The Case for the Appellants***

#### *Background*

34. The Hyde Estate has a long relationship with the village, and has been consulting with the community for 6 years about the prospect of developing the appeals site, the main part of which has been severed from the remainder of the estate by the realignment of the A23 trunk road.

#### *The AONB*

35. Whilst the appeals site lies within the AONB, so does a vast tract of land, crossing virtually every settlement and road and occupying nearly 50% of the Mid Sussex District. Not all this land is of equal quality and there is no dispute that it is necessary to establish the specific impact on landscape and natural beauty, rather than rule out development as a matter of course. In this respect, both the nature of the main part of the site, and its lack of visibility, limits any contribution to the AONB.
36. The main part of the site has been subject to significant intervention over the course of the twentieth century, including two re-alignments of the London to Brighton Road. Its character has been altered by the deposit of spoil on the former carriageway and in the bund on the western boundary, and the ghyll crossing the site is truncated and a remnant of its former course. It does not have the appearance of undisturbed countryside, and the proximity of the A23 trunk road has a distinctly urbanising effect, removing any sense of remoteness or tranquility.
37. Whilst the site falls outside the tightly drawn settlement boundary, the Council's planning proof recognises that it is within the village of Handcross. It lies in an area of built development, including schools and housing, and the village entry sign lies beyond the appeals site. The area has a distinctly different character from the open countryside beyond. In this respect, there is no support for the contention that it would lead to a narrowing of the separation from Pease Pottage. (*Doc AD5, para 3.1*)

38. Any impression of a less developed transition zone on entering the village would not be significantly diminished by the development of the appeals site. The Council's landscape proof accepts that it has limited visual impact on the wider locality and the Council's case has focussed on just two public view points and a transient view along the London Road. These would give limited glimpses of the development, and the effect on the AONB would be equally limited, with the potential in the working up of detail designs to minimise any impact. In any event, Handcross has grown up alongside the London to Brighton Road, and the present proposals are consistent with this historical pattern of development. *(Doc AD6, paras 5.2.1-5.2.9)*
39. With respect to whether the proposals amount to major development in terms of NPPF para 116, the proper interpretation of the judgement in the Aston Case *(Doc ID11, para 93)* is the application to major projects of strategic, possibly national, significance, not those of a local nature. This is consistent with the conclusion of the Cuckfield appeal *(Doc AD2, Appendix 11, para 20)* when dealing with 42 houses in the High Weald AONB. It is submitted that the intention of para 116 is to capture developments which have a major impact on the AONB, which does not apply to the present case. In any event, even if para 116 was to apply, the development would meet its criteria. It is significant that the Council finds the tests to be met in the case of the Neighbourhood Plan proposals for St Martin Close/Coos Lane, and there is no reason to consider that the need for housing should carry less weight in respect of the appeals proposals.

#### *Sustainability*

40. There is no dispute that the village of Handcross contains a wide range of shops, services and facilities, which are within safe and convenient walking distance of the site, and an increased local population would support the more vulnerable retail and service elements. Nearby bus stops provide a regular service to local towns and the wider area. The Council's SHLAA conclusion describes the site as very close to village facilities and suitable for development. Mid Sussex is reliant on greenfield sites to fulfil its housing needs and, whilst it is accepted that development should not be positively directed to the 50% of the District that lies within the AONB, there is no reason not to realise the potential of sites within that area which have high sustainability and connectivity credentials. *(Docs AD8, Table 2.1 and ID24)*

#### *Housing Need*

41. The Council's housing land supply currently lies in the range 1.66 to 2.02 years. A recent appeal in Pease Pottage found that a supply appreciably less than 2.73 years should attract very significant weight in favour of the proposal then being considered, and a similar or greater weight should be applied to the present appeals. In addition, the schemes would contribute to the supply of affordable housing, recent evidence indicating a demand from 131 households on the housing register with a connection with the parish, in excess of the 42 households shown by the Slaugham Parish Housing Needs Survey referred to in the Neighbourhood Plan. The provision of a care home would cater for an increasing elderly population, as well as providing jobs to meet the needs of the wide socio-economic profile of Handcross. *(Docs AD1 table 6.2; AD2, Appendix 8, paras 57-60; ID7, Appendix, 3<sup>rd</sup> page, 'affordable homes'; Doc CD4, page 23)*

### *Neighbourhood Plan*

42. It is noted that the alleged prejudice to the emerging Neighbourhood Plan did not form part of the Council's reasons for refusal, but now appears to be the main plank in the Council's case.
43. The question of weight to be allocated to an emerging plan is dealt with in para 216 of the NPPF and, in particular, the number of unresolved objections are a key determinant. There are real doubts about the substance of the Neighbourhood Plan, as well as the process thus far, which are likely to be further articulated at the public sessions of the Examination. The weight to be accorded is limited, and insufficient to override the arguments in favour of the proposals. A recent appeal in Pease Pottage (*Doc AD2, Appendix 8, para 27*) gave little weight to the emerging Neighbourhood Plan.
44. Amongst the matters of concern is the speed of the process, clearly accelerated to block the appeals proposals, which is likely to have led to errors, including the indication that whole sections of the community have not been effectively engaged in the process, including those who have given evidence at the Inquiry. It is noted that the three consultation rounds produced responses from only 3.5%, 1% and 1% of the Parish Electoral Roll, respectively.
45. From the earliest stages, the Neighbourhood Plan Committee chose to exclude the main part of the appeals site as an option, the only real explanation being that it was not in public ownership and could not therefore offer 50% affordable housing, and finance for a new parish hall without cross subsidy from developer led housing. By selecting the St Martin Close/Coos Lane site, under the Parish Council's control, the committee's decisions were self serving, and did not take account of normal planning criteria, including sustainability. This land is significantly further from the village centre and facilities than the appeals site (*Doc AD8, Table 2.1*).
46. Even if the Neighbourhood Plan proceeded in its present form, the only potential conflict with the appeals proposals would be the 130 house ceiling in the Plan, and the Local Green Space designation. It is not the purpose of Neighbourhood Plans to set caps on development, but to plan for types of development (NPPF para 184 refers), and para 3.2 (1) of the Neighbourhood Plan (*Doc CD4, page 18*) indicates the intention to make provision for 'at least' 130 new homes. However, if the Plan is interpreted as setting a limit to the amount of new housing, there is no support in the NPPF for this approach. It would not be based on any top-down distribution within Mid Sussex of its overall housing need, and the figure of 130 has been arrived at by no recognised methodology: the pro-rata allocation based on the rural population does not reflect the highly sustainable character of Handcross. In addition, para 49 of the NPPF would be engaged, with the relevant policies not being considered up to date. It would be a perverse interpretation of para 49 to exclude its application to Neighbourhood Plan policies.
47. There is no indication that the designation of the main part of the appeals site as Local Green Space was done in compliance with the criteria in para 77 of the NPPF. It is not plausible that the site, lying next to the busy A23, incorporating the former carriageway of this road, and with no public access or history of recreational use, and very few public vantage points, could justify Local Green Space designation.

48. The appeals schemes would not prevent the Neighbourhood Plan from proceeding in respect of the majority of its proposals, including the development of the St Martin Close/Coos Lane site if that is what the community really wants. If it was determined that the appeals proposals do, in fact, represent sustainable development, help to meet the serious housing land shortage, and would have minimal impact on the AONB, then any demotivation arising from the Neighbourhood Plan Committee being rebuffed in its attempts to thwart the proposals could hardly be a reason to dismiss the appeals. Adjustment of the Neighbourhood Plan to accommodate the appeals schemes would not be an unduly complex or lengthy process.
49. With respect to the question of prematurity, the principles applicable have been set out in the appellants' discussion note (*Doc ID3*), which recognises that the draft NPPG may change after consultation and that in the meantime 'The Planning System: General Principles' remains in force, in conjunction with para 216 of the NPPF. In any event, the wording of the draft NPPG remains similar to that of the General Principles, whilst indicating an even greater requirement that justifying refusal of planning permission on prematurity grounds is unlikely other than in exceptional circumstances, and where it is likely that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, limited to development so substantial that it would undermine the plan-making process by predetermining decisions that are central to the emerging plan. The High Court in the *Shottery* case (*Doc ID10, paras 63 and 65*) talks of the importance of avoiding "unreasonably holding up proposals on the basis of conflict with another process which has an uncertain outcome" and the "public interest involved, namely of getting applications for development determined promptly".

### ***The Case for the Parish Council***

50. In addition to the submissions made on behalf of the District Council, the representatives of the Parish Council Neighbourhood Plan Committee made a number of points, including that there had been considerable publicity of the Neighbourhood Plan, and its preparation had been informed by extensive discussion and consultation in the parish. The key concerns revealed by this process were: the need to protect the AONB from development; the lack of capacity of local services and infrastructure to accommodate development; an acceptance of new housing, but on small sites within the villages; a lack of affordable housing; poor public transport services; and the importance of a distinct village identity.
51. The resulting plan is pro-development, with proposals for at least 130 new homes, in excess of the allocation which would arise as a proportion of the rural population of Mid Sussex, and above the household interim projection 2011-2021 prepared by the Department of Communities and Local Government in April 2013. By identifying land for housing which is under the control of the Parish Council, it is possible to return the profits of the development to the community, rather than a developer, and secure control over housing and community assets in perpetuity. The Plan's proposals maximise community benefit whilst minimising environmental impact. It is not accepted that the St Martin Close/Coos Lane site is inaccessible to local services, and the plan includes a proposal for 24 houses on the Parish Hall site which is in the centre of the village.

52. Allowing these appeals would undermine the emerging Neighbourhood Plan, which could not proceed in its present form. It would need to be rewritten, and there is a strong likelihood that the confidence of the community in the neighbourhood planning process would be lost, jeopardising the outcome of the referendum, and the considerable time and commitment that has been expended on the project. The decision to grant planning permission at appeal for 51 houses in Pease Pottage (*Doc AD2, Appendix 8*) in March 2013 had a damaging effect on the process, but the Plan has now advanced to examination and is entitled to greater weight than was allocated at that time. In addition to the excessive amount of development that would arise if the appeals schemes were permitted, the community would lose valuable green space between the A23 and the recreation ground. There is no indication that a care home of the size proposed is necessary to meet local needs.

### ***Other Oral Representations to the Inquiry***

53. Ms S Fowler spoke as chair of the Handcross Playgroup Committee and the Governors of Handcross Primary School. There are vulnerable families in the village with significant educational and child care needs that benefit from the facilities offered, but the present accommodation is inadequate. Appeal A is supported because it would provide good, permanent accommodation for the playgroup and better outside space for the school, and enable all the community facilities to be grouped together for mutual support. In response to a question on behalf of the Parish Council, noting that the Neighbourhood Plan would provide new community facilities, Ms Fowler replied that they would not offer the advantages of their own, dedicated space. Ms G Pederson, head teacher of the Handcross Primary School, and Ms J Noes, reception teacher, support both appeals. In addition to the points raised by Ms Fowler, they noted that the Neighbourhood Plan proposals would place new housing at the southern edge of the village, remote from the school and from other services and healthcare facilities, with potential difficulties for children using the intervening road system.
54. The following parties also spoke in favour of one or both of the appeals proposals: Mr G Reid for himself and on behalf of Dr R Morris, Mr R Thirkettle, Mr E Dowzer, Mr N Williams on behalf of Rev G Simmons, Mr M Sugrue, and Ms T Large. Amongst the points raised was the view that the appeals proposals would help to integrate the village at its northern end around the existing centre and facilities, whereas the Neighbourhood Plan preferred scheme in St Martin Close/Coos Lane would be remote and involve greater travel through an inadequate road system; some parties were unaware of the Neighbourhood Plan preparation and had not been adequately consulted; the existing parish hall is not fit for purpose and Appeal A would ensure its replacement; and, there is a need for the elderly facilities provided by the new care home.

### ***Written Representations***

55. 11 parties made representations to the Planning Inspectorate following the appeals, of which eight were in favour and three against the appeals proposals. Approximately 60 parties made representations to the Council in respect of one or both of the applications, of which five were in favour, and the remainder raised objections. The representations can be found in *Docs TP1-TP3*.

56. The points made against the proposals included: the schemes would result in too many houses, not supported by adequate infrastructure and services, and diminishing the identity of the village; there would be a tendency for Handcross to merge with Pease Pottage; the existing road system would be unable to cope with the additional traffic, parking and congestion; the village is poorly served by buses; development should be directed to previously developed land; there is no requirement for a care home of the size envisaged; there should be a reliance on the neighbourhood planning process; there would be a loss of green space. The following points were made in respect of Scheme A only: there would be a greater need for sporting facilities whilst reducing the size of the recreation ground; it would result in the loss of the historic parish hall, and the new hall would be too remote from the village; the redevelopment of the parish hall site could lead to overlooking of adjoining property.
57. In addition to the issues raised in the oral representations to the Inquiry referred to above, those in favour of the proposals included the following points: the additional housing would allow the village to grow and enable local people to stay in the area; the schemes would make use of redundant land; Appeal A would provide improved community facilities and replace the inadequate parish hall; the development of the northern area would help to balance the village.

### **Conditions**

58. The Council's suggested conditions are contained in the schedule at **Doc ID15**. They have been considered in relation to the advice in Circular 11/95 and the discussion at the Inquiry, and a proposed revised list is included at Annex 3. The numbering below refers to the Council's schedule, with the numbering of the revised list at Annex 3 included in square brackets after.

#### *Conditions applying to both Appeals*

59. **Condition 1 [Condition 1], approval of reserved matters:** in view of the likelihood that the development will be carried out in phases it is reasonable that the approval of reserved matters should be dealt with prior to the construction of each phase, rather than necessarily before any development commences. **Condition 2 [Condition 2], phasing strategy:** agreement to a programme of the phasing of development is necessary to enable Condition 1 to operate satisfactorily and to ensure that the essential infrastructure is in place when required. **Condition 3 [Condition 3], road works:** whilst access is not a reserved matter in either appeal, the submitted drawings do not show the road and junction arrangements in sufficient detail to prove compliance with highway standards. The wording suggested by the Council applies only to the widening of Hoadlands but, whilst it is likely that only part of this road will require improvement, there will be other technical details which will need approval. A more generally applicable condition is required.
60. **Conditions 4 and 5, car and cycle parking, roads:** parking and road layouts will form part of the reserved matters application, and it was agreed at the Inquiry that appropriate conditions concerning their provision and use could be applied at that time. **Condition 6 [Condition 4], construction management plan:** control over the arrangements made for building of the development is necessary for the benefit of road safety and residential amenity in the area. It is not clear that agreement to construction phasing would be necessary over that applied in the earlier condition, and it was the appellants' suggestion that



the imprecise wording concerning appropriate public consultation should be replaced by a requirement that the construction should be carried out by a member of the Considerate Contractors scheme.

61. **Condition 7 [Condition 5], levels:** control over the levels of buildings and landscaped areas is necessary because of the sensitive position of the site within the AONB. Layouts submitted under reserved matters would not necessarily include this information. **Conditions 8, 9 and 11, materials, landscaping, enclosure:** these matters may be adequately dealt with at the reserved matters stage. **Condition 12 [Condition 6], site contamination:** the main part of the site has been disturbed during the realignment of the A23, with levels raised with imported material, and the parish hall site is previously developed land within the village. There are reasonable grounds to consider that potential ground contamination should be investigated and, if necessary, remedied, for the benefit of the health of the future residents. However, in the absence of any indication of previous uses which would create a severe risk of pollution, a more compactly worded condition than that proposed would adequately address the point.
62. **Condition 13 [Condition 7], management of the common parts:** a condition is necessary to ensure that the parts of the estate outside private residential ownership should be subject to a management programme, for the benefit of the appearance and amenity of the development within its setting. **Condition 14 [Condition 8], drainage:** foul drainage provision is covered by other legislation, but a condition is necessary to ensure adequate surface water drainage to eliminate the risk of flooding, with provision for the establishment of a SUDS scheme where applicable. **Conditions 15 and 16, highway authority easements:** any necessary restrictions on development alongside the A23 trunk road may be adequately addressed during the consideration of layouts at the reserved matters stage.
63. **Condition 17 [Condition 9], external lighting adjacent to the A23:** control of lighting during the construction phase would be adequately covered by the construction management plan condition, above. The need for a more general condition to control permanent external lighting installations was discussed at the Inquiry, and is necessary for the benefit of road safety and to maintain the appearance and residential amenity of the estate. **Condition 18, drainage alongside the A23:** the need to avoid surface water run-off to the trunk road would be adequately addressed by the earlier drainage condition. **Condition 19 [Condition 10], ecology:** a condition is needed to manage and protect the ecology of the site, for the benefit of bio-diversity.
64. **Conditions 20 and 21, local employment:** despite the appellants' intention to employ local people in conjunction with the development it is not accepted that a necessity for such conditions has been proved, nor that they would be sufficiently precise, reasonable and enforceable, especially when applied in perpetuity to the staffing of the care home. **Condition 22, tree management plan:** the protection and management of existing trees on the site would be adequately covered by the general management provisions of the earlier condition, and in respect of reserved matters applications. **[Condition 11], protection from noise:** in addition to the suggested conditions, the Statement of Common Ground (*Doc AD8, paras 4.15-4.16*) makes clear the intention to

maintain the amenity of future residents by incorporating measures to attenuate the noise from the A23 road.

*Conditions applying only to Appeal A*

65. **Conditions 1A and 2A, road access to the parish hall site and the proposed community hall:** the need for additional access details would be adequately covered by the earlier condition. **Condition 3A, restrictions on development on the recreation ground:** the location of residential development would be subject to consideration under the reserved matters applications. **Condition 4A, no development before parish hall lease expires:** this is a matter of private legal rights, rather than applicable to a planning permission and, in any event, with any realistic programme, it is unlikely that development would commence before 3 March 2014.

**Planning Obligations**

66. The Obligations comprise a Unilateral Undertaking and an Agreement for each appeal. With respect to the Undertakings, that for Appeal A makes provision for the construction of a replacement community hall, up to a value of £1,000,000, or, if the existing parish hall site is not redeveloped, a contribution of £99,250 towards the repair of the existing building. In addition, there is an obligation to transfer the Pheasantry building to the County Council conditional upon it being used for educational purposes. The Undertaking in Appeal B creates an obligation to transfer the land adjacent to the Pheasantry to the County Council. (*Docs ID19-ID22*)
67. The Agreements are in substantially similar terms for both appeals. Provision is made for 30% affordable housing, for a travel plan, for fire hydrants, and for contributions to outdoor play and sports space, village centre enhancements, libraries, local community infrastructure, education, transport, and a monitoring charge. The village centre enhancements payment is subject to these appeals determining that the contribution meets the tests in the Community Infrastructure Regulation 122. In addition to the foregoing, the Agreement for Appeal B includes a contribution for the repair of the parish hall, in similar terms to that referred to in the Undertaking in Appeal A.

**Inspector's Conclusions**

*The numbers in square brackets refer back to earlier paragraphs of relevance to the conclusions*

***The Main Considerations***

68. Whilst two separate applications have been made, the main part of the site, providing land for up to 75 houses, is common to both schemes, and in other respects the differences mainly amount to whether the parish hall land is redeveloped and, if so, the provisions to be made for a new parish hall. The reasons for refusal of planning permission are the same in each case and, to a large extent, the arguments of the parties are applicable to both schemes. Taking account of all the representations made, the main considerations set out below are the same for both appeals. [3, 17-18]
69. There is no dispute that there is a significant shortfall in the five year housing land availability and that therefore the Local Plan policies concerning the supply

of housing are considered out of date, including the relevant parts of Policies C1 and C4 which seek to restrict the use of land. In these respects, the NPPF is a material consideration which outweighs the development plan policies, and the structure for consideration of these appeals is determined by the process set out in NPPF paras 14 and 49. Housing applications should be considered in the context of the presumption in favour of sustainable development, with permission granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or the proposals would be contrary to specific policies in the NPPF indicating that development should be restricted. The particular issues raised in these respects are the effect of the development on the emerging Neighbourhood Plan, and on the landscape quality of the AONB. [19]

70. Therefore the main considerations are as follows: i) whether the proposals are a sustainable form of development capable of meeting the housing need in the District, ii) the weight to be accorded to the emerging Neighbourhood Plan, and whether the proposals would prejudice the outcome of the plan making process, and iii) the effect on the character and appearance of the locality and in particular the landscape quality of the Area of Outstanding Natural Beauty.

***i) Whether the proposals are a sustainable form of development capable of meeting the housing need in the District***

71. Para 7 of the NPPF sets out the economic, social and environmental roles of sustainability. The Council's main objection in these respects relates to the environmental damage to the AONB, which will be dealt with further below. There is no serious opposition to the appellants' claim that the development would favour the economic life of the village, by providing a market for goods and services and, whilst the Council question whether the jobs at the care home would match the employment needs of the village, there is no clear indication that they would not. Indeed, the evidence given at the Inquiry concerning the educational needs of the area indicated a wide social profile in the village. Nor is there significant opposition to the proposal on social grounds. It would help to address the acknowledged shortfall of housing land, and provide a proportion of affordable homes to meet a recognised need. [19, 20, 53]
72. The statement of common ground confirms the Council's position that any physical shortcomings of the site and supporting infrastructure could be overcome by planning conditions or obligations. There are adequate grounds to consider that the site would be capable of delivering new housing to meet the NPPF objective of providing a choice of high quality homes. [20]
73. The village has a good range of local facilities, and some sources of employment, illustrated by table 2.1 of the Statement of Common Ground, which confirms that the majority are within walking distance. There are bus stops accessible to the site and, whilst the limited frequency and operating hours of the service are noted, it does provide a reasonable level of accessibility for a rural location and a viable alternative to private transport. It is, nonetheless, realistic to suppose that a significant proportion of the new residents would use cars for access to employment and larger scale shopping and social facilities, falling outside the objective of the NPPF to select locations that maximise the use of public transport, walking and cycling. However, in the absence of evidence of an adequate supply of deliverable sites within

established centres, the village appears to offer a suitable alternative, with easy access to the A23, providing a fast route to Crawley and Brighton to minimise the need to make use of the rural road system. [40]

74. Subject to the potential environmental impact on the AONB, considered below, and within the limitations imposed by a rural setting, the site meets the objectives of NPPF para 7 by providing economic and social benefits, and occupying a position easily accessible to the range of local shops and services available within the village. In these respects it is a sustainable form of development capable of meeting the housing need of the District.

***ii) The weight to be accorded to the emerging Neighbourhood Plan, and whether the proposals would prejudice the outcome of the plan making process***

75. Attention has been drawn to the appeal decision APP/D3830/A/12/2184075 of March 2013 which allowed a scheme of 51 dwellings in Pease Pottage, part of the same parish as the present appeals. The Inspector gave little weight to the Neighbourhood Plan at that time, noting that it was at an early stage and would be likely to change during the course of the process leading up to a referendum. It was not possible to be certain that it would be in general conformity with strategic policies of the emerging District Plan, which might also be subject to considerable change. [43]
76. Since that time, the submission version of the Neighbourhood Plan has been prepared and is now subject to consideration by an Examiner. It is certainly the case that the strategic position remains unresolved and there is the possibility that the housing provision will not accord with the final, adopted version of the Local Plan. The content of the Neighbourhood Plan may change following the Examination and the consideration of objections, and, having regard to the low response rates reported following publicity of the Plan, and the opposition expressed to it by interested parties at the Inquiry, it may not succeed at referendum. These factors create some uncertainty about the final outcome which restricts the weight that may be applied to the emerging plan. Nonetheless, it has progressed further than was the case at the time of the Pease Pottage appeal, and has received a period of publicity carried out by the District Council. On balance, it is entitled to some weight in the consideration of these appeals. [25, 30, 44]
77. The point therefore arises whether allowing these appeals would prejudice the delivery of this plan and, if so, the extent of any harm. Three main areas of concern have been raised: the effect on the housing policies for the village, the loss of an area of local green space, and whether allowing the appeals would undermine confidence in the neighbourhood planning process in the village. [28, 52]

*Housing Policy in the Neighbourhood Plan*

78. The Neighbourhood Plan does not explicitly limit the total number of new dwellings in the parish, with para 3.2 Objectives and Measures, referring to 'at least' 130 new homes to be built. Nonetheless, any larger scale development would be restricted to the sites identified in Policy 4, with any further increase only taking place on small, windfall sites on previously developed land in

accordance with Policy 5. The appeals proposals would be clearly contrary to these policies. [14]

79. However, there is strength to the appellants' case that, if the Neighbourhood Plan was in force, and its policies had the effect of restricting the supply of housing land, then the relevant parts of those policies would be considered out of date in terms of para 49 of the NPPF, in view of the shortfall in the five year housing supply. The Council's argument that this provision should not apply to Neighbourhood Plan policies is noted, and it is the case that the wording of Section 6 of the NPPF is aimed at planning authorities. However, the Neighbourhood Plan would form part of the development plan, and in the absence of any clear direction in the NPPF to the contrary, there is no substantial reason to consider that its provisions should fall outside the general definition of 'relevant policies for the supply of housing'. [46, 31]
80. The research carried out in preparation of the Neighbourhood Plan recognises a public desire to restrict new housing to small developments within the village, and the submissions in response to the planning applications include concerns about the lack of capacity of local infrastructure, and the effect of additional houses on the identity of the village. However, the Council have not raised any specific objection on the grounds of the effect on local roads, services and other infrastructure, and the appellants' planning obligations are intended to overcome any shortfall. The additional housing over that proposed in the Neighbourhood Plan would have some effect on the character and identity of the village, but there is little evidence that this would be unduly harmful. Handcross has a relatively busy, commercial character, functioning as a local centre. It is of an adequate size to serve the proposed housing, and there is no reason to consider that the new residents would not be absorbed into the existing village community. [20, 50, 56]
81. Overall, there is not a substantial case that the housing proposed by the appeals would be unduly harmful to the infrastructure or character of the village, nor reason to consider that it could not take place alongside the housing proposals contained in the Neighbourhood Plan.

#### *Local Green Space*

82. Neighbourhood Plan Policy 10 allocates the main part of the appeals site, between the A23 and the recreation ground, as Local Green Space, with no development allowed except that related to the public recreational use of the land. The appeals proposals would not be compatible with this policy. [15, 52]
83. It is the appellants' contention that this measure has been included as a means of preventing the appeals development, rather than because of any inherent qualities of the land. Whether or not this is the case, it is certainly true that there is no indication of public rights of access to the land, and it has only been in its present condition for a relatively limited period, with the A23 previously occupying part of the land, and the remainder separated from the village by this road. There are not substantial grounds to show that it meets the criteria in para 77 of the NPPF, with little evidence that it has special community significance, recreational value or, alongside the A23, particular tranquillity. In these respects, any lack of consistency with the NPPF diminishes the weight that may be allocated to this emerging development plan policy in terms of para 216. [47]

### *Confidence in the Neighbourhood Planning Process*

84. It is clear that members of the Parish Council have dedicated a great deal of time and effort to the preparation of the Neighbourhood Plan, and they are worried that allowing these appeals could undermine the morale of those involved in the process, and the public perception of the value of the Plan. The strength of this concern is recognised, but there is no certainty that this would be the outcome. Those making representations on behalf of the Neighbourhood Plan Committee at the Inquiry appeared to have an enthusiastic and vigorous attitude to the plan preparation, which should be capable of surviving any need to make modifications to the Plan that may arise out of these appeals. Similar arguments were made in relation to the Pease Pottage appeal decision, but the plan preparation has continued despite the permission granted for that development. [52]
85. As an integral part of the development plan process, subject to scrutiny, objection and changing circumstances, there is an expectation that the plan preparation should be both flexible and reactive, and sufficiently robust to withstand potential setbacks. The possible effect on morale and confidence does not form part of the main criteria for assessing an emerging plan contained in para 216 of the NPPF, and it is not entitled to significant weight.

### *Conclusions*

86. The Neighbourhood Plan tackles a much broader range of issues than those affected by these appeals and, for the reasons set out above, there are not substantial grounds to show that the appeals schemes would be fundamentally incompatible with it. As such, refusal on the grounds of prematurity in terms of paras 17 and 18 of The Planning System: General Principles would not be justified, and whilst the draft National Planning Practice Guidance implies that weight may be allocated to a Neighbourhood Plan once it has passed the local planning authority publicity period, the central premise remains that refusal on the grounds of prematurity is only justified where the effect would be so substantial as to undermine the planning process, noting that this would only occur in exceptional circumstances. There are adequate grounds to consider that, whilst the Neighbourhood Plan is entitled to some weight, the appeals proposals would not unduly prejudice the outcome of the plan making process. [33, 49]

### ***iii) The effect on the character and appearance of the locality and in particular the landscape quality of the Area of Outstanding Natural Beauty***

87. Para 116 of the NPPF indicates that permission should be refused for major developments in the AONB other than in exceptional circumstances where the proposal is in the public interest. There is no agreed definition of 'major development' and whether a proposal falls into this category is a matter of fact and degree, and subject to the context of the site. It is certainly the case that the Cuckfield appeal decision concluded that it referred to projects of national significance in relation to the definition in the Planning Policy Statement 7 which applied at the time. On the other hand, the Judicial opinion quoted by the Council in the 'Aston' Case suggests that 'major' should take on its natural meaning. In the present context, a scheme of 75 or 90 houses would fall into the normal interpretation of the word 'major' in relation to the size of the village. There is not a compelling case that para 116 refers only to schemes of

national or regional significance and, on balance, there is adequate reason to consider that these schemes are major developments to which the paragraph applies. [21, 39]

88. In reaching this conclusion, account is taken of the appellants' suggestion that para 116 is intended to capture schemes which have a major effect on the AONB, which they consider does not apply to the present appeals. However, the wording of para 116 refers to major developments rather than effects. It lies with the assessment carried out in accordance with the third bullet point of the paragraph to establish the level of any effect. A limited degree of harm, or the potential for mitigation, would clearly count in favour of the proposal when establishing whether exceptional circumstances apply. This is consistent with Local Plan Policy C4, which gives particular attention to the impact on the visual quality and essential characteristics of the area when determining whether a development may be regarded as an exception to the policy of restraint. [39, 12]
89. The Council accept that the development of the land would not have a significant effect on the wider landscape and, with the proviso mentioned below in relation to the development alongside the A23, there is no reason for this report to come to a different conclusion on this point. Nonetheless, the published assessments of the AONB referred to by the parties confirm that the nature of the built form, and the setting of villages, forms part of its character, and, in this respect, development of the site would extend the built up area of Handcross northwards, and have some effect on the appreciation of the village when approached along the London Road. [22, 23, 24]
90. The prevailing character of the area around the site is not of open countryside. The uses alongside the London Road, whilst extensive in nature, have a clearly developed character, including the row of houses to the north of Handcross Primary School, the school itself, a doctor's surgery and car park, and the recreation ground and its pavilion. On the western side of the site is the A23 and its associated roadside facilities. The development of the land would tend to consolidate the development of the village in this sector, but there is little evidence to show that its present openness is an important component of the setting of the village, nor that any transient quality between rural and urban areas when entering the village along the London Road would be unduly upset, having regard to the distance between the site and the road, and amount of intervening landscaping. The partially developed nature of the locality distinguishes it from the open countryside beyond, and this, along with the contained nature of the site, diminishes the likelihood that its development would create irresistible pressure for further building in the rural gap between Handcross and Pease Pottage. [11, 22, 23, 24, 37, 38]
91. Whilst the main part of the site was formerly parkland within the Hyde estate, its separation from the remainder by the realignment of the A23 has effectively ended this role. It retains some of the features of that former use, including extensive belts of trees, but the appellants' illustrative layouts indicate that it would be possible to retain a substantial portion of the more significant landscape features. It is also accepted that the successive changes of road alignment have materially altered the land over time, and that much of it does not retain an original rural character. [22, 36]

92. Reference was made in para 89 above to one proviso about the impact of the development on the wider area. Most of the western boundary of the main site is separated from the A23 trunk road by a planted bund, which would effectively screen the development of the site. However, the southern portion of this boundary comes closer to the road, and it became apparent during the site visit that any building in this position would be relatively prominent, being elevated above the A23 at the top of an embankment. The illustrative layouts indicate the care home in this location, which would be a substantial building with limited potential for screening by new or reinforced planting. The present impression of this area when viewed from the A23, or from the bridge over this road within the village, is an absence of development, with wooded embankments on either side of the road (*Eg Doc AD4, Appendix 3, photos A and D*), whereas prominent built form would have an urbanising effect that would not necessarily be compatible with the landscape quality of the AONB. The site is of sufficient size to allow adjustment of the layout to minimise the effect of the development, and the actual impact of any buildings in this vicinity would be subject to consideration during the submission of detailed designs.
93. In terms of the criteria in para 116 of the NPPF, there is a clear need for residential development to overcome the shortfall in the housing land supply. Nearly half of the District falls within the AONB and there is no clear evidence that it is possible to fully satisfy the housing need on land outside this zone. Account is taken of the appellants' point that the designation covers a wide range of land uses, including villages, roads and other developed areas, and that not all parts are equally sensitive to change. In terms of potential alternative sites, the St Martin Close/Coos Lane site identified in the Neighbourhood Plan is also undeveloped land within the AONB and, whilst it abuts an existing housing estate on two sides, it is more remote from the village centre than the appeals site, and close to open countryside and a traditional rural lane. The views of the Council on this point are noted, but it is not accepted that it offers a clear environmental advantage over the appeals site. [26, 35, 39]
94. Taking these factors together, alongside the relatively limited effect of the appeals proposals on the prevailing character of the AONB, there are adequate grounds to consider that the exceptional circumstances referred to in NPPF para 116 and Local Plan Policy C4 arise in this case, and that there is not a substantial environmental reason to refuse the schemes. They would not have an unduly harmful effect on the character and appearance of the locality and in particular the landscape quality of the Area of Outstanding Natural Beauty.

### ***Planning Obligations and Conditions***

95. Local Plan Policies H4 and G3 respectively set out the need for affordable housing and contributions towards infrastructure, with the Development and Infrastructure SPD setting out a detailed justification for the type and level of contributions. This policy background, along with the specific information submitted in relation to these appeals (*Docs ID16 and ID18*) provides sufficient evidence to conclude that the following obligations would meet the tests in Regulation 122 of the CIL Regulations, 2010: affordable housing, formal sport and outdoor play space, children's play space, local community infrastructure, total access demand, primary education, secondary education, sixth form education, library contribution, travel plan and fire hydrants. In addition, there



would be a need for a new community hall to replace the existing structure if the present parish hall site was redeveloped in accordance with Appeal A. [66, 67]

96. The appellants have provided details of proposed environmental enhancements of the High Street (*Doc AD2, Appendix 7*). Whilst the additional population would provide a need for the High Street facilities, there is no clear justification for this obligation in addition to the local community infrastructure contribution, which is intended to address, amongst other matters, enhancement of the public realm. Similarly, whilst the grant of the Pheasantry building or adjoining land for educational purposes would be a significant benefit, as would contributions to the upkeep of the existing parish hall, there is not evidence that these measures are made necessary by the development. In the absence of an adequate justification, the foregoing obligations do not meet the tests in Regulation 122. [66, 67]
97. Paras 58 to 65 above set out the justification for the conditions in Annex 3, which are considered to be necessary, reasonable and otherwise comply with the provisions of Circular 11/95. It is recommended that these conditions be applied in the event that one or both of the appeals are allowed.

### ***Other Matters***

98. Whilst the parish hall site in Appeal A abuts the Conservation Area, the Council have not raised any objection to the principle of the redevelopment of this land on heritage grounds, and consideration of detailed designs at the reserved matters stage would enable adequate control to avoid harm to the character and appearance of the Area. A number of respondents have referred to the historic value of the existing hall building, but it does not have formal heritage recognition, being a building of utilitarian appearance with additions and alterations, and there are no substantial grounds to show that its preservation would outweigh the benefit of redeveloping the site. The need to maintain the amenity of adjoining housing would form part of the consideration of detailed proposals. [56]
99. There is a concern that the care home would be larger than necessary to meet local needs. However, it would help to contribute to the choice and range of accommodation encouraged by the NPPF, and, having regard to the availability of local services and the accessibility of the appeals site, it would not be an inappropriate location to serve the wider area. With respect to the use of part of the recreation ground for a replacement community hall, the land in question is a triangular portion at the northern end of the ground, and there is no clear evidence to show that its use would unduly diminish the utility and recreational value of the remainder of the park. The specific details of the design would be subject to a reserved matters application. [52, 56]

### ***Overall Conclusions***

100. In terms of NPPF para 14, the proposals are sustainable forms of development entitled to the presumption in favour of development. Any potential harm to the emerging Neighbourhood Plan would not be of such weight as to

significantly and demonstrably outweigh the benefits arising out of the supply of market and affordable housing, and, whilst the NPPF specifically restricts development within the AONB, there are adequate grounds to consider that the impact would be sufficiently limited to enable exceptional circumstances to apply. In these respects, the developments would meet the criteria to justify granting planning permission.

101. In physical terms there is no clear impediment to the development of the site, the main part of which occupies a relatively contained location, detached from open countryside. Successive changes in the route of the A23 have separated it from the estate of which it formed a part. Subject to the consideration of detailed designs which respect the quality of the existing landscaping and minimise the impact on surrounding areas, there is no reason why the land should not provide satisfactory forms of residential development which are compatible with the social, economic and environmental character of the existing village, and which would contribute to the shortfall of housing land in the District.
102. The differences between schemes A and B mainly relate to whether the parish hall site is redeveloped, and it is likely that this would be subject to whether agreement is reached between the parties with an interest in the land. There are no substantial grounds to suggest that one scheme should be allowed and the other dismissed.

### **Recommendation**

103. For the reasons given above, it is recommended that both appeals be allowed, subject to the conditions set out in Annex 3.

*John Chase*

INSPECTOR

## **ANNEX 1**

### **APPEARANCES**

#### FOR THE LOCAL PLANNING AUTHORITY:

Mr A Byass	Of Counsel instructed by the District Council Solicitor
He called	
Mr S Pearce BA, PG Dip, HND Arb, M Arbor A	First Environment Consultants Ltd
Mr N Homer BSc, DipTP UD, MRTPI, MBA	rCOH Ltd

#### FOR THE APPELLANTS:

Mr T Hill QC	Instructed by Ms R McKeown MRTPI, Hallam Land Management Ltd
He called	
Ms L Toyne BA, DipLA, MLI, DipTP, CMLI	Barton Willmore
Mr R Shepherd BSc, DipTP, MRTPI	Barton Willmore

#### FOR THE PARISH COUNCIL:

Mr C Hinchey	Chair, Neighbourhood Planning Committee, Slaugham Parish Council
Mr J Welch	Member, Neighbourhood Planning Committee

#### INTERESTED PERSONS:

Ms S Fowler	Chair, Handcross Playgroup Committee and Chair of Governors Handcross Primary School
Ms G Pederson	Head Teacher, Handcross Primary School
Ms J Noes	Reception Teacher, Handcross Primary School
Mr E Dowzer	Local resident
Mr G Reid	Local resident, speaking on behalf of himself and Dr R Morris
Mr N Williams	On behalf of Rev G Simmons, Slaugham Parish Church
Mr M Sugrue	Local Resident
Mr R Thirkettle	Local Resident
Ms T Large	Local Resident

## **ANNEX 2**

### **DOCUMENTS**

#### Core Documents

- CD1 National Planning Policy Framework
- CD2 Saved Policies of the Mid Sussex Local Plan 2004
- CD3 Development and Infrastructure Supplementary Planning Document for Mid Sussex
- CD4 Slaugham Neighbourhood Plan, Submission Document, May 2013
- CD5 Community Right to Build Order No.1
- CD6 Community Right to Build Order No.2
- CD7 Neighbourhood Planning (General) Regulations, 2012
- CD8 The Planning System: General Principles
- CD9 Draft National Planning Practice Guidance on Prematurity

#### Site Documents

- SD1 Tree Preservation Order
- SD2 EIA scoping opinion

#### Planning Application Support Documents

##### *Appeal A*

- AS1 Planning Statement
- AS2 Design and Access Statement
- AS3 Transport Assessment and Travel Plan
- AS4 Landscape and Visual Impact Assessment
- AS5 Aboricultural Assessment
- AS6 Extended Phase 1 Survey Report and Species Survey
- AS7 Noise Assessment
- AS8 Flood Risk Assessment and Drainage Strategy
- AS9 Statement of Community Involvement
- AS10 Sustainability Statement
- AS11 Archaeological Assessment
- AS12 Service Supply Statement

##### *Appeal B*

- AS13 Planning Statement
- AS14 Design and Access Statement
- AS15 Transport Assessment and Travel Plan
- AS16 Landscape and Visual Impact Assessment
- AS17 Aboricultural Assessment
- AS18 Extended Phase 1 Survey Report and Species Survey
- AS19 Noise Assessment
- AS20 Flood Risk Assessment and Drainage Strategy
- AS21 Statement of Community Involvement
- AS22 Sustainability Statement
- AS23 Archaeological Assessment
- AS24 Service Supply Statement
- AS25 Structural Condition Report of the Village Hall

## Plans

### *Appeal A*

- PL1 02-507-101 Location Plan
- PL2 02-507-102 Site Plan
- PL3 02-507-103 Illustrative Master Plan
- PL4 02-507-104 Illustrative Hoadlands Elevation
- PL5 02-507-105 Illustrative Community Hall Plans and Elevations

### *Appeal B*

- PL6 02-507-201 Location Plan
- PL7 02-507-202 Site Plan
- PL8 02-507-203 Illustrative Master Plan
- PL9 02-507-204 Illustrative Hoadlands Elevation

## Third Party Representations

- TP1 Responses to the planning application (Appeal A)
- TP2 Responses to the planning application (Appeal B)
- TP3 Responses to the appeals applications

## Appeals Documents

- AD1 Proof of evidence of Mr Shepherd
- AD2 Appendices to proof of evidence of Mr Shepherd
- AD3 Proof of evidence of Ms Toyne
- AD4 Appendices to proof of evidence of Ms Toyne
- AD5 Proof of evidence of Mr Homer
- AD6 Proof of evidence of Mr Pearce
- AD7 Appendices to proof of evidence of Mr Pearce
- AD8 Statement of common ground
- AD9 Statement on behalf of the Neighbourhood Planning Committee

## Inquiry Documents

- ID1 Opening statement on behalf of Mid Sussex District Council
- ID2 District Council's submission to the Inquiry concerning the weight to be attributed to the emerging Neighbourhood Plan
- ID3 Appellants' notes concerning the Draft National Planning Practice Guidance and prematurity
- ID4 About the Beta' Introduction to the Draft National Planning Practice Guidance
- ID5 Agenda for an exploratory meeting of 16 September 2013 concerning the Mid Sussex District Plan Examination, dealing with the duty to cooperate
- ID6 Notes of meeting of 10 September 2013 between Mid Sussex District Council and neighbouring authorities concerning the duty to cooperate with respect to housing numbers
- ID7 Rebuttal statement on behalf of Slaugham Parish Council dated 20 September 2013
- ID8 Slaugham Neighbourhood Plan, Consultation Statement
- ID9 Inspector's Report to the Secretary of State, appeal by Fox Strategic Land and Property Ltd, Ref APP/A0665/A/11/2167430
- ID10 Report of the High Court Decision CO/12539/2012: Stratford on Avon District Council v. SOS for CLG and others
- ID11 Report of the High Court Decision CO/5940/2012: Deborah Jane Aston and Westcott Meadow Action Group Limited v. SOS for CLG and others
- ID12 Examiner's Report on the Tattenhall and District Neighbourhood Plan, August 2013

- ID13 Notes of Statement by Mr Reid
- ID14 Written statement on behalf of Rev and Mrs G Simmons
- ID15 Schedule of suggested conditions
- ID16 West Sussex County Council submission with regard to suggested obligations
- ID17 Appellants' schedule of proposed obligations
- ID18 Statement of common ground with respect to proposed obligations to District Council
- ID19 Agreement between the appellants/land owners and the District and County Councils concerning planning obligations, Appeal A
- ID20 Agreement between the appellants/land owners and the District and County Councils concerning planning obligations, Appeal B
- ID21 Unilateral Undertaking given by the appellants/land owners to the District and County Councils concerning planning obligations, Appeal A
- ID22 Unilateral Undertaking given by the appellants/land owners to the District and County Councils concerning planning obligations, Appeal B
- ID23 Extract from Mid Sussex District Plan submission document, May 2013
- ID24 Extract from the Mid Sussex Housing Land Availability Assessment'
- ID25 Closing Statement on behalf of Mid Sussex District Council
- ID26 Closing Statement on behalf of the appellants
- ID27 Agreement of 1938 made under the Town and Country Planning Act 1932 with covering letter from the Council dated 9/10/13

## **ANNEX 3**

### **CONDITIONS**

#### *APPEALS A AND B*

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") for each phase of development shall be submitted to and approved in writing by the local planning authority before commencement of that phase and the development shall be carried out as approved. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 2) No part of the development hereby permitted shall be commenced until a phasing strategy has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved phasing strategy.
- 3) Notwithstanding the details shown on the approved drawings, no development shall commence until details of arrangements for vehicle access from the public highway to serve the development have been submitted to and approved in writing by the local planning authority. No building hereby approved shall be occupied until the access serving it has been carried out in accordance with the approved details.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors
  - ii) the means of access and proposed road routing for all construction traffic associated with the development
  - iii) loading and unloading of plant and materials
  - iv) storage of plant and materials used in constructing the development
  - v) the erection and maintenance of security enclosures
  - vi) measures to control the emission of dust and dirt during construction including wheel washing facilities
  - vii) measures to control the emission of noise and vibration during construction, including any piling
  - viii) external lighting to be used during the course of construction
  - ix) the hours of construction, including deliveries
  - x) compliance with the Code of Considerate Practice set out under the Considerate Constructors Scheme
- 5) No phase of development shall take place until details of existing and proposed ground and building levels for that phase have been submitted to and approved in writing by the local planning authority, and development shall be carried out in accordance with the approved details.

- 6) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
- 7) No building hereby approved shall be occupied until a scheme for the management of all areas outside the private curtilage of individual properties has been submitted to and approved in writing by the local planning authority. The scheme shall include details of maintenance arrangements, and the setting up of any management company. The areas shall thereafter be managed in accordance with the approved scheme.
- 8) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, and the results of the assessment provided to the local planning authority. The submitted details shall: provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 9) No external lighting of any areas outside the private curtilage of individual properties shall be installed except in accordance with details that have first been approved in writing by the local planning authority.
- 10) No development shall take place until a scheme showing the means of complying with the summary recommendations of the FPCR Ecological Assessment dated November 2012 have been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details.
- 11) No development shall take place until details for the protection of residents within buildings from noise intrusion from the A23 road 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.





## Department for Communities and Local Government

### **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

#### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;**

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### **Challenges under Section 288 of the TCP Act**

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

#### **SECTION 2: AWARDS OF COSTS**

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

#### **SECTION 3: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.