



Department for  
Communities and  
Local Government

Our ref: APP/C3810/V/16/3158261

Adam Ross  
Nexus Planning Ltd  
Suite A  
3 Weybridge Business Park  
Addlestone, Weybridge  
Surrey, KT15 2BW

13 October 2017

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77  
APPLICATION MADE BY GLEESON DEVELOPMENTS LTD  
LAND OFF BURNDELL ROAD, YAPTON, WEST SUSSEX, BN19 0JF  
APPLICATION REF: Y/19/16/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Julia Gregory BSc(Hons), BTP, MRTPI, MCMI, who held a public local inquiry on 25 and 26 April 2017 into your client's application for outline planning permission for the development of up to 108 residential dwellings, vehicular access from Burndell Road, public open space, ancillary works and associated infrastructure, in accordance with application ref: Y/19/16/OUT, dated 7 March 2016.
2. On 8 September 2016, the Secretary of State directed, in pursuance of Section 77 of the Town and Country Planning Act 1990, that your client's application be referred to him instead of being dealt with by the local planning authority, Arun District Council.

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

3. The Inspector recommended that that planning permission be granted, subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with her recommendation. He has decided to 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.

**Policy and statutory considerations**

4. In reaching his decision, 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.

5. In this case the development plan consists of saved policies from the Arun District Local Plan (LP) 2003 and the made Yapton Neighbourhood Plan (YNP) 2014. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR18-IR29, IR36-38 and IR41-42.
6. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance').

#### *Emerging plan*

7. Secretary of State notes that the examination of the emerging Arun Local Plan (ELP) 2011-2031 was suspended in February 2016. He notes that the hearing sessions into the examination of the ELP ended on 28 September 2017.
8. Paragraph 216 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. The Secretary of State notes that the ELP examination has just ended; that there are a number of significant unresolved objections; and that, at this stage, the relevant policies do not appear to contain obvious inconsistencies with the Framework. He considers that, while there has been much progress, the ELP is still at an early stage and therefore carries limited weight.

#### **Main issues**

9. The Secretary of State considers that the main issues are housing land supply; the weight attaching to development plan policies; and the impact of the proposal.

#### *Housing land supply*

10. The Secretary of State has carefully considered the Inspector's analysis at IR171-175. He notes the main parties agreement that there is a persistent undersupply of housing locally, that the 20% buffer should be applied, and that the assessed housing land supply is 1.9 years at maximum. He notes that the main parties also agree that the Objectively Assessed Need (OAN) will need to be substantially higher than the 580 on which the YNP was based (IR171).
11. The Secretary of State notes that the housing shortfall is severe and agrees with the Inspector that this carries significant weight (IR175). The Secretary of State concludes that the supply of housing is 1.9 years.

#### *Weight attaching to development plan policies*

12. For the reasons given at IR176-185, the Secretary of State considers that the proposal would conflict with LP policies GEN2 and GEN3, which deal with the settlement boundary and countryside protection respectively; and would also conflict with YNP policies H1 and BB1, which deal with housing requirement and built-up area boundary respectively. However he considers that GEN2, GEN3 and BB1 are out of date and given that the housing land supply is only 1.9 years, he considers that these policies carry limited weight.

13. The Secretary of State agrees with the Inspector at IR181 that the proposal conflicts with paragraph 198 of the Framework, which states that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted. However, like the Inspector at IR181, the Secretary of State considers that the circumstances are not normal because of the severe housing shortage in the light of the substantially revised OAN. He considers that this conflict therefore carries limited weight.

#### *Impacts of the proposal*

14. The Secretary of State has carefully considered the Inspector's analysis at IR193-208 and agrees with the Inspector that the proposal would make a significant contribution to housing and affordable housing in the district, where housing shortage is severe; that the proposal would bring economic benefits by creating jobs during construction; and that bus, cycle and highway infrastructure would be improved.

15. For the reasons given at IR192-208, the Secretary of State considers that matters of landscaping, design, heritage, agricultural land, drainage and traffic do not weigh against the proposed development.

#### **Planning conditions**

16. The Secretary of State has given careful consideration to the Inspector's analysis at IR152-163, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework and that the conditions set out at Annex A of this decision letter and Annex B of the IR should form part of his decision.

#### **Planning obligations**

17. Having had regard to the Inspector's analysis at IR140-149, the planning obligation dated 8 August 2016 and the supplemental agreement and deed of variation dated 25 April 2017, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion that the obligation overall complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework and is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development. For the reasons given at IR150-151, the Secretary of State agrees with the Inspector that these two particular aspects of the s106 agreement attract no weight.

#### **Planning balance and overall conclusion**

18. For the reasons given above, the Secretary of State considers that the proposal is not in accordance with LP policies GEN2 and GEN3, and YNP policies H1 and BB1, and therefore is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

19. In the absence of a 5-year supply of housing land, paragraph 14 of the Framework states that planning permission should be granted unless (a) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in

the Framework as a whole or (b) specific policies in the Framework indicate development should be restricted.

20. The Secretary of State considers that the proposal would make a significant contribution to housing and affordable housing in the district, where housing shortage is severe. He gives this significant weight. He considers that the proposal would bring economic benefits by creating jobs during construction, and he gives this moderate weight. He considers that bus, cycle and highway infrastructure would be improved, and he gives this moderate weight.
21. The Secretary of State considers that there are no specific policies in the Framework which indicate that this development should be restricted. He further considers that the adverse impacts of the proposal do not significantly and demonstrably outweigh the benefits. Overall he concludes that there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
22. The Secretary of State therefore concludes that planning permission should be granted.

### **Formal decision**

23. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby grants outline planning permission subject to the conditions set out in Annex A of this decision letter, for up to 108 residential dwellings, vehicular access from Burndell Road, public open space, ancillary works and associated infrastructure, in accordance with application ref: Y/19/16/OUT, dated 7 March 2016.
24. 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**

25. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
26. 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
27. A copy of this letter has been sent to Arun District Council and Yapton Parish Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

*Merita Lumley*

Authorised by Secretary of State to sign in that behalf

## Annex A – Conditions

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
3. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby approved shall be carried out in accordance with the following approved plans: AAL-15-184-P02 Site Location Plan, AAL-15-184-P05 Site Plan indicating land use parameters 14-110-006 Rev D Proposed Site Access.
5. Development shall not commence until full details of the proposed surface water drainage scheme, including maintenance and management, have been submitted to and approved in writing by the Local Planning Authority. No building shall be occupied until the complete surface water drainage system serving that property has been implemented in accordance with the agreed details and the details so agreed shall be maintained in accordance with details of the scheme in perpetuity.
6. Prior to the commencement of construction works details of a proposed foul drainage system shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of its siting, design and subsequent management/maintenance. No dwelling shall be occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details.
7. No development shall commence until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
9. Before the development is first occupied or brought into use a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved.
10. The landscape details referred to in Condition 1 shall include a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscape areas other than privately owned domestic gardens. The landscape management plan shall be implemented in accordance with the approved details.
11. No development shall take place until details of laying out, timetable for provision and future maintenance of Public Open Spaces has been submitted to and approved in

writing by the local planning authority. The layout details submitted in compliance with Condition 1 shall define the boundaries of such areas, their proposed use, the items of equipment, means of enclosure and all other structures to be installed. The development shall be carried out and maintained in accordance with the approved details.

12. No development shall be carried out unless and until a schedule of materials and finishes and samples of such materials and finishes to be used for external walls and roofs of the proposed buildings have been submitted to and approved by the Local Planning Authority and the materials so approved shall be used in the construction of the development.
13. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details of the following matters:- the anticipated number, frequency and types of vehicles used during construction, the method of access and routing of vehicles during construction, the parking of vehicles by site operatives and visitors, the loading and unloading of plant, materials and waste, the storage of plant and materials used in construction of the development, the erection and maintenance of security hoarding, the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders), details of public engagement both prior to and during construction works.
14. No operational or construction vehicles shall be operated on the site except between the hours of: 07.00 and 19.00 on Mondays to Fridays inclusive, 07.00 and 13.00 on Saturday and not at any time on Sundays or Public Holidays.
15. Prior to the commencement of construction works on each phase of the development of any preparatory works, a detailed ecological enhancement scheme (which shall include the installation of bat boxes throughout the site) shall be submitted to the local planning authority for approval and shall be based on the recommendations within the supporting ecological statement. All approved details shall then be implemented in full and in accordance with the agreed timings and details.
16. No demolition, ground clearance or vegetation clearance works shall take place within the bird nesting season (between 1 March and 31 August inclusive in any year unless a nesting bird check is carried out. This shall, be undertaken by a suitably qualified ecologist immediately prior to the works taking place. If any active nest sites are identified, these nests shall remain undisturbed until all the young have fledged naturally.
17. At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low-carbon energy sources or equivalent fabric first standards that would secure a 10% reduction in energy use. Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the local planning authority as a part of the reserved matters submissions required by condition 2. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.
18. No development shall take place until a street lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The street lighting shall be provided in accordance with the approved scheme.

19. Prior to the commencement of the development details showing the proposed location of one fire hydrant shall be submitted to and approved in writing by the Local Planning Authority. The fire hydrant shall be provided in accordance with the approved details before the first occupation of the development and shall be retained thereafter.
20. The development shall not commence until the access serving the development, including realigned Burndell Road and associated footway improvements, has been constructed in accordance with the approved Drawing No. 14-110-006 Revision 'D' and to include all Road Safety Audit dated April 2016 recommendations.
21. The development shall not commence until visibility splays of 2.4 metres by 120 metres and 2.4 metres by 59m in accordance with plan No 14-110-006 REV D have been provided at the proposed site vehicular access onto Burndell Road in accordance with this approved drawing. Once provided, the splays shall thereafter be retained and kept free of all obstructions of a height of 0.6 metre above the adjoining carriageway level.
22. No part of the development shall be first occupied until the car parking for that part of the site has been provided in accordance with plans and details to be submitted to and approved by the local planning authority. The approved spaces shall thereafter be retained at all times for their designated purpose.
23. No part of the development shall be first occupied until covered and secure cycle parking spaces for that part of the site have been provided in accordance with plans and details to be submitted to and approved by the local planning authority. The approved spaces shall thereafter be retained at all times for their designated purpose.
24. No part of the development shall be first occupied until provision has been made within the site in accordance with plans and details to be submitted to and approved by the Local Planning Authority to prevent surface water draining onto the public highway.
25. No part of the development shall be occupied until the Travel Plan dated March 2016 is implemented as specified within the approved document.



The Planning Inspectorate

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

by Julia Gregory BSc (Hons), BTP, MRTPI, MCMI

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

Date: 13 July 2017

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**TOWN AND COUNTRY PLANNING ACT 1990**

**ARUN DISTRICT COUNCIL**

**APPLICATION BY**

**GLEESON DEVELOPMENTS LTD**

Inquiry held on 25 and 26 April 2017

Burdell Road, Yapton, West Sussex BN19 0JF

File Ref: APP/C3810/V/16/3158261

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**File Ref: APP/C3810/V/16/3158261**

**Land off Burndell Road, Yapton, West Sussex BN19 0JF**

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 8 September 2016.
- The application is made by Gleeson Developments Ltd to Arun District Council.
- The application Ref Y/19/16/OUT is dated 7 March 2016.
- The development proposed is an outline application for the development of up to 108 residential dwellings, vehicular access from Burndell Road, public open space, ancillary works, and associated infrastructure. All matters reserved except for access.
- The reason given for making the direction was based on the Secretary of State's policy for calling in planning applications.
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application: *the conflict with the made Yapton Neighbourhood Plan and any other matters the Inspector considers relevant.*

**Summary of Recommendation: that planning permission be granted**

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**Procedural Matters**

1. The Inquiry took place on 25 and 26 April 2017. It was adjourned to allow the submission of Inspector requested documents. There was subsequently correspondence with the Council and the Appellant about a late written representation.<sup>1</sup>
2. Following this, on 10 May 2017 the Supreme Court issued a judgement on Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant). The main parties and Yapton Parish Council were invited to make any written representations that they wished about this judgement before I closed the Inquiry. Representations were received from the applicant and the Council. The Inquiry was formally closed in writing on 30 May 2017.
3. The application is in outline with all matters other than access to Burndell Road reserved for future determination. An illustrative master plan shows the site laid out with 106 dwellings.<sup>2</sup> By altering the dwelling types it would be possible with only a slight amendment to alter the number of dwellings to 108. The master plan is indicative only.
4. A S106 agreement dated 8 August 2016 accompanies the application. The agreement was varied by deed dated 26 April 2017, submitted at the Inquiry. The S106 agreement and its variation will be considered later in this report.
5. The Council resolved to grant planning permission for the development at its Development Control Committee on 15 June 2016. The Council did not therefore oppose the development at the Inquiry. Mr David Innes, for the Council appeared in order to assist the Inquiry and to answer Inspector questions.
6. The main matters discussed at the Inquiry were the provisions for housing development contained within the development plan; current housing land supply

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<sup>1</sup> CD60

<sup>2</sup> Plan ref AAL-15-184-P01

within the District; the implications of that for the distribution and supply of new housing locally; and whether the scheme amounted to sustainable development.

### **The Site and Surroundings**

7. The application site comprises land to the south of Burndell Road, which is a classified road, the B2233. The land extends in size to some 3.8ha. The site is located on the eastern edge of Yapton Parish, but within walking distance of the facilities and services in Yapton. Yapton is a settlement of some 3500 people situated within the countryside to the north of Bognor Regis.
8. Most of the site comprises grade 2 and 3a agricultural land,<sup>3</sup> but where it is closest to Burndell Road there is a small derelict car park previously associated with an adjacent derelict scrap yard at the rear of Wayside. To the east of the access position lies Wayside, No 19 Burndell Road, which is a detached, grade II listed building.<sup>4</sup> Further along lies Fellowes Gardens.
9. The site includes highway land to the west and east. This would allow visibility splays and alterations to the road and footway layout to be provided at the proposed junction between the estate road and Burndell Road. To the west of the application site are dwellings fronting Burndell Road and a residential estate. There are also dwellings on the northern side of Burndell Road opposite the site of the proposed access.
10. The land slopes down slightly to the south, but is relatively flat and is undeveloped. There is a substantial drainage ditch to the west. There is a hedgerow to the north where the land adjoins the rear gardens of recently built dwellings in Fellowes Gardens, and along the field boundaries to the east and the south. There are some mature trees in those field boundaries.
11. To the south west there are allotments and to the south there is agricultural land. Directly to the east of the site planning permission has been granted for 45 dwellings.<sup>5</sup> Those dwellings would be located within Ford Parish. There is a public right of way, Footpath 167 (PROW), which runs close to the western boundary of the site along its full extent before joining footpath 166 which runs in a westerly direction off site to the north of the allotments.

### **Site visit**

12. A familiarisation visit of Yapton unaccompanied by any party took place on 24 April 2017, the day before the Inquiry.
13. An extensive site inspection of the appeal site and surrounding area took place on 27 April 2017 accompanied for the most part by representatives of the applicant, Arun District Council and Yapton Parish Council.
14. I visited the appeal site itself and then visited all the areas requested to visit assisted by a map submitted by the Parish Council.<sup>6</sup> I saw the location of the site and relevant characteristics of various sites referred to in evidence. I saw also

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<sup>3</sup> ADAS report dated July 2015

<sup>4</sup> Listing description CD 38 appendix1

<sup>5</sup> Council ref F/7/15/OUT

<sup>6</sup> Plan W4

the location of bus stops and various shops and services within Yapton and their relationship to the application site. The overall impression that I gained of Yapton was of a traditional village, with shops and services, with some modern housing estates, surrounded by agricultural land, including the application site. I travelled around the area to experience the local road network.

### **Planning Policy**

15. S38(6) of the Act identifies that where regard is to be had to the development plan in the determination of an application, the determination is to be in accordance with the plan unless material considerations indicate otherwise.
16. The development plan comprises the saved policies of the adopted Arun District Local Plan 2003 (LP) and the made Yapton Neighbourhood Plan (2014) (YNP).<sup>7</sup> All the relevant development plan policies are listed within the Planning Statement of Common Ground (SoCG) and are contained within the core documents.
17. The LP covers only the period 1996 to 2011 but various policies are saved by a direction under Paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004, dated 25 September 2007. The following policies are particularly pertinent to the matters contained in my report.
18. Saved LP policy GEN2 details that outside the built up area boundaries, development will not be permitted unless it is consistent with other local plan policies. In the explanation, it makes clear that one of the principles of establishing the boundaries was the availability of land for housing.
19. Saved LP policy GEN3 safeguards the countryside for its own sake and restricts development unless it is for various different categories of development, which do not include residential schemes such as the application proposal. It specifies as its reason that the countryside is an important resource that needs to be protected for its own sake.
20. Saved LP policy GEN5 specifies that the plan makes provision for 8,700 new dwellings in the District in the plan period 1996-2011.
21. Saved LP policy GEN7 seeks high quality design and layout, and promotes sustainable development.
22. Saved LP policy GEN8 requires infrastructure and facilities made necessary by the development to be provided.
23. Saved LP policy GEN9 seeks to ensure adequate foul and surface water drainage to prevent pollution and flooding.
24. Saved LP policy GEN11 seeks to protect properties from the risk of inland flooding.
25. Saved LP policy GEN12 sets parking standards in new development.
26. Saved LP policy GEN20 requires the provision of public open space to a minimum standard of 2.4ha per 1000 people within new development.

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<sup>7</sup> LP policies are in CD8 and YNP is in CD10

27. Saved LP policy GEN29 requires the retention of habitats of nature conservation interest.
28. Saved LP policy DEV17 seeks the provision of affordable housing on sites of 25 or more dwellings or residential sites of 0.8ha or more.
29. LP policy GEN16 referred to in representations on highway matters is not a saved policy.
30. The Council submitted the Arun Local Plan 2011-2031 (ELP) for Examination in 2015. The submission plan identified the Objectively Assessed Housing Need (OAN) for the District as being 580 dwellings per year (dpa). Policy H SP1 set out the strategic parish and town allocations for housing, based on this figure. It identified a total provision for Yapton of some 100 homes.
31. The Examination of the ELP was suspended on 2 February 2016. The Council was requested by the ELP Inspector to look again at the OAN for the District, based on an assessment that it is at least 845 dpa.<sup>8</sup> The Council has recently published a pre-submission consultation document on main modifications to the ELP and the consultation is on-going.<sup>9</sup> The Council has now advanced an OAN of 919 dpa in the proposed main modifications to the plan. New strategic allocations have been included in the main modifications.
32. The ELP now specifies that a total of 20,000 new homes will be provided within the District between 2011 and 2031 under ELP policy H SP1. The policy identifies that additional allocations for small sites will be made across the District through emerging Neighbourhood Plans or reviews of made Neighbourhood Plans. Only if necessary, will the Council commence the production of a Small Sites Development Plan Document three years after the adoption of the ELP in order to meet the requirements of the Plan.
33. ELP policy H SP2c identifies a strategic allocation SD7 to the south west of Yapton for at least 400 dwellings over the plan period.<sup>10</sup> Also, Ford will have a strategic allocation of some 1,500 homes over the plan period. The deadline for representations on the main modifications had not been reached at the time of the Inquiry.
34. At the Inquiry I was told by the Council that in reaching the housing figures for Yapton in the modified ELP, the application site had been accounted for as a commitment. This was on the basis that the adjacent site has planning permission and the application site had been considered combined with this adjacent land in the Strategic Housing Land Availability Assessment (SHLAA) and Housing and Economic Land Availability Assessment (Update 2016) (HELAA).<sup>11</sup> The Council specified that the site was considered suitable when considering the planning application.<sup>12</sup>

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<sup>8</sup> CD15

<sup>9</sup> Published March 2017 CD11

<sup>10</sup> Shown on DOC 20

<sup>11</sup> CD17

<sup>12</sup> DOC 21

35. Had the assessment not included the site, the Council advised at the Inquiry that the requirement for Yapton would have been 500 dwellings rather than the 400 dwellings included in the Plan.<sup>13</sup>
36. Turning now to the YNP, YNP policy E1 seeks to protect high value agricultural land. It identifies that planning permission for development on grade 1 and grade 2 land will be refused unless certain circumstances apply. These are where it is for housing allocations SA1 and SA2 or it involves additional housing sites required by policy H1 to meet the objectively assessed housing needs in the plan area. Although the plan figure 2 shows the land as grade 1, the detailed ADAS report referred to in the site and surroundings section above identifies it as mainly grade 2 and 3A.
37. YNP policy BB1 seeks to focus development within the built up boundary defined in the plan. Development outside the built up boundary will not be permitted unless certain circumstances apply. One of these is that the development relates to additional allocations for housing land in accordance with policy H1.
38. YNP policy H1 is based on what was then in the Council's draft Local Plan, that Yapton should provide at least 100 dwellings between 2014 and 2029. It identifies that the minimum housing requirement for Yapton will be set by the emerging Arun Local Plan and that an additional 20% buffer will be allowed.
39. In addition to two allocations, SA1 and SA2, infill development will be acceptable within the built up boundary. The policy specifies that additional allocations will be made if the emerging Arun Local Plan requires such action or if the identified housing sites do not proceed. Any development that would result in the additional 20% buffer being exceeded will only be permitted if there is sufficient capacity at Yapton Primary School.
40. The YNP has implicit within it that the housing requirement is a floor not a ceiling and that it must supply the housing requirement of the emerging local plan, over which there was a degree of uncertainty at the time of preparation of the YNP. No new allocations have been put forward by the Parish since the YNP was made.
41. YNP policy E9, amongst other matters, seeks to retain listed buildings. YNP policy E11 expects development to minimise the impact of flooding from development. YNP policy PK1 sets minimum standards for the provision of off-street parking for all new residential developments.
42. Supplementary Planning Guidance Open Space and Recreation Standards (SPG) provide advice on the provision of open space and children's play equipment in conjunction with LP policy GEN20.

### **Other policy considerations**

43. Paragraph 12 of the National Planning Policy Framework (the Framework) identifies that the development plan is the starting point for decision making. Proposed development that accords with an up to date Local Plan should be

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<sup>13</sup> This accords with the SHLAA extract CD18 and an extract of Council agenda dated 1 September 2016 DOC 19

- approved, and that which conflicts should be refused unless other material considerations indicate otherwise.
44. Framework paragraph 47 seeks to boost significantly the supply of housing. Local planning authorities should identify and update annually a supply of deliverable sites sufficient to provide five years' worth of housing against their housing requirements.
  45. The Framework, in paragraph 49, specifies that relevant policies for the supply of housing should not be considered up to date if a five-year supply of deliverable housing sites cannot be demonstrated. The Supreme Court judgement referred to in procedural matters makes clear that the primary purpose of paragraph 49 is to trigger the operation of a tilted balance in paragraph 14 where the Council cannot demonstrate a five year supply of deliverable sites.
  46. In those circumstances, paragraph 14 of the Framework indicates what that means for decision taking. At the heart of the Framework there is a presumption in favour of sustainable development. Where relevant policies for the supply of housing are out of date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in the Framework indicate that development should be restricted. Paragraph 7 identifies that Sustainable development has economic, social and environmental dimensions.
  47. The Supreme Court Judgement concludes that the term "policies for the supply of housing" gives an indication of the category of policies in the development plan, these being housing supply policies such as housing allocation policies to which it applies. These can be distinguished from those such as the supply of employment land or those that protect the countryside.
  48. Paragraph 56 of the Framework promotes good design of the built environment. Paragraph 109, amongst other matters, seeks to protect and enhance valued landscapes, geological conservation interests and soils. Paragraph 112 advises that local planning authorities should take account of the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, poorer quality land should be used in preference to that of a higher quality.
  49. Paragraph 131 requires local authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets. Paragraph 132 identifies that great weight should be given to the asset's conservation. Significance can be harmed through, amongst other things, development within its setting. Paragraph 134 identifies that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal.
  50. Paragraph 183 promotes neighbourhood planning. Paragraph 184 identifies that neighbourhood plans provide a powerful set of tools for local people to ensure that they get the right types of development for their community. They must be in general conformity with the strategic policies of the local plan. Neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic purposes. Paragraph 185 specifies that the policies of a

made neighbourhood plan take precedence over the existing non-strategic policies in the local plan for that neighbourhood.

51. Paragraph 198 states that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.
52. The Government's Housing White Paper "Fixing our Broken Housing Market," February 2017 identifies the seriousness of the current housing shortage nationally.<sup>14</sup>
53. The applicant has referred to "The Economic Footprint of UK House Building", March 2015 produced by Nathaniel Lichfield and Partners on behalf of the Home Builders Federation in March 2015.<sup>15</sup> This identifies the economic benefits of house building.
54. Also supplied is HM Treasury report, "Fixing the Foundations: Creating a more Prosperous Nation", July 2015.<sup>16</sup> This details that the UK has been incapable of building enough homes to keep up with growing demand. The report says that this harms productivity and restricts labour market flexibility. It also frustrates the ambitions of thousands of people who would like to own their own homes.
55. Neighbourhood Planning: Written Ministerial Statement<sup>17</sup> stated that relevant policies for the supply of housing in a neighbourhood plan should not be deemed to be out of date where: the ministerial statement is less than 2 years old, or the neighbourhood plan has been part of the development plan for 2 years or less; the neighbourhood plan allocates sites for housing; and the local planning authority can demonstrate a three-year supply of deliverable housing sites. It identifies that the statement should be read in conjunction with the Framework and that it is a material consideration in relevant planning decisions.
56. Because the Council does not have a five year housing land supply, the Council has adopted 3 measures to address the short term position as recommended by the ELP Inspector. These were reported to the Local Plan Sub-Committee on 6 December 2016, and agreed at Full Council on 11 January 2017.<sup>18</sup> The measures comprise:
  - Option 1a - inviting planning applications on smaller deliverable sites identified by the HELAA considered to be sustainable which do not prejudice the emerging LP and/or infrastructure delivery;
  - Option 1b inviting planning applications on first phases of potential strategic allocated sites; and
  - Option 2b removing all current Parish/Town allocation numbers from the emerging LP and instead using the HELAA to identify a target for small sites to be allocated through a small sites DPD and/or updated neighbourhood plans.<sup>19</sup>

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<sup>14</sup> CD003

<sup>15</sup> P1A appendix 1

<sup>16</sup> P1A appendix 4

<sup>17</sup> HCWS346 made by Gavin Barwell on 12 December 2016

<sup>18</sup> DOC 18

<sup>19</sup> CD17

## Planning History

57. There have been no previous planning applications made for the site. The site was identified with land to the east in a SHLAA as having potential for 165 dwellings. It is also identified in the HELAA document as a possible site for development.<sup>20</sup>

## Other relevant planning decisions

58. The land to the east referred to above has outline planning permission for 45 dwellings.<sup>21</sup> It also comprises unallocated agricultural land outside the settlement boundary. The site lies within Ford Parish.

59. Land south of Ford Lane, Yapton was the subject of an application for residential development of up to 100 dwellings and for public open space and landscaping. That application was refused planning permission by the Council, and an appeal was dismissed by the Secretary of State. A High Court challenge of that decision was dismissed on 11 April 2017.<sup>22</sup>

60. Briefly summarising, in the conclusion the Secretary of State found that policies for the supply of housing in the LP were out of date. At that time there was around 3 years HLS reported by the Inspector. The secretary of State gave significant weight to YNP policy H1 because it gave flexibility for any shortfall to be met. He found the proposal to be in conflict with policy BB1. Whilst he found this to be out of date, he did not agree with the reporting inspector that the potential delay in the provision of additional housing meant that priority to the supply of housing should not be given to policy BB1, which he attributed very substantial weight, given his findings on Neighbourhood Planning and taking into account the provisions of paragraph 198 of the Framework.

61. Even though out of date, the Secretary of State placed a very high negative weight on the conflict between the proposal and YNP policy BB1. The Secretary of State gave very substantial weight to the conflict with the social element of sustainability because of his conclusions on the YNP. He gave moderate weight to the conflict with the out of date LP policies GEN1 and GEN2. He concluded that the identified adverse impacts of the proposal would significantly and demonstrably outweigh the identified benefits when assessed against the policies in the Framework taken as a whole.

62. Cinders Lane Yapton, allocation SA2. The Council advised that an application for planning permission had been submitted to the Council for consideration. Land North of Yapton CE Primary School, allocation SA1. Outline planning permission was granted in August 2015.

63. A planning application has been submitted for residential development on the vacant scrap yard adjacent to the proposed access.<sup>23</sup>

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<sup>20</sup> CD17 and DOC 21

<sup>21</sup> Council ref F/7/15/OUT

<sup>22</sup> APP/C3810/A/14/2228260 dated 13 September 2016 CD30 and High Court judgement dated 11 April 2017 on application file.

<sup>23</sup> W5

## **The Proposals**

64. The application is in outline with all matters other than the means of access reserved for future determination.
65. Nonetheless, a Design and Access Statement (DAS) was submitted as part of the application. The density would be about 28 dwellings per hectare. Houses would be primarily 2 storey in height with occasional elements of 2.5 storey development. There would be a traditional relationship between houses and flats. The location of affordable housing is not to be agreed at this stage.

## **Other Agreed Facts in Statements of Common Ground**

66. There is a Planning Statement of Common Ground which was signed by the Council and the applicant. The Council has no objections in principle to the development.
67. The main parties agreed that the OAN for the purposes of consideration of the application scheme is 919 dpa. This is the figure given in the September 2016 GL Hearn Report. This was produced using the method agreed by the ELP Inspector and has regard to the latest 2014 Household Projections. The same report assesses the net need for affordable housing as being 480 dpa. The scheme will provide 30% affordable housing which is a material benefit of the scheme to which the parties agree that significant weight should be given.
68. It is agreed that there is persistent undersupply of housing locally and that the 20% buffer should be applied. The assessed HLS is some 1.9 years at maximum and it is not a housing shortfall that will be resolved in the short/medium term without the approval of currently unallocated greenfield sites such as the application site.
69. It is agreed that paragraph 14 of the Framework is engaged by paragraph 49 of the Framework. LP policy GEN5 is out of date in the sense that it only plans for the period 1996 to 2011.
70. LP policies GEN2 and GEN3 are out of date also in the sense that the LP does not plan for housing beyond 2011, it pre-dates the Framework and does not seek to establish an OAN. The built up boundaries on which GEN2 and GEN3 are based relied on development needs as they were understood in 2003; and the lack of a 5 year housing land supply means that the housing policies should not be considered up to date when paragraph 49 of the Framework is applied. LP policy GEN3 also seeks to protect the countryside for its own sake which is not consistent with the Framework. LP policies GEN2 and GEN3 should be given no more than very limited weight.
71. YNP policy H1 is a permissive policy which allows for additional allocations if the ELP requires such actions or the identified housing sites do not proceed. The OAN is significantly more than when the YNP was made. As one of the most sustainable settlements in the District, Yapton will have to accommodate significantly more housing. The development would comply with the provisions of Policy H1. This conclusion accords with the Inspector and the Secretary of State in the Ford Lane appeal.
72. It is agreed that the scheme accords with YNP policy BB1 since the policy specifically allows for development outside the defined settlement boundary

where it would relate to additional allocations of land in accordance with Policy H1. Even if the view is taken that BB1 is somehow breached, it is evident that this policy is out of date given the land supply situation in the District and that the presumption in favour of sustainable development is engaged. There are no adverse impacts of the scheme that could reasonably be said to significantly and demonstrably outweigh the acknowledged benefits. It is agreed that the scheme accords with all the other policies of the YNP as far as they are relevant to the application.

73. The scheme is appropriate to the surrounding pattern of development. The development would not be out of character with the surrounding landscape. There are no objections on visual impact and local character. It is well shielded in distant views by existing vegetation and built form and there will be further mitigation measures. It is not a valued landscape in terms of paragraph 109 of the Framework. The density is appropriate.
74. The PROW is not altered. Amenity space can be provided. Established trees on boundaries would not be affected. The development will not have any impact on the particular significance of any listed buildings. The scheme would preserve the special interest of Wayside, including any contribution to the setting of that significance. It would comply with policy E9 of the YNP and draft policies of the ELP.
75. The site is in Flood Zone 1, land at least risk of flooding. The application site proposes SuDs that would be sized for rainfall events up to 1 in 100 year event plus climate change whilst restricting discharge rates from the cellular storage tanks to Qbar. Long term storage is therefore not required on site. The Environment Agency and the County Council and the District Council all have no objections, subject to conditions. The development would comply with LP policy GEN9, YNP policy E11 and the emerging ELP.
76. Foul sewerage will be collected at the southwest corner and pumped in a northerly direction to Burndell Road. Southern Water has no objections subject to conditions.
77. The site is Grade 2 and Grade 3a agricultural land. YNP policy E1 seeks to protect higher grade agricultural land except where such development accords with policy H1. The scheme accords with policy H1 and so therefore would comply with E1. In any event, all of the land around Yapton is best and most versatile agricultural land with much of it being grade 1, which is higher than the application site. As there is a significant need for housing it is inevitable that there will be a loss of some agricultural land. The application site would avoid the loss of grade 1 agricultural land. The need for development outweighs the protection and therefore the scheme accords with Framework paragraph 112.
78. Infrastructure and service contributions are provided by a S106 agreement. These are detailed later in this report.
79. The economic benefits relate to the direct creation of construction jobs, the creation of other jobs in construction related activities such as brick manufacturing; additional household expenditure in the area and new homes bonus/taxes. Significant weight should apply to the benefits.

80. The social benefits relate to the provision of additional housing including affordable housing in a sustainable location close to local services. Significant weight should be given to these benefits.
81. The scheme could deliver a range of benefits to improve and provide net gains to biodiversity including new planting throughout the site providing landscaping buffers. SuDs measures will provide environmental benefits as well as reducing the flow of water and reducing the risk of surface water drainage. Infrastructure and service contributions are provided by the S106 agreement. Planning conditions would secure that the details of the scheme were satisfactory.
82. The adverse impacts are limited to the loss of undeveloped land and the loss of 3.8ha of most versatile agricultural, land albeit that this is not significant in terms of paragraph 112 of the Framework.
83. There is a Transport and Highways Statement of Common Ground agreed by the applicant and West Sussex County Council as Highway Authority. On highways and transport matters there are no matters of disagreement between the applicant and the highway authority.
84. The applicant submitted a Transport Assessment with the application which set out the local highway footpath and cycle networks, details of the proposed access and forecasts the traffic generation and its impact on the local highway network. There is also a Travel Plan which identifies measures to encourage future residents to travel by sustainable modes of transport.<sup>24</sup>
85. A STAGE 1 Road Safety Audit of the proposed access was undertaken of the proposed site access design.<sup>25</sup>
86. A technical note was submitted to assess the impact of the redistribution of traffic due to the opening of the A259 Felpham Relief Road.<sup>26</sup>
87. The junction shown on plan No 14-110-006 Rev D is agreed to be acceptable in capacity and design terms. Improvements to the footpath on the southern side of Burndell Road provide a welcomed connection between the site access and Fellowes Gardens.
88. Car parking would be provided to an appropriate level in accordance with highway authority standards.
89. The site is sustainable in terms of its accessibility to local facilities. There are local facilities, shops and employment close to the site and it is located within convenient walking distance to bus stops with up to 20 minute frequency services. The travel plan would encourage the use of methods of transport other than the private motor car.
90. Financial contributions would be made to bus infrastructure and providing a cycle route to Ford Airfield. Accessibility would be improved by clearing and resurfacing a section of the Public Footpath.

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<sup>24</sup> CD46 and CD46B

<sup>25</sup> CD51

<sup>26</sup> CD56

91. The scheme would generate up to 74 vehicle movements in the AM peak hour and 76 vehicles in the PM peak hour based on trip rates agreed by the highway authority.
92. The highway authority is satisfied that traffic flows through Yapton have reduced since the opening of the A259 Felpham Relief Road. Key junctions such as Oyster Catcher and Comet Corner were reassessed to take account of this. Some traffic flows will increase marginally at the junctions and some flows will reduce marginally. The changes would be so small as to be imperceptible on a day-to-day basis.
93. The highway authority agrees that the scheme is acceptable in terms of its proposed access, highway impacts and method of determining parking provision. There is agreement that it accords with saved LP policies GEN12, GEN16<sup>27</sup> and YNP policy PK1. The District Council does not seek to disagree with these conclusions.
94. In summary, there are no matters of dispute between the applicant and the District Council. The benefits associated with the application scheme significantly and demonstrably outweigh any adverse impacts, which are themselves limited. The application should be approved without delay in accordance with the provisions of paragraph 14 of the Framework.

### **The Case for the applicant**

95. The position of the applicant is that the scheme accords with the development plan when read as a whole and that planning permission should be granted without delay. If the alternative position is taken that there is a breach of YNP policy BB1 then it is common ground with the Council that the second part of paragraph 14 of the Framework is engaged and that planning permission should be granted unless the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits.
96. Interpretation of the Supreme Court judgement indicates that LP policies GEN2, GEN3 and YNP policy BB1 should not be considered policies for the supply of housing under Framework paragraph 49. Nonetheless, these policies are out of date independently of whether they are policies for the supply of housing for the purposes of paragraph 49. Even after this judgement paragraph 14 of the Framework is still triggered. The Supreme Court decision has no bearing on the applicant's primary case.
97. There is no policy in the YNP that would restrict the proposal in principle. Contrary to the Secretary of State's "matters on which he wished to be informed", the proposal is not contrary to the YNP. The Council's approach is consistent with the Inspector's findings in respect of the Ford Lane, Yapton appeal.<sup>28</sup>
98. The delivery of up to 34 units of affordable housing is a substantial benefit of the proposals in order to contribute to the shortfall of affordable housing in the District.

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<sup>27</sup> Policy GEN16 is not on the list of saved policies of the LP as identified earlier in the report.

<sup>28</sup> APP/C3810/A/14/2228260 referred to earlier

99. The site, with the adjoining site in Ford Parish is included in the HELAA as developable, with a combined capacity of 165 units, but it would not result in the coalescence of settlements.
100. No party opposing the development has submitted evidence that it will cause any harm. There is no substantiation of the allegation by Clymping Parish Council of rat-running.
101. Yapton Parish Council opposes the development as being contrary to YNP policy BB1 but that misinterprets that policy. Neighbourhood Plans do not have special status over other plans. Framework paragraph 198 contains the word "normally" and merely reflect the statutory test under s38 (6) of the Act.<sup>29</sup> There is nothing normal about the circumstances. Yapton Parish Council does not put forward any substantial harm to the landscape or heritage assets, or in respect of biodiversity, ecology, and flooding/drainage or highways and transportation.<sup>30</sup>
102. The application is supported by statutory consultees. Southern Water does not object, and, subject to conditions, is satisfied that both surface and foul water drainage can be disposed of without any difficulty.<sup>31</sup> There is no impact on any listed building.<sup>32</sup> The development will result in the loss of an arable field but the impacts on landscape character and the visual impacts will be negligible.<sup>33</sup> Any greenfield site developed for housing around Yapton will result in the loss of agricultural land.
103. The applicant considers that insofar as there are any adverse impacts they do not come close to outweighing the benefits and as such the scheme should be approved. As far as economic benefits are concerned, there is direct creation of construction jobs, creation of jobs in construction related activities; and additional household expenditure in the local area. The development would also deliver New Homes Bonus funding and local tax receipts.<sup>34</sup>
104. As far as the social dimension of sustainability is concerned, 108 new homes in a situation where the supply is at best some 1.9 years supply, would be a benefit to which significant weight should be applied. This in the experience of Mr Ross was one of the worst he had come across.<sup>35</sup> Furthermore, it would make a material contribution to the delivery of affordable housing where there is an acute shortage and there is an annual requirement of 480 affordable houses per annum. It would create a high quality built environment with the delivery of a LEAP accessible by local residents other than occupiers of the proposed dwellings. It would be located in an accessible location at what is agreed to be one of the most sustainable settlements in the District.<sup>36</sup>
105. From the environmental perspective, the site has no specific environmental or heritage designations. It will cause no harm in the wider landscape and cause no

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<sup>29</sup> DOC 14 shows support at appeal

<sup>30</sup> CD43, CD38, CD49, CD50, CD53

<sup>31</sup> P4

<sup>32</sup> P5 and P5A

<sup>33</sup> P3, P3A, CD47 and CD48

<sup>34</sup> P1 and P1A

<sup>35</sup> DOC 16

<sup>36</sup> P1 and P1A

harm to the significance of any heritage assets or their setting. There is the ability to deliver net biodiversity gains.<sup>37</sup>

106. As far as highway matters are concerned, the highway authority has no objections to the application scheme, in terms of the local highway network capacity or in relation to traffic generation. The highway authority has confirmed also that the proposed junction is acceptable in capacity terms, that visibility splays are acceptable and that it meets requirements in terms of road widths. This was ratified in the Stage 1 Road Safety Audit.<sup>38</sup>
107. Improvements would be made to footways, footpaths and bus stops. Furthermore the Travel Plan makes provision for various incentives to homeowners to use more sustainable forms of transport than the private motor car.<sup>39</sup>

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

108. The Council does not oppose the development, has resolved to grant planning permission for the scheme and has agreed a Statement of Common Ground with the applicant. The Council's position is set out in the report to committee, Statement of Case, Statement of Common Ground on Planning and its opening statement.
109. The Council accepts that policies GEN2 and GEN3 do not accord with the Framework and so are out of date.<sup>40</sup> The Council accepts the provisions of paragraphs 14 of the Framework in respect of how applications should be determined in such cases. The Council refers to 2 recent appeal decisions in that regard.<sup>41</sup> Even after the Supreme Court ruling, the YNP would be out of date because it is based on an outdated OAN.<sup>42</sup> The narrower interpretation of what is a housing land supply policy does not affect this position.
110. The Council considers that the proposal would be a sustainable form of development for which there is a presumption in favour. It would be in a settlement identified as a Larger Settlement and one of the most sustainable settlements in the District<sup>43</sup>.
111. On 2 February 2016 the Inspector examining the submission local plan wrote to confirm his conclusion that the Council's OAN should be 845 dpa for the plan period. The ELP contained a requirement figure of 580 dpa. The GL Hearn Housing update September 2016 sets out an OAN figure of 919 dpa.
112. The Council accepts there has been persistent undersupply of housing in the District. The housing shortfall against an OAN of 919 dpa, where the 20% buffer is applied, as required by the Framework, is significant.

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<sup>37</sup> P3, P3A, P5 and P5A

<sup>38</sup> P2

<sup>39</sup> P2

<sup>40</sup> Statement of case November 2016

<sup>41</sup> APP/C3810/V/14/2217385 paragraphs 14-17 and APP/C3810/V/14/2220943 paragraphs 24-26

<sup>42</sup> Statement of Common Ground paragraph 8.12 regarding YNP policy BB1

<sup>43</sup> Settlement Sustainability Study July 2007

113. The provision of up to 108 dwellings can make a significant contribution to the shortfall by providing a developable site in the short term. This will make real economic and social contributions in helping Arun deliver the homes it desperately needs in a sustainable settlement. The delivery of up to 34 units of affordable housing is a substantial benefit of the proposals in order to contribute to a shortfall of affordable housing in the District.
114. Whilst the development would be contrary to the LP because it would be outside the built up boundaries, these boundaries relate to policies only up to 2011 and are therefore out of date. They are also out of date because of the Council's land supply position.
115. The YNP confirms that the housing requirement for Yapton is a floor not a ceiling and the YNP must make its contribution towards addressing Yapton and the District's full and objectively assessed needs for market and affordable housing as required by the Framework.
116. The YNP is based on a 575 dpa OAN figure taken from the GL Hearn Coastal West Sussex Strategic Housing Market update rather than the current OAN. The YNP was sound when made, but given the updated HLS and OAN there is nothing to underpin the built up area boundary. In addition, the YNP figures state that the housing requirement is a floor not a ceiling. YNP policies BB1 and H1 together are such as to accommodate the granting of this small site to assist with meeting the housing shortfall as identified in the ELP. To grant planning permission would be in keeping with the Framework and guidance and would specifically alleviate the shortfall within the next five years.
117. In response to Yapton Parish Council, the Parish had been advised of the likely need to find additional small scale allocations in support of the Local Plan strategy as early as April 2016. They are in the best position to promote or discount sites locally.<sup>44</sup>

### **Representations made at the Inquiry by others**

#### **Andrew Faulkner**

118. Mr Faulkner submitted his verbal statement also as a written document.<sup>45</sup> In summary he was deeply involved in the preparation of the YNP on the YNP Group responsible for its preparation, was a Parish Councillor until May 2015 and is a long standing local resident. He spoke in support of the Parish Council's position.
119. Yapton received a front-runner grant of some £20,000 in March 2012 which allowed the employment of a consultant to help in the preparation of the plan.
120. Mr Faulkner gave the background to the preparation of the plan and identified that nearly 95% of those who voted in the public referendum chose to accept the plan and for it to be used to assist the District Council in determining future planning applications.
121. He gave details of the consideration of allocation sites which included concerns about the coalescence of villages.

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<sup>44</sup> DOC 17

<sup>45</sup> DOC 11

122. The plan is now law and cannot be ignored. It is frustrating to see the final result ignored. Localism should empower local communities. The judgement in respect of the Ford Lane site should be considered as it is of great relevance to the decision. He is disappointed that the Council has not chosen to support the YNP as it is valid 2014 to 2029.

**Vicky Newman, Yapton Parish Council**

123. Ms Newman is chairman of the Planning Committee of the Parish Council and is a local resident. The Parish Council are concerned that the development is contrary to the YNP because it is outside the settlement boundary. There is a need to maintain the integrity of the YNP. The HLS situation is being interpreted too rigidly. The PC considers that not enough weight is being given to the YNP given the Ford Lane appeal decision.

124. There is a need to continue with the current plan until there is a proper agreed allocation. There is no guide as to when it would be appropriate to make the allocation and alter the YNP. In the spirit of neighbourhood planning, as advocated by the Government, given the Ford Lane appeal was dismissed, the YNP should be supported rather than allowing speculative development which would set a precedent to further development.

125. There has been no solid guidance from the Council as to what should be done about the YNP. Significant weight should be given to the YNP. NP's had been supported at Ford Lane and Neighbourhood Plans have been supported on appeal elsewhere.<sup>46</sup>

**Harry Wood, for Clymping Parish Council**

126. The statement for Clymping Parish Council was submitted in writing before the Inquiry.<sup>47</sup> A further statement was submitted at the Inquiry.<sup>48</sup>

127. Local services are over stretched. Most residents have to commute for employment to the main centres. Traffic from Yapton is directed south onto the A259 that bisects Clymping. Most new residents from the proposed scheme would join the A259 at Comet Corner or the Oystercatcher which are both unsafe, or the Church Lane roundabout which is overcapacity. There is a failure to take into account the cumulative impacts of development. There is also a problem with rat running along Horsemere Green Lane which links Yapton Road with Church Lane. Clymping Parish bears the brunt of through traffic and rat-running which has got noticeably worse since the opening of the Bognor/Felpham Relief Road.

128. The further statement refers to a review carried out of the Arun Transport Study 2016- Stage 3 which will be used to comment on the ELP. These relate to in combination effects and the ELP rather than the application proposal.

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<sup>46</sup> Application file

<sup>47</sup> Application file

<sup>48</sup> DOC 10

### **Chris Lowrey, local resident**

129. Mr Lowrey also submitted his statement in writing.<sup>49</sup> Mr Lowrey is a local resident. One of the reasons why he moved to Yapton some 5 years ago was that there was to be a neighbourhood plan that would protect and uphold the interests of the local community.
130. He was concerned that the development was a departure from and in direct contradiction with the YNP. The development is on Grade 1 agricultural land, not brownfield and will increase traffic flows in the village.
131. The 2007 Sustainability Study identified its access to facilities as only fair, putting it at the bottom of the table of larger settlements. S106 money would be better spent funding better cycle links between Yapton and Barnham, for better access to the railway station. Local residents have not been consulted on the S106 funding. Funding for the primary school is largely silent and funding for selective secondary schooling does not benefit the majority of the community. Without the necessary improvements to local infrastructure the development would not be sustainable.
132. There will be a loss of a strategic gap, valued by local residents, differentiating Yapton Parish boundary from that with Ford Parish. YNP policy BB1, as modified by the Inspector, supports its retention.
133. The impact of many small scale developments within the Parish is not attracting the necessary highways contributions. The increase in vehicle movements would be higher than the lowest percentile quoted. The cumulative impact of development will put pressure on the highway infrastructure. The residents should not be unfairly disadvantaged by the lack of a cohesive made LP.

### **David Pearcey, local resident**

134. Mr Pearcey lives in Fellowes Gardens and is aggrieved that the development is contrary to a robust YNP.
135. Mr Pearcey has detailed drainage and highway design concerns. He is concerned the development will result in flooding and pollution of water courses. He had put various questions to the County Council about the Transport Assessment, including about the effect of the opening of the A259 relief Road, and about the Road Safety Audit but had received no response. He is concerned about the width of the footway at the access and the potential conflict for wheelchair users. He also has detailed concerns about datum points and boundary lines.

### **Written Representations**

136. There were many representations from local residents opposing the development submitted to the Council as part of consultations on the application. They are included with the questionnaire. They are summarised in the Council's committee report. There were objections on the grounds that the development did not accord with the YNP or the ELP, contrary to the Framework. The

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<sup>49</sup> DOC 12

development would result in the provision of more houses than the whole allocation within the YNP.

137. The development would be outside the built up boundary of Yapton. The development was on a greenfield site where there is plenty of wildlife. It would result in the loss of high quality agricultural land. Brownfield land should be used instead. The development would be tightly packed and not in character with the village. Development should be near larger settlements.
138. Yapton primary school will reach capacity in 2017 and the doctors' surgeries have long waiting lists for appointments. Infrastructure is poor and there is only one public house. The development is not sustainable. Infrastructure is poor. Drainage is a problem with a solitary sewer. There is potential for flooding local properties. Local shops have limited parking causing congestion. There can be an up to 20 minute wait at the A259 Bilsham Road and A259 Yapton Road junctions. The development will lead to more traffic congestion, especially in combination with other developments.
139. Yapton, Ford and Clymping Parish Councils all oppose the development.

### **Conditions and Obligations**

140. The S106 agreement dated 8 August 2016 provides the following:

- An affordable housing scheme on the site amounting to 30% of the dwellings within the development, comprising 50% affordable rented housing and 50% intermediate housing units. The agreement makes detailed provisions about the scheme.
- Public open space provision including a Local area of play (LAP) and a Local equipped area of play (LEAP) in accordance with the Council's Open Space and Recreation Standards.
- A contribution of £40,000 to be used towards bus stops, shelters and real time passenger information in Burndell Road.
- A contribution of £20,000 to be used towards a cycle route providing access to Ford Airfield.
- A contribution of £113,487 to be used towards full or part funding or provision of extended premises and extra medical staff and extra medical equipment at GP surgeries serving the development within the Yapton/Barnham catchment.
- A contribution of £8000 to be used towards the clearing and resurfacing of Public Footpath 166.
- A contribution of £7000 to be used towards a traffic regulation order for waiting restrictions at the junction of the access road with Burndell Road to prevent parking in this location.
- A formula based contribution for the expansion of Yapton Primary School, St Philip Howard High School and St Philip Howard High School for Sixth Form education.
- A formula based library contribution for improvements to Littlehampton Library.

- A formula based fire and rescue services contribution for the provision of Fire Safety equipment for vulnerable people in the Yapton area.
  - The agreement makes various provisions in respect of the construction, management and maintenance of estate roads.
  - Up to 5% of any payment or £15,000 whichever is the larger can be used for related project costs.
141. The applicant submitted a supplemental agreement and deed of variation dated 25 April 2017.<sup>50</sup> This makes various clarifications to the agreement and refers to the call-in by the Secretary of State. It clarifies the position regarding reference to condition 16. It defines the planning permission as that granted by the Secretary of State. A new clause is inserted to identify that if the Secretary of State considers any of the provisions do not comply with Regulation 122 of the CIL Regulations that such provisions shall not take effect. I consider all these clauses to be useful clarifications of the original deed.
142. For those contributions requested by the County Council a justification was provided dated 18 October 2016. The agreement was discussed at the Inquiry.
143. The provision for affordable housing complies with the development plan by delivering 30% affordable homes. Its provisions are all directed at ensuring that provision. The affordable housing requirements are justified.
144. The provision of open space accords with Council SPG standards and is necessary to secure acceptable living conditions for future residents.
145. Improvements to bus infrastructure, the public right of way and cycle ways, and payment for the traffic Regulation Order for the junction improvements at Burndell Road is necessary and acceptably related to the increase in demands on the highway network by future residents. They are reasonably based on costs.
146. The provisions in respect of the construction, management and maintenance of estate roads are necessary and directly related to the development.
147. The provision of finance towards school place provision in Yapton primary school is necessary to comply with YNP policy H1 given that capacity would need to be increased to cope with demand. The amount is based on the number of children likely to be occupying the properties and estimated build costs. Furthermore the secondary school/ sixth form provision is over capacity and therefore provision is required. All school provisions are based on nationally published building costs. These contributions are justified.
148. The doctor's surgery contribution is also based on build costs and likely occupancy rates of the development. Again this seems a reasonable approach and is justified in order to provide sufficient capacity in accordance with LP policy GEN8.
149. Library contribution is based on the per head costs of providing library floorspace and is reasonable and justified by the development. It would be used in a Tier 7 facility within a community space serving the area and is directly related to the development proposed.
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<sup>50</sup> DOC5

150. The provision of fire safety equipment to vulnerable people in the Yapton area is not directly related to the development or necessary to make the development acceptable in planning terms. I therefore attribute this part of the S106 agreement no weight.
151. I consider the provision that 5% or £15,000 whichever is larger that may be spent on related schemes as given in paragraph 16.3 of the agreement is not precise. It does not fulfil the tests of CIL Regulation 122 for that reason. I therefore attribute that provision no weight.
152. Turning now to conditions, suggested conditions agreed by the Council and the applicant are set out in Annexe A to this report. These were discussed at the Inquiry. I have considered these conditions in the light of the discussions and advice in the Framework and Planning Practice Guidance. The condition numbers I refer to below are those of the original annexe A conditions. I have made the amendments and re-ordering specified in appendix B which also amalgamate some, and simplify some, to aid clarity and enforceability.
153. I have changed the reserved matters and time conditions to those more commonly used. It was agreed by the main parties at the Inquiry that there were only 3 plans that needed to be referred to in the plans condition as this was an outline application with only access to be considered. The plans condition is required for the avoidance of doubt and in the interests of the proper planning of the area.
154. I have simplified the surface water drainage conditions 4-7 into one as they were unnecessarily complex. The details will need to be approved and at that time the Council can determine the parameters that will be taken into account and what will or will not be approved. Foul sewerage details as identified in condition 12 also need to be submitted and approved. Approval of drainage is necessary in the interests of the living conditions of future residents and those in neighbouring properties.
155. I have simplified the landscaping conditions 8, 9, and 15, which are required in the interests of the character and appearance of the area. Details of materials to be used in construction specified in condition 10 are also required in the interests of the character and appearance of the area.
156. I have made condition 11 requiring a construction management plan more precise and applied it in the interests of highway safety and the living conditions of local residents. Conditions 13 (bat boxes) and 20 (nesting birds) are necessary in the interests of the ecology of the site in simplified form.
157. Condition 14 restricting construction vehicle activity is necessary in the interests of the living conditions of local residents.
158. Condition 16 is required to secure the provision of open space in the interests of living conditions of future residents.
159. The development should achieve high levels of energy efficiency in accordance with the Framework and this is required by condition 17.
160. Details of street lighting required by condition 18, which are to be approved by the Council, are necessary in the interests of living conditions and to ensure that bats are protected.

161. A simplified version of condition 19 requiring the provision of a fire hydrant is necessary in the interests of future residents living conditions
162. Conditions 21, 22 and 25 are necessary in the interests of road safety. Conditions 23 and 24 are required to ensure satisfactory car and cycle parking on site. A simplified condition 26 is necessary to ensure the implementation of the Travel Plan that has already been produced.
163. I consider that the conditions, as I have proposed they be amended, comply with the tests set out in the Framework paragraph 204 requiring that conditions be necessary to make development acceptable in planning terms; be directly related to the development; and be fairly and reasonably related in scale and kind to the development.

### **Inspector's Conclusions**

164. The numbers in square brackets indicate the source paragraphs in the report from which the conclusions are drawn.
165. I have considered all the written and oral representations, the Council's resolution to grant planning permission [5,108] and the subsequent lack of any matters of dispute between the main parties [66,108], the objections of local Parish Council's and local residents [118-139] and the matters on which the Secretary of State particularly wishes to be informed.[banner heading]
166. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan, unless material considerations indicate otherwise [16]. I consider policies already referred to in the LP and the YNP to be the most relevant to the consideration of the matters on which the Secretary of State particularly wishes to be informed. [16-20,28,36,37,38,39,40]
167. Furthermore, for the avoidance of any doubt, I consider the Framework to be an up to date expression of Government Policy to which substantial weight should be applied.[43-51]
168. Having considered all those matters, I consider the main considerations to be the effect of the development on the supply and distribution of housing locally and whether there would be any conflict with the development plan in that regard, and whether the scheme would amount to sustainable development.

### *Housing*

169. The Framework makes clear that the development plan is the starting point for decision making [43]. Where development is in conflict with the development plan, it should be refused unless material considerations indicate otherwise. [15] The development plan comprises the LP and the YNP.[16]
170. Whilst the ELP is material to the determination of the application, and I note its provisions, I do not know what level of representation there has been or will be made about the main modifications, since they are not being disclosed by the Council at this stage. Furthermore, it is too early, since the Examination had not been resumed before the Inquiry closed, to determine what conclusions the Examining Inspector will come to about housing issues and the soundness of the

- plan. For those reasons, whilst there has been much progress, I attribute the ELP limited weight. [30-35]
171. Nonetheless, the main parties agree that the OAN will need to be substantially more than the 580 on which the YNP was based [30,67], given the 2014 Household projections, the findings of the LP inspector in early 2016, and the September 2016 GL Hearn report. [31,32,67] The main parties agree a figure of 919 dpa based on the GL Hearn report. [67] This has been accepted and is being promoted by the Council. No evidence has been produced that indicates that I should not adopt this figure for the purpose of this report.
172. Whilst the HELAA and the Council Strategy from early 2017 is not part of the development plan [34, 56] and therefore cannot be attributed the weight of a development plan, it demonstrates the Council's commitment to boosting the supply of housing in the short term, where the situation is desperate. [68,104,112] For this reason, it should be attributed some weight. The site is included in that document. [34,57]
173. Furthermore, with the land to the east, it was considered in the SHLAA, and the land to the east, although it is a separate field, now has planning permission for residential development. [34,57,58,99] I attribute these matters significant weight.
174. LP policy GEN5 is out of date because it relates only to the period of time 1996-2011. [20,69] Furthermore, now the Council does not have a five year supply of deliverable housing sites and so the provisions of paragraph 49 and paragraph 14 of the Framework apply. [45,46,69] At only 1.9 years supply of deliverable housing sites at best, the situation is serious. This is substantially less than the about 3 years supply available at the time of the Ford Lane Inquiry. [60]
175. Without prejudice to whatever the Council's position may now be in respect of the Ford Lane site, this application site has the support of the Council, unlike the Ford Lane site at the time of that appeal. [59] Matters have though moved on considerably in terms of the increased severity of the housing shortfall locally since the time of that Inquiry, the Inspector's report and the Secretary of State's decision. [60,67,68] This is a matter to which I give substantial weight.
176. The development is located in the countryside, albeit that it is adjacent to the built up area of Yapton. [7,8] It is therefore in conflict with LP policy GEN 3. [19] Nonetheless, that policy does not accord with the Framework in that it protects the countryside for its own sake [70] and so it is out of date in that regard. That is a material consideration weighing against the policy to which I attribute significant weight.
177. The dwellings would be sited outside the settlement boundary set by the LP policy GEN2. [18] Nonetheless, the LP only makes provision for housing up to 2011 and therefore is time expired in that regard. [70] The boundary as defined is clearly underpinned by the availability of residential land, and for that reason is out of date given the reasoning of the policy. I give that matter substantial weight. [18]
178. YNP policy H1 makes provision for 100 houses in Yapton but this is based on an out of date OAN. [38,71] Nonetheless, the YNP takes into account the

emerging LP, by recognising that housing allocations will need to be re-visited if the requirement for Yapton is larger than anticipated.[40] It does allow for additional allocations if necessary. The YNP also allows for development outside the settlement limits the subject of policy BB1 where it relates to additional housing allocations in accordance with policy H1.[37] Nonetheless, that boundary is set by an out of date OAN, and therefore although the development would be in conflict with it, the shortfall is of substantial weight against the out of date policy.[72,96,116]

179. The Inspector and Secretary of State in the Ford Lane case held that although underpinned by an out of date OAN, YNP policy H1 was not out of date, in paragraph 49 terms, because it allowed for flexibility if housing allocations needed to be increased locally. I have no reason to disagree with that conclusion. The Secretary of State considered policy BB1 to be out of date because of the lack of a 5 year housing land supply, but that the conflict with that policy had very substantial weight.[60,61]

180. The Council considers that additional sites anticipated by H1 should be determined by a review of the YNP.[32] The Council does not intend to produce a Small Sites DPD until 3 years after the adoption of the ELP to allow time for the process of Neighbourhood Planning to take place.[32] The Parish Council has not reviewed the plan as yet.[117,124,125]

181. The Framework promotes neighbourhood planning as a method of giving direct power to communities to develop a shared vision for delivering sustainable development. [50] The development is in conflict with Paragraph 198 which states that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted. Nonetheless, the circumstances are not normal because of the severe housing shortage in the light of the substantially revised OAN.[51]

182. The available evidence suggests that the SA1 and SA2 sites in Yapton will be provided because there have been planning applications, but the housing will not necessarily be built out within the next five years. Those allocations are not enough for Yapton to play its part in satisfying the likely housing requirement in the District. In order to supply significantly more housing in Yapton, it will be necessary to build outside the settlement limit, as anticipated by policy BB1.[37,39,62,72]

183. The Parish Council has not made any additional allocations, even though they recognise this is necessary in the light of the revised OAN. That is the lynchpin to the scheme complying with policy BB1. Their concern is understandable; that whatever work is carried out locally on reviewing the YNP could quite feasibly be overtaken by the more strategic ELP. Nonetheless, to wait for the YNP to be updated, following on from the adoption of the ELP would result in significant delay in the provision of housing locally when there is an acute and severe under supply. Since there is no allocation, the development would be contrary to the out of date policy.[117,123-125]

184. The Council has recognised the urgency of the situation. I accord substantial weight to the housing situation locally. The WMS provisions do not apply to the circumstances in Yapton because the shortfall in housing provision at 1.9 years at most is substantially below the threshold of 3 years identified as an exception to finding the policies of the neighbourhood plan out of date. I give that matter

- substantial weight, since the Minister has indicated how such shortfalls should be assessed.[55]
185. When the Inspector made his report to the Secretary of State in the Ford Lane appeal there was a lower assessment of OAN. The latest iteration of the OAN was not accepted by the Council until after the Secretary of State's decision and is substantially greater than the 758 dpa that the Inspector considered or the 845 dpa in the LP inspector letter dated 2 February 2016.[60] Against the 758 dpa figure at the time of the Ford Lane Inquiry the Council could at best demonstrate 3 years HLS, unlike the at best 1.9 years now identified by the Council.[68]
186. Furthermore, since that time the application site has been identified as suitable for housing development in the HELAA. The Council is encouraging planning applications subject to Council approval, and has resolved to grant planning permission subject to the S106 agreement.[5,56,57]
187. Yapton Parish Council and local residents are aggrieved that the hard work in preparing the YNP with the support from Government received as a front runner for the NP process has seemingly been undone by the parlous situation in respect of HLS, and the revised OAN.[122-125,129-134, 136] Nonetheless, the YNP recognises that there was uncertainty over OAN and specifically allowed for the circumstance where there would be the allocation of additional sites in policy H1 which links to BB1 and allows for the settlement boundary to be breached. [71,72,37-39]
188. I recognise that in September 2016 the Secretary of State's decision supported strongly the YNP [61], which allowed some time for allocations to be found and the Parish Council to start to review the YNP. Nonetheless, time is now passing, and there is a critical imperative to get the housing market moving within the District given the local situation and the national shortage outlined in the Housing White Paper. [52,68]
189. The LP Examination had not resumed at the time of the Inquiry and it is not possible to tell what the representations will be on the main modifications or their implications for the examination process, or the soundness of the submitted ELP. [31,33] If the ELP process were to stall, this would mean that it would remain difficult for the Parish Council to satisfactorily address what is required in the way of housing provision locally, since the YNP recognises the strategic supremacy of the ELP to set the housing requirement. [31,40,50]
190. Even if there is little delay in the finding of soundness of the ELP and the Council quickly adopts it as part of the development plan, Yapton Parish Council will then have to allocate sites which will create some delay with uncertainty in the meantime.[32] The Framework identifies in paragraph 185 that Neighbourhood Plans should not promote less development than set out in the Local Plan or undermine its strategic policies.[50] I consider that to delay until after the adoption of the LP and allocations through a review of the YNP would seriously harm deliverability of housing including affordable homes locally.
191. Whilst I accept the contents of paragraph 198 of the Framework and the Government's Localism agenda, the ELP is prepared locally in consultation, and together with the YNP provides the development plan. The direction of travel supports the development of the application site.[71,72]

### *Sustainability*

192. There is a national imperative to boost the supply of housing. [44,52] The Council does not have a five year supply of deliverable housing sites. [68] Therefore the provisions of the second sentence of paragraph 49 of the Framework and the second bullet of paragraph 14 of the provisions in relation to decision making apply. [69] There is a presumption in favour of sustainable development. [46] This comprises three dimensions, environmental, social and economic. [46]
193. Starting with the environmental dimension, it is accepted by the main parties that they have no landscape or design concerns about the proposal. [66,73,74] I acknowledge that those living close to the site are currently benefiting from open views across agricultural land. [137] These views are valued by residents but trees and hedgerows would be retained and there are no other particular characteristics that should be preserved in the interests of the site's intrinsic beauty. [102,105]
194. The site is not identified as being an important gap between Yapton and Ford. [11,99,132] It is not a protected green space allocated in the LP, ELP or YNP. Furthermore, open space would be provided in accordance with open space standards, and biodiversity would be enhanced within the design of the development. [73,140]
195. The heritage assessment confirmed what I saw on my site that the setting and significance of Wayside, a grade II listed building would not be adversely affected. [74] The building has historically been associated with the farmstead, shown in figure 7.2 of the DAS, which used to exist opposite rather than anything on the south side of the road. [65] The main part of the development would be well away from the dwelling. The highway works would not be of a scale that they would adversely affect the setting listed building. [13,14]
196. The ADAS report makes clear that on detailed examination the land is mostly a mix of grade 2 and grade 3b land rather than mostly grade 1 land as identified in Figure 2 of the YNP. [8,36] Whilst YNP policy E1 seeks to protect high value agricultural land, there is an exception if it involves the granting of planning permission for any additional housing sites required by policy H1 to meet objectively assessed housing needs in the plan area. [36,77] I give this provision substantial weight.
197. The surface water drainage strategy comprises attenuation storage via tanked permeable paving and underground cellular storage tanks located beneath public open spaces and along the southern boundary prior to controlled discharge to the detention basin. It will then be discharged to the adjoining ditch. It is designed to cater for 1 in 100 year plus 40% climate change event. [75]
198. The foul drainage will be collected in the south west corner of the site and pumped to the public foul sewer in Burndell Road. Barnham Road Yapton will require an additional 142m<sup>3</sup> of storage to provide capacity for the development, but this is possible. The site is at a low risk of flooding and provision would be made for improvements to the capacity of the wastewater pumping station pumping station. [76]

199. I acknowledge local concerns about foul and surface water drainage, but this has been carefully assessed by the applicant and the statutory undertakers. [76] Furthermore, it would be a matter for later determination in order to comply with planning conditions. The fine details would be for approval then.[154]
200. Local residents are concerned about traffic congestion and the “in combination” effects on the road network around Yapton, including on highway safety. The applicant has provided an assessment of the implications of the development and on this basis the effects have been demonstrated to not be significant and are therefore not severe in terms of residual cumulative impacts specified in paragraph 34 of the Framework.[126-128,130,135,138]The County Council as Highway Authority has not opposed the development, subject to conditions and the provisions of the S106 agreement.[83-93]
201. Overall with regard to the environmental dimension of sustainability on the basis of these conclusions, there would be a neutral effect.
202. Turning now to the social side of sustainability, the development would provide some 108 dwellings of which 30% would be affordable, in a District where the housing shortage is severe. It would help to boost significantly the supply of housing, including affordable housing. [67,68,98,104,112,113] These are substantial benefits.
203. I acknowledge that the services and facilities in the village are not extensive, but nonetheless this is a larger village which the Council has determined is sustainable.[131] The S106 agreement would ensure that services within the village were expanded to cope with the development being proposed, ensuring there would be no harm. This would include the expansion of the Primary School as required by the YNP policy H1.[39,140,141,144,145,147,148,149]
204. A LEAP would be provided which would be accessible to also to existing residents. This is a small benefit.[140,144]
205. The location of the site adjacent to the settlement boundary and close to the facilities and services of Yapton make it a sustainable location where the need to travel elsewhere for services would not be substantial.[14,89] A travel plan would be implemented to encourage the use of modes of transport other than the private motor car and there is a reasonable local bus service.[89,162] Furthermore, bus, cycle and highway infrastructure would be improved.[145]
206. Overall on the social dimension of sustainability the development would provide a substantial benefit.
207. Turning now to the economic aspects of sustainability. There would be the creation of construction jobs and jobs in construction related activity.[103,53] There would be the additional household expenditure, New Homes Bonus funding and local tax receipts.[103] These would all create some moderate benefits.
208. I conclude that the identified benefits of the proposal would significantly and demonstrably outweigh the adverse impacts when assessed against the policies of the Framework taken as a whole. These outweigh the conflicts with the LP and the YNP which contain policies which are not up to date.

## **Recommendation**

209. It is recommended that outline planning permission be granted. If the Secretary of State is minded to agree with my recommendation, Annexe B lists the conditions that I consider should be attached to any planning permission granted.

*Julia Gregory*

Inspector

## **APPEARANCES**

### **FOR THE APPLICANT**

John Litton QC instructed by Gleeson Developments Limited  
He called

Marc Timlin, Turley Heritage  
Ryan Saul, Odyssey Markides  
John-Paul Friend, ACD Environmental  
Richard Harrison, Odyssey Markides  
Adam Ross, Nexus Planning

### **FOR THE LOCAL PLANNING AUTHORITY**

Felicity Thomas of Counsel instructed by Arun District Council  
She called  
David Innes, Planning  
Consultant employed by Arun  
District Council

### **INTERESTED PERSONS**

David Pearcey, local resident  
Chris Lowrey, local resident  
Vicky Newman, Clerk to Yapton Parish Council  
Andrew Faulkner, local resident  
Harry Ward on behalf of Clymping Parish Council

## **COUNCIL DOCUMENTS**

Statement of case

## **APPLICANT DOCUMENTS**

SCG1 Planning Statement of Common Ground March 2017

SCG2 Transport and Highways Statement of Common Ground dated 27 March 2017

P1 Proof of evidence (including Summary Proof) of Adam Ross - Planning

P1A Appendices to proof of evidence of Adam Ross

P2 Transport and Highways proof of evidence of Richard Harrison

P2A Summary of Transport and Highways proof of evidence of Richard Harrison

P3 Proof of evidence of John Paul Friend-Landscape

P3A Appendix 1 to proof of evidence of John Paul Friend

P4 Flood risk and Drainage proof of evidence of Ryan Saul

P4A Summary of Flood risk and Drainage proof of evidence of Ryan Saul

P5 Proof of evidence of Marc Timlin Built Heritage

P5A Summary of proof of evidence of Marc Timlin Built Heritage

## **CORE DOCUMENTS**

CD01 National Planning Policy Framework

CD02 National Planning Policy Guidance (Electronic)

CD03 The Housing White Paper

CD04 Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990

CD08 Arun District Local Plan

CD09 Arun Local Plan 2011-2031 publication version (2014)

CD10 Yapton Neighbourhood Plan

CD11 Pre-submission Consultation (proposed modifications)-Arun Local Plan 2011-2031

CD14 Examiners report on Yapton Neighbourhood Plan

CD15 The letter from the Local Plan Inspector dated 2 February 2016

CD16 GL Hearn report on OAN - September 2016

CD17 Report to the Local Plan sub-committee on the 6<sup>th</sup> December: Housing Land Supply matters

CD18 SHLAA 2012 Site Ref: 42 Extract

CD19 HELAA December 2016 Y1916OUT Extract

CD20 Arun District Council Housing implementation Strategy March 2017

CD21 Local Development Scheme 2017-2020

CD22 AMR 2015/2016

CD23 GL Hearn report on OAN-March 2015

CD25 Pre-application feedback from ADC

CD26 Yapton Parish Council representations to the planning application

CD27 Planning Application Committee Report

CD28 Additional information provided at the Committee

CD29 Secretary of State call in letter

CD30 Secretary of State Ford Lane appeal decision

CD35 Planning application forms and certificates

CD36 Planning Supporting Statement (prepared by Gleeson)

CD37 Statement of Community Involvement (prepared by Gleeson)

CD38 Heritage Statement (prepared by Turley)  
CD39 Geo-environmental Site investigation (prepared by BRD)  
CD40 Phase 1 Geo-Environmental Desk Study (prepared by BRD)  
CD41 Arboricultural Survey (prepared by PJC consultancy)  
CD42 Agricultural Land Classification (prepared by ADAS)  
CD43 Archaeological Desk Based Assessment (prepared by Thomas Valley Archaeological Service)  
CD44 Design and Access Statement (prepared by Amasia Architects Limited)  
CD45 Flood Risk Assessment (prepared by Odyssey Markides)  
CD46 Travel Plan (prepared by Odyssey Markides)  
CD47 Landscape Design Statement (prepared by ACD Environmental)  
CD48 Landscape and Visual Impact Assessment (Prepared by ACD Environmental)  
CD49 Preliminary Ecological Appraisal (prepared by the Ecology Partnership)  
CD50 Reptile Survey (prepared by the Ecology Partnership)  
CD51 Technical note –Stage 1 Road Safety Audit Designers response April 2016 (prepared by Odyssey Markides)  
CD52 Response to consultation on Suds May 2016 prepared by Odyssey Markides)  
CD53 Arboricultural Impact Assessment (prepared by PJC Consultancy)  
CD54 Signed Section 106 Agreement  
CD55 Transport Assessment  
CD56 Impact Assessment Arising from the Redistribution of Existing Traffic Due to the Opening of the A259 Felpham Relief Road  
CD60 Book of plans and figures relevant to the inquiry

#### **DOCUMENTS SUBMITTED AT THE INQUIRY**

DOC 1 Opening remarks by Arun District Council  
DOC 2 Opening statement on behalf of the applicant  
DOC 3 Applicants witnesses names and qualifications  
DOC 4 Unsigned and undated Supplemental S106 agreement and deed of variation  
DOC 5 Supplemental S106 agreement and deed of variation dated 25 April 2017  
DOC 6 Land registry title documents  
DOC 7 Land Registry Official copy title plan  
DOC 8 S106 – Summary of key planning obligations  
DOC 9 Factual response to Yapton Parish Council's statement  
DOC 10 Verbal statement of Clymping Parish Council, including Arun Transport Study 2016- Stage 3 Review and comments for Clymping Parish Council 12 March 2017  
DOC 11 Statement of Andy Faulkner  
DOC 12 Statement of Chris Lowrey  
DOC 13 Bundle of agendas and committee agendas and minutes-Local Plan sub-committee agenda 19 August 2016, Local Plan sub-committee 30 August 2016, Local Plan sub-committee minutes 1 September 2016  
DOC 14 Appeal decision APP/D3830/W/14/2226987- Land at London Road, Hassocks, West Sussex  
DOC 15 Extract from Arun District Sustainability Study July 2007  
DOC 16 Housing land supply examples  
DOC 17 Statement from Neil Crowther, Group Head of Planning in response to statement by Yapton Parish Council  
DOC 18 Council minute of Local Plan sub-committee 6 December 2016  
DOC 19 Local Plan sub-committee minutes 1 September 2016  
DOC 20 ELP map  
DOC 21 HELAA extract map showing application site

DOC 22 Open space and Recreation Standards Supplementary Planning Guidance  
DOC 23 Application report update  
DOC 24 Combined conditions  
DOC 25 Sustainability Appraisal Alternatives for testing  
DOC 26 David Innes Qualifications  
DOC 27 Closing submissions on behalf of the applicant with bundle of legal precedents

**DOCUMENTS SUBMITTED BEFORE CLOSE OF INQUIRY IN WRITING**

W1 S106 contribution to NHS/GP assessment  
W2 School design guidance: cost issues and Library details email dated 2 May 2017  
W3 Arun Local Plan 2011-2031 Proposals map  
W4 Map used for site visit on 28 April 2017  
W5 Application ref Y/53/16/PL – Salvage yard, Burndell Road  
W6 Large scale plan of sustainability appraisal alternatives for testing  
W7 Email dated 3 May 2017 from Mr Pearcey  
W8 Email response dated 8 May 2017 from the Council  
W9 Email response from the appellant dated 15 May 2017  
W10 Email from Richard Harrison about cycle routes dated 25 April 2017  
W11 Letter from Felicity Thomas dated 23 May 2017  
W12 Letter from Nexus Planning dated 26 May 2017

## **Annexe A – Conditions**

- 1) The permission hereby granted is an outline permission under s92 of the Town and Country Planning Act 1990 (as amended) and an application for the approval of the Local Planning Authority to the following matters must be made not later than the expiration of 2 years beginning with the date of this permission: - (a) Layout; (b) Scale; (c) Appearance; (d) Landscaping.
- 2) The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before expiration of 1 year from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 3) The development hereby approved shall be carried out in accordance with the following approved plans: AAL-15-184-P02 Site Location Plan, AAL-15-184-P05 Site Plan indicating land use parameters, and 14-110-006 Rev D Proposed Site Access.
- 4) Development shall not commence until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, the recommendations of the SUDS Manual produced by CIRIA. Winter groundwater monitoring to establish highest annual ground water levels and Percolation testing to BRE 365, or similar approved, will be required to support the design of any Infiltration drainage. No building shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.
- 5) The development shall not proceed until formal consent has been approved in writing from the Lead Local Flood Authority (WSCC) or its agent (ADC) for the discharge of any flows to watercourses, or the culverting, diversion, infilling or obstruction of any watercourse on the site. Any discharge to a watercourse must be at a rate no greater than the pre-development run off values.
- 6) Development shall not commence until full details of the maintenance and management of the SUDs system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturers recommended design life. Upon completed construction of the SuDs System, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.
- 7) The development layout shall not be agreed until such time that arrangements for the future access and maintenance of any watercourse or culvert (piped watercourse) crossing or abutting the site has been submitted and approved in writing by the Local Planning Authority. No construction is permitted, which will restrict current and future land owners from undertaking their riparian maintenance responsibilities of any watercourse on or adjacent to the site.

- 8) No development shall take place until there has been submitted to, and approved by, the Local Planning Authority, a landscaping scheme including details of hard and soft landscaping and details of existing trees and hedgerows to be retained, together with measures for their protection during the course of the development. The approved details of the landscaping shall be carried out in the first planting and seeding season, following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
- 9) No development including site access, demolition or associated construction activities, shall take place on the site unless and until all the existing trees/bushes/hedges to be retained on the site have been protected by a fence in accordance with BS5837 (2012) and Section 9, to be approved by the Local Planning Authority for erection around each tree, group of trees and vegetation to a distance of 15m or to the Root Protection Area (RPA) as calculated in accordance with Table 2 of BS5837 (2012) to be agreed in writing by the Local Planning Authority. Within the areas so fenced off the existing ground must not be cultivated, nor must it be lowered or raised or added to by the importation and spreading of top soil unless agreed by the Local Planning authority. There must be no materials, temporary buildings, plant machinery or surplus soil shall be placed or stored thereon without prior written approval of the Local Planning Authority. No trenching should occur within the protective fencing surrounding the Root Protection Area. If however there is no alternative but to locate the services then its encroachment into the Root Protection Area must be kept to a minimum and where the roots should be exposed using compressed air technology, such as the air spade to reduce damage caused by mechanical methods. If roots requiring severance to allow for the passage of services is necessary then an arboriculturist would be required to assess and determine whether the loss of the roots would be detrimental to the continued health and stability of the affected tree.
- 10) No development shall be carried out unless and until a schedule of materials and finishes and samples of such materials and finishes to be used for external walls (and roofs) of the proposed buildings have been submitted to and approved by the Local Planning Authority and the materials so approved shall be used in the construction of the development.
- 11) No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters, the anticipated number, frequency and types of vehicles used during construction, the method of access and routing of vehicles during construction, the parking of vehicles by site operatives and visitors, the loading and unloading of plant, materials and waste, the storage of plant and materials used in construction of the development, the erection and maintenance of security hoarding, the provision of wheel washing facilities

- and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders), details of public engagement both prior to and during construction works.
- 12) Prior to the commencement of construction works details of a proposed foul drainage system shall be submitted to and approved in writing by the Local Planning Authority (including details of its siting, design and subsequent management/maintenance) and no dwelling shall be occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details.
  - 13) Prior to the commencement of construction works on each phase of the development of any preparatory works a detailed ecological enhancement scheme (which shall include the installation of bat boxes throughout the site) shall be submitted to the LPA for approval and will be based on the recommendations within the supporting ecological statement and as appropriate. All approved details shall then be implemented in full and in accordance with the agreed timings and details.
  - 14) No operational or construction vehicles shall be operated on the site except between the hours of: 7.00 and 19.00 on Mondays to Fridays inclusive 7.00 and 13.00 on Saturday Not at any time on Sundays or Public Holidays.
  - 15) The landscape details referred to in Condition 1 shall include a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscape areas other than privately owned domestic gardens. The landscape management plan shall be implemented in accordance with the approved details.
  - 16) No development shall take place until details of laying out, timetable for provision and future maintenance of Public Open Spaces has been submitted to and approved by the local planning authority. The layout details submitted in compliance with Condition 1 shall define the boundaries of such areas, their proposed use, the items of equipment, means of enclosure and all other structures to be installed. The development shall be carried out in accordance with the approved details.
  - 17) At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low-carbon energy sources or equivalent fabric first standards that would secure a 10% reduction in energy use. Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the local planning authority [as a part of the reserved matters submissions required by condition 2]. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter, unless otherwise agreed in writing by the local planning authority.
  - 18) No development shall take place until a street lighting scheme has been submitted and approved in writing by the Local Planning Authority. This must comply with the Institute of Lighting Engineers Guidance Notes for the reduction of obtrusive light.
  - 19) Prior to the commencement of the development details showing the proposed location of one fire hydrant (in accordance with the West Sussex

Fire and Rescue Guidance Notes) shall be submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Services. These approvals shall not be unreasonably withheld or delayed. Prior to the first occupation of any dwelling unit forming part of the proposed development that they will at their own expense install the fire hydrant (or in a phased programme if a large development) in the approved location to BS 750 standards and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of fire fighting. The fire hydrant shall thereafter be maintained as part of the development by the water undertaker at the expense of the Fire and Rescue Service if adopted as part of the public mains supply (Fire Services Act 2004).

- 20) No demolition, ground clearance or vegetation clearance works shall take place within the bird nesting season (between 1 March and 31 August inclusive in any year). If such works cannot be undertaken outside of the nesting season, a nesting bird check shall be required, which should be undertaken by a suitably qualified ecologist immediately prior to the works taking place. Subsequently if any active nest sites are identified, these nests should remain undisturbed until all the young have fledged naturally.
- 21) The development shall not commence until the access serving the development, including realigned Burndell Road and associated footway improvements, has been constructed in accordance with the approved planning drawing (for avoidance of doubt, Drawing No. 14-110-006 Revision 'D') – to include all Road Safety Audit recommendations and the terms of a S278 Agreement.
- 22) The development shall not commence until visibility splays of 2.4 metres by 120 metres (leading traffic direction) and 2.4 metres by 59m (trailing traffic direction) have been provided at the proposed site vehicular access onto Burndell Road in accordance with the approved planning drawing. Once provided, the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level or as otherwise agreed.
- 23) No part of the development shall be first occupied until the car parking has been provided in accordance with plans and details to be submitted to and approved by the LPA after consultation with the CHA. Once approved, these spaces shall thereafter be retained at all times for their designated purpose.
- 24) No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details to be submitted to and approved by the LPA after consultation with the CHA. Once approved, these spaces shall thereafter be retained at all times for their designated purpose.
- 25) No part of the development shall be first occupied until provision has been made within the site in accordance with plans and details to be submitted to and approved by the Local Planning Authority to prevent surface water draining onto the public highway.
- 26) No part of the development shall be occupied until the Travel Plan is implemented as specified within the approved document. The Travel Plan shall at all times be in accordance with the latest guidance and good

practice documentation as published by the Department for Transport or as advised by the Highway Authority.

## **Annexe B – Conditions**

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
3. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby approved shall be carried out in accordance with the following approved plans: AAL-15-184-P02 Site Location Plan, AAL-15-184-P05 Site Plan indicating land use parameters 14-110-006 Rev D Proposed Site Access.
5. Development shall not commence until full details of the proposed surface water drainage scheme, including maintenance and management, have been submitted to and approved in writing by the Local Planning Authority. No building shall be occupied until the complete surface water drainage system serving that property has been implemented in accordance with the agreed details and the details so agreed shall be maintained in accordance with details of the scheme in perpetuity.
6. Prior to the commencement of construction works details of a proposed foul drainage system shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of its siting, design and subsequent management/maintenance. No dwelling shall be occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details.
7. No development shall commence until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
9. Before the development is first occupied or brought into use a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved.
10. The landscape details referred to in Condition 1 shall include a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscape areas other than

privately owned domestic gardens. The landscape management plan shall be implemented in accordance with the approved details.

11. No development shall take place until details of laying out, timetable for provision and future maintenance of Public Open Spaces has been submitted to and approved in writing by the local planning authority. The layout details submitted in compliance with Condition 1 shall define the boundaries of such areas, their proposed use, the items of equipment, means of enclosure and all other structures to be installed. The development shall be carried out and maintained in accordance with the approved details.
12. No development shall be carried out unless and until a schedule of materials and finishes and samples of such materials and finishes to be used for external walls and roofs of the proposed buildings have been submitted to and approved by the Local Planning Authority and the materials so approved shall be used in the construction of the development.
13. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details of the following matters:· the anticipated number, frequency and types of vehicles used during construction, the method of access and routing of vehicles during construction, the parking of vehicles by site operatives and visitors, the loading and unloading of plant, materials and waste, the storage of plant and materials used in construction of the development, the erection and maintenance of security hoarding, the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders), details of public engagement both prior to and during construction works.
14. No operational or construction vehicles shall be operated on the site except between the hours of: 07.00 and 19.00 on Mondays to Fridays inclusive, 07.00 and 13.00 on Saturday and not at any time on Sundays or Public Holidays.
15. Prior to the commencement of construction works on each phase of the development of any preparatory works, a detailed ecological enhancement scheme (which shall include the installation of bat boxes throughout the site) shall be submitted to the local planning authority for approval and shall be based on the recommendations within the supporting ecological statement. All approved details shall then be implemented in full and in accordance with the agreed timings and details.
16. No demolition, ground clearance or vegetation clearance works shall take place within the bird nesting season (between 1 March and 31 August inclusive in any year unless a nesting bird check is carried out. This shall, be undertaken by a suitably qualified ecologist immediately prior to the works taking place. If any active nest sites are identified, these nests shall remain undisturbed until all the young have fledged naturally.
17. At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low-carbon energy sources or equivalent fabric first standards that would secure a 10% reduction in energy use. Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the local planning authority as a part of the reserved matters submissions required by condition

2. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.
18. No development shall take place until a street lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The street lighting shall be provided in accordance with the approved scheme.
19. Prior to the commencement of the development details showing the proposed location of one fire hydrant shall be submitted to and approved in writing by the Local Planning Authority. The fire hydrant shall be provided in accordance with the approved details before the first occupation of the development and shall be retained thereafter.
20. The development shall not commence until the access serving the development, including realigned Burndell Road and associated footway improvements, has been constructed in accordance with the approved Drawing No. 14-110-006 Revision 'D' and to include all Road Safety Audit dated April 2016 recommendations.
21. The development shall not commence until visibility splays of 2.4 metres by 120 metres and 2.4 metres by 59m in accordance with plan No 14-110-006 REV D have been provided at the proposed site vehicular access onto Burndell Road in accordance with this approved drawing. Once provided, the splays shall thereafter be retained and kept free of all obstructions of a height of 0.6 metre above the adjoining carriageway level.
22. No part of the development shall be first occupied until the car parking for that part of the site has been provided in accordance with plans and details to be submitted to and approved by the local planning authority. The approved spaces shall thereafter be retained at all times for their designated purpose.
23. No part of the development shall be first occupied until covered and secure cycle parking spaces for that part of the site have been provided in accordance with plans and details to be submitted to and approved by the local planning authority. The approved spaces shall thereafter be retained at all times for their designated purpose.
24. No part of the development shall be first occupied until provision has been made within the site in accordance with plans and details to be submitted to and approved by the Local Planning Authority to prevent surface water draining onto the public highway.
25. No part of the development shall be occupied until the Travel Plan dated March 2016 is implemented as specified within the approved document.



## **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 for permission 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**

With the permission of the High Court 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. 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 for leave under this section must be made within six weeks from the day after the date of the decision.

### **SECTION 2: ENFORCEMENT APPEALS**

#### **Challenges under Section 289 of the TCP Act**

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### **SECTION 3: AWARDS OF COSTS**

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### **SECTION 4: 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 Inspector's report of the inquiry or hearing within 6 weeks of the day after 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.