



Department for
Communities and
Local Government

Our Ref: APP/D3830/W/14/2226987

Mr L Challenger
Nexus Planning Ltd
Riverside House
2a Southwark Bridge Road
London SE1 9HA

16 March 2017

Dear Mr Challenger

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY GLEESON DEVELOPMENTS LIMITED
LAND PARCEL AT LONDON ROAD, HASSOCKS, WEST SUSSEX
APPLICATION REF: 13/03818/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Terry G Phillimore MA MCD MRTPI who held a public local inquiry 10-11 August 2016 into your client's appeal against the decision of Mid Sussex District Council to refuse planning permission for up to 97 homes and associated landscaping and open space in accordance with application ref: 13/03818/OUT dated 4 November 2013.
2. On 9 August 2016 this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal involves a proposal for residential development of over 25 units in areas where a qualifying body has submitted a neighbourhood plan proposal to the local authority but the relevant plan has not yet been made.
3. The Secretary of State initially issued his decision in respect of the above appeal in his letter dated 31 March 2015. That decision was challenged by way of an application to the High Court and was subsequently quashed by order of the Court dated 1 February 2016. The appeal has therefore been re-determined by the Secretary of State. In re-determining the appeal, the Secretary of State has taken into account all of the evidence submitted prior to his earlier determination of the appeal, including the Inspector's report, and all other representations received following the close of the Inquiry.

Inspector's recommendation and summary of the decision

4. The Inspector recommended that the appeal be allowed, and planning permission be granted subject to conditions.

5. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. He has decided to allow the appeal and grant outline planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Matters arising since the close of the inquiry

6. On 15 December 2016 the Secretary of State referred back to the parties to invite representations on the implications of:
- the Written Ministerial Statement of 12 December 2016 on Neighbourhood Planning; and
 - the cumulative impact, if any, of the appeal development alongside two further proposals; 1. Rear of Friars Oak, London Road, Hassocks (application DM/15/0626) & 2. Hassocks Golf Club, London Road, Hassocks (application DM/16/1775).
7. The Secretary of State has taken the representations received (listed at Annex B) into account in reaching his decision. As these representations were circulated to the parties the Secretary of State does not find it necessary to reproduce them here.
8. On 20 February 2017 the Secretary of State received representations from Terence O' Rourke Ltd on behalf of the appellant. As this was copied to the parties the Secretary of State does not find it necessary to reproduce them here. Copies of all correspondence referred to above may be obtained on written request to the address at the foot of the first page of this letter.

Policy and statutory considerations

9. 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.
10. In this case the development plan consists of the saved policies of the Mid Sussex Local Plan adopted in May 2004 and the Small Scale Housing Allocations Development Plan Document adopted in 2008. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR15-21.
11. 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'), the Hurstpierpoint and Sayers Common Neighbourhood Plan (made March 2015) and the Written Ministerial Statement of 12 December 2016 on Neighbourhood Planning.

Emerging plan

12. The emerging plan comprises the Mid Sussex District Plan 2014-2031 (MSDP) and the Hassocks Neighbourhood Plan (HNP) and the Secretary of State also notes the Inspectors interim conclusions on the housing requirement for MSDP were issued on 20 February 2017. The Secretary of State considers that the emerging policies of most

relevance to this case include Policy DP11 of the MSDP (IR25) and Policies 2 and 3 of the emerging HNP (IR28-29).

Main issues

13. The Secretary of State agrees with the Inspector that the main issues are those set out at IR184.

The weight to be given to relevant policies of the adopted Local Plan

14. For the reasons given at IR186, the Secretary of State agrees that the proposal conflicts with development plan policies C1, C2 and C3, and as such does not accord with the development plan.
15. The Secretary of State further agrees that there is a significant shortfall in housing land supply, and that that should be accorded significant weight (IR190). He further agrees, in agreement with the parties, that policies C1, C2 and C3 are policies for the supply of housing, and thus out of date having regard to paragraph 49 of the Framework. He agrees with the parties that these policies should carry reduced weight due to the housing land position and inconsistency with the Framework (IR191).
16. For the reasons given at IR192 the Secretary of State agrees that policy C1 is inconsistent with the Framework and that a strict application would preclude a contribution being made towards meeting housing needs in what is agreed to be a sustainable location. As such, for the reasons given at IR192 the Secretary of State agrees that the in principle conflict with policy C1 does not in itself warrant withholding permission.
17. The Secretary of State agrees (IR193) that there is no direct challenge to the general approach of a gap policy in this location in principle, or that this in itself is in conflict with the Framework. He has gone on to consider the impact of the proposal on the landscape functions of the gaps below (paragraphs 20-23).

The weight to be given to relevant policies of the emerging development plan

18. The Secretary of State has had regard to the Inspector's analysis of the MSDP at IR194. He notes that the MSDP has now been submitted for examination and the examining Inspector's interim conclusions on its housing requirement provided for the Council's response. He continues to agree with the Inspector, that policies for the supply of housing in the Plan are out of date by virtue of the five year housing land position, and given also the interim conclusions on housing supply, he agrees that only limited weight can be afforded to the emerging MDSP.
19. The Secretary of State has considered that there are unresolved objections to the emerging HNP, including to matters which are specific to the appeal site (IR195). He further agrees that there has been a relatively high level of objection to the allocation of the appeal site for housing (IR197), and that significant unresolved objections can be anticipated to the Gap policy (IR198). The appeal site was not eventually allocated in the HNP, and he disagrees that limited weight should be given to the emerging HNP (IR199). While he agrees that the out of date status of the housing supply elements of the HNP reduce the weight that can be given to it, he affords it moderate weight, given that it has been submitted for examination since the appeal inquiry.

The effect the proposal would have on the character and appearance of the area in terms of landscape and the role of the site as part of a designated Local Gap

20. For the reasons given at IR201, the Secretary of State agrees that the proposal would not have any material effect on coalescence or settlement identity in relation to Burgess Hill, and that there is no alleged harm in terms of policy C2 i.e. on the Strategic Gap it defines.
21. The Secretary of State agrees, for the reasons given by the Inspector at IR202-208, that with mitigation, the residual harmful visual impact of the scheme would not be significant and would not fundamentally weaken the objective of the Local Gap policy to prevent coalescence, or harm settlement identity. He further agrees (IR208) that there is no firm indication that the development would be part of an adverse incremental erosion of the Gap.
22. For the reasons given at IR209, the Secretary of State agrees that although policy C3 is out of date in so far as it impacts upon the supply of housing, it continues to serve an important planning function in preventing the coalescence of Hurstpierpoint and Hassocks and maintaining their separate identities and amenity, with no conflict with the thrust of the Framework. However, for the reasons given at IR210-211, he agrees that the development would comprise a fairly modest extension of the existing built form of Hassocks which would not reduce the area between the settlements which is currently unaffected by urban influences. Taking into account mitigation, he agrees that although there would be conflict with the policy and some harm by way of residual visual impact, and a reduction in the amount of open land able to perform the function of a Gap, that this would not be to the extent of undermining the purposes of the Local Gap and change its character.
23. The Secretary of State agrees (IR212) that there is no evidence to disagree with the main parties that the landscape impact of the proposal on the South Downs National Park (SDNP) is likely to be low, with the site extremely difficult to perceive from Wolstonbury Hill, and that the scheme masterplan demonstrates that the site could accommodate development of the scale proposed, with necessary on-site mitigation, forming the framework for a high quality development. He therefore affords limited weight to the harm arising from the impact on the SDNP.

The effect the proposal would have on highway safety and traffic flow, including at the Stonepound Crossroads

24. The Secretary of State has had regard to the Inspector's analysis at IR213-217. He has also considered the likely cumulative impact in respect of the proposal and proposed developments at 'Friars Oak' Club' and the 'Golf Club'. In considering the Council's representation of 23 December 2016 he notes that the Highway Authority was satisfied that if this proposal and the planning application at the rear of Friars Oak were both permitted then the cumulative impact on the capacity of the local road network and the Stonepound Crossroads would be acceptable. He further notes that the Highways Authority stated that it had not been satisfactorily demonstrated that the proposed development at the Golf Club would not have a severe cumulative impact on the operation of the Stonepound Crossroads. However, he has had regard to the conditions and obligations recommended by the Highways Authority in its representation of 6 December 2016 in the interests of highway safety and the amenities of the area, and to encourage and promote sustainable transport. As such he concludes that, subject to these conditions and obligations, while the potential impact on traffic weighs against the scheme, it falls short of the 'severe' test in paragraph 32 of the Framework.

The effect the proposal would have on air quality within the Stonepound Crossroads Air Quality Management Area (AQMA)

25. The Secretary of State has had regard to the Inspector's analysis at IR218-224. He agrees for the reasons given that despite the current breach, 'negligible' appears to be an appropriate descriptor of the impact of the development based on relevant guidance (IR224). He further agrees that the findings of the Air Quality Assessment referred to at IR219 can be accepted as reasonably robust having regard to the range of scenarios tested. He has had regard to the Council's representations of 23 December 2016 and notes that the Council's Environmental Health Officer did not raise any objections to the cumulative impact of this and other developments in the area (i.e. 'Friars Oak' and 'Golf Club') on air quality. Taking this into account, he agrees that the proposal would not impede the improvement in air quality within the AQMA sought by the action plan in this case, having regard to the contribution by way of planning obligation to be made towards implementing its measures. He therefore agrees that the proposal would not result in an unacceptable level of air pollution which would conflict with policy CS22 of the development plan.

Whether infrastructure needs arising from the development could be satisfactorily provided for including by way of planning obligations and conditions

26. The Secretary of State has given careful consideration to the Inspector's analysis of planning conditions and obligations at IR173-182, IR227-239, the planning obligation dated 31 March 2015, paragraphs 203-206 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended. For the reasons given he agrees (IR238) that the obligations all meet the relevant policy and statutory tests of being necessary, directly related to the development and fairly and reasonably related to it, and can be accorded weight in support of the proposal. He further agrees (IR239) that, taken together, the suggested conditions and the obligations would deal satisfactorily with the impact of the development on infrastructure and the environment. The Secretary of State has also had regard to the representations of the Council of 23 December 2016 on infrastructure provision in relation to applications at the rear of Friars Oak, London Road, Hassocks (application DM/15/0626) and Hassocks Golf club, London Road, Hassocks (application DM/16/1175), and is satisfied that the s106 agreements relating to those developments will mitigate the cumulative impact on infrastructure provision in line with policy G3 of the MSLP.

Planning conditions

27. The Secretary of State has given consideration to the Inspector's analysis at IR173, 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.

Planning balance and overall conclusion

28. For the reasons given above, the Secretary of State considers that the application is not in accordance with policy C1 and C3 of the development plan, and 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.

29. Given that policies for the supply of housing are out of date, the Secretary of State considers that paragraph 14 of the Framework is engaged. He has therefore considered whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the Framework policies as a whole.
30. The Secretary of State concludes that the principle of countryside protection under policy C1 can be given little weight since it is based on a development boundary that does not reflect current needs. However, Local Gap policy continues to serve an important planning function in preventing the coalescence of Hurstpierpoint and Hassocks and maintaining their separate identities and amenity. On this matter, he concludes that the degree of harm in relation to that policy would be relatively limited.
31. He further concludes that prematurity with regard to the HNP does not warrant refusal. He gives limited weight to the emerging MDSP, and accords moderate weight to the conflict with development plan and HNP policies. The Secretary of State agrees that the development would generate a number of undisputed quantified benefits, that these would support economic growth and can be accorded significant weight (IR242). He further agrees that the provision of 97 new dwellings, of which 30% would be affordable, would represent a substantial boost to housing supply and help to address housing needs (IR243). He further agrees that particular weight can be given to this positive social aspect, especially having regard to the short fall in five year housing land supply and the acute local affordable housing need. The Secretary of State also agrees that infrastructure needs arising from the development would be met.
32. On the environmental dimension, the Secretary of State agrees with the Inspector and the main parties (IR244) that the site is well located in relation to services and facilities and a range of sustainable transport options are available. He further agrees that the site could accommodate a high quality development and there would be a probable beneficial biodiversity impact. He has concluded on air quality that the proposal would not result in an unacceptable level of air pollution. On the negative side, the Secretary of State agrees that the scheme would materially reduce the amount of open undeveloped land able to perform the function of a Local Gap between Hassocks and Hurstpierpoint, and that the site is within a relatively narrow part of the Gap (IR245). However, he concludes, in agreement with the Inspector, that the development would comprise a fairly modest extension of the existing built form of Hassocks which would not reduce the area between the settlements that is currently unaffected by urban influences. He further concludes that there are mitigating factors that would limit the degree of resultant coalescence and harm to the amenity and identity of the settlements, and that the adverse impact would not be to the extent of an undermining of the purpose of the Local Gap and change its character. He also gives moderate weight against the proposal to the potential cumulative impact on traffic flow. However, he concludes that on balance these negative impacts are not sufficient to outweigh the positive environmental factors in favour of the scheme. He thus concludes that the proposal meets all three dimensions of sustainable development.
33. While he accepts that a decision that is seen not to accord with the emerging HNP could lead to an erosion of local confidence in neighbourhood planning, which would be a harmful outcome having regard to the importance placed on this in national policy, given his conclusions that the proposal amounts to sustainable development, the Secretary of State concludes that this warrants a decision other than in accordance with the development plan. The Secretary of State therefore concludes that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Formal decision

34. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants outline planning permission for up to 97 new homes and associated landscaping and open space in accordance with application ref: 13/03818/OUT and subject to the conditions set out at Annex A to this letter.
35. 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

36. 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.
37. 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.
38. A copy of this letter has been sent to Mid Sussex District Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Philip Barber

Authorised by Secretary of State to sign in that behalf

Annex A – Conditions

Reserved Matters

- 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 begins and the development shall be carried out in accordance with the approved details.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.

Access and highways

- 4) Insofar as access is concerned, the development hereby permitted shall be carried out in accordance with the following approved plan: ITB8203-GA-012A.
- 5) Before any operations are commenced on site the proposed vehicular access to London Road (to include provision of a Toucan pedestrian crossing) shall be constructed and provided with visibility zones in accordance with the details of a scheme to be submitted to and approved in writing by the local planning authority. Thereafter the access shall be permanently maintained to a specification to be agreed with the local planning authority and the visibility zones shall be kept permanently clear of any obstruction above a height of 600mm.
- 6) None of the development hereby permitted shall be occupied before the proposed improvement to Stonepound Crossroads has been constructed in accordance with the details of a scheme to be submitted to and approved in writing by the local planning authority.
- 7) No dwelling hereby permitted shall be occupied until a detailed Travel Plan, including a timetable for its implementation, has been submitted to and approved in writing by the local planning authority. The Travel Plan shall be developed in accordance with the principles set out in the Framework Travel Plan dated 30 October 2013 and shall include investigating the option of installing electric charging infrastructure within the site. The Travel Plan shall be implemented and maintained in accordance with the approved details including the timetable for its implementation.

Boundary treatment and levels

- 8) No development shall take place until details indicating the position, design, materials, finish and type of all boundary treatments, and a timetable for implementation, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and timetable.
- 9) No development shall take place until details of the finished ground and floor levels have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Drainage

- 10) No development shall take place until details of surface water drainage works have been submitted to and approved in writing by the local planning authority. No dwelling within the development shall be occupied until surface water drainage works to serve that dwelling have been implemented in accordance with the approved details. The submitted details shall: i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; ii) include a timetable for

implementation; and, iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker, or any other arrangements to secure the operation of the scheme throughout its lifetime.

- 11) No development shall take place until details have been submitted to and approved in writing by the local planning authority of works for the disposal of sewage. No dwelling within the development shall be occupied until works for the disposal of sewage have been provided to serve that dwelling in accordance with the approved details.

Archaeology

- 12) No development shall take place, including any works of ground clearance or site preparation, until a programme of archaeological work for has been implemented in accordance with a written scheme of investigation that has previously been submitted to and approved in writing by the local planning authority.

Trees/ecology/landscape

- 13) No development shall take place, including any works of ground clearance or site preparation, until all existing trees, shrubs and hedges to be retained, and any associated buffer zones, have been protected by fencing in accordance with a scheme that shall previously have been submitted to and approved in writing by the local planning authority. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written approval of the local planning authority. The protective fencing and exclusion zones shall not be removed other than in accordance with a timetable that shall previously have been submitted to and approved in writing by the local planning authority.
- 14) No dwelling in the development hereby permitted shall be occupied until a Landscape Ecological Management Plan, including long term objectives, habitat protection and enhancement measures, management responsibilities, arboricultural supervision and maintenance schedules for all associated landscaped, treed and open areas, other than privately owned domestic gardens, has been submitted to and approved in writing by the local planning authority. The Landscape Ecological Management Plan shall be carried out in accordance with the approved details.
- 15) No development shall take place, including any works of ground clearance or site preparation, until details of how the mitigation measures set out in Section 4 of the Ecological Impact Assessment undertaken by EAD Consultants (October 2013) are to be implemented have been submitted to and approved in writing by the local planning authority. The details to be submitted shall include a timetable for implementation. Development shall be carried out in accordance with the approved details and timetable.

Lighting

- 16) No external lighting shall be installed within any part of the site (other than within private domestic curtilages) other than in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.

Contamination

- 17) Other than as may be required by an approved scheme of remediation, no development, including works of ground clearance and site preparation, shall take place until a full contaminated land assessment has been carried out, and a remediation strategy to deal with any contamination has been submitted to and approved in writing by the local planning authority. The contaminated land assessment shall identify the extent of any contamination and the measures to be taken to avoid risk to the environment, the general public and the proposed

development. It shall include a timetable of works. Any necessary remediation strategy shall be implemented in accordance with the approved details and timetable. No part of the development shall be occupied until a Completion Report, confirming that the remediation has been carried out as approved, has been submitted to and approved in writing by the local planning authority.

- 18) If, during development, contamination not previously identified is found to be present, then no further development on that part of the site (unless otherwise agreed in writing by the local planning authority) shall be carried out until remediation works, in accordance with a Method Statement for remediation, including a timetable that has previously been submitted to and approved in writing by the local planning authority, have been completed and a verification report demonstrating completion of the works set out in the Method Statement has been submitted to and approved in writing by the local planning authority. The Method Statement shall detail how the unsuspected contamination shall be dealt with. The verification report demonstrating completion of the works set out in the Method Statement shall include results of any sampling and monitoring. It shall also include any plan for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the local planning authority.

Construction

- 19) No development shall take place, including any works of ground clearance or site preparation, until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall address, but is not restricted to the following matters: i) public safety, amenity and site security ii) operating hours, noise and vibration controls iii) air and dust management iv) storm water and sediment control v) waste and materials re-use vi) traffic management vii) on-site signage, public safety and site security. The approved CMP shall be adhered to throughout the construction period.
- 20) Works of demolition, site clearance, or construction, including the use of plant and machinery on the site, shall not take place on the development hereby permitted outside 08.00-18.00 hours Monday to Friday and 09.00-13.00 hours on a Saturday, nor at any time on Sundays or bank/public holidays.
- 21) No burning of construction waste shall take place on the development hereby permitted.

Annex B

SCHEDULE OF REPRESENTATIONS

Representations received in response to the Secretary of State's letter of 15 December 2016

Party	Date
Mid Sussex District Council	23 December 2016
Hassocks Parish Council	January 2017
Terence O'Rourke on behalf of the appellant	11 January 2017
Protect Ham Fields	9 January 2017
Terence O'Rourke on behalf of the appellant	20 January 2017
Protect Ham Fields	20 January 2017

Other representations received

Terence O'Rourke Ltd (Jacqueline Mulliner) on behalf of the appellant 20 February 2017

Report to the Secretary of State for Communities and Local Government

by Terry G Phillimore MA MCD MRTPI

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

Date: 5 October 2016

TOWN AND COUNTRY PLANNING ACT 1990

MID-SUSSEX DISTRICT COUNCIL

APPEAL MADE BY

GLEESON DEVELOPMENTS LIMITED

Inquiry held on 10 & 11 August 2016

Land Parcel at London Road, Hassocks, West Sussex

File Ref: APP/D3830/W/14/2226987

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File Ref: APP/D3830/W/14/2226987

Land Parcel at London Road, Hassocks, West Sussex

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Gleeson Developments Limited against the decision of Mid-Sussex District Council.
- The application Ref 13/03818/OUT, dated 4 November 2013, was refused by notice dated 6 May 2014.
- The development proposed is up to 97 new homes and associated landscaping and open space.

Summary of Recommendation: The appeal be allowed, and planning permission be granted subject to conditions.

Procedural Matters

1. A previous inquiry into the appeal was held by another Inspector on 31 March 2015. The Inspector's decision dismissing the appeal was issued on 2 July 2015. This was subsequently the subject of a challenge by way of an application to the High Court. The outcome was that the appeal decision was quashed by a consent order sealed on 1 February 2016. The Secretary of State consented to full redetermination of the appeal *de novo*. This led to the inquiry that I have held and am now reporting on.¹
2. Determination of the appeal was recovered by the Secretary of State shortly before the inquiry opened, by way of a direction dated 9 August 2016. The reason given for the recovery is that "*the appeal involves a proposal for residential development of over 25 units in areas where a qualifying body has submitted a neighbourhood plan proposal to the local authority but the relevant plan has not yet been made.*"
3. The appeal relates to an outline planning application with all matters of detail other than the main access to the site reserved for later approval. The inquiry proceeded on the basis of the plans and supporting documentation identified in the Statement of Common Ground.²
4. In a letter dated 18 November 2013³, the Council determined that no Environmental Impact Assessment was required to be submitted with the planning application.
5. The Council's decision notice on the application gave three reasons for refusal.⁴ These related to absence of a completed section 106 agreement; traffic impact; and air quality impact. Additional work was subsequently carried out by the appellant with respect to the second and third matters. As a result of this the Council on 22 January 2015 resolved to withdraw these two reasons, and also

¹ The documents relating to the previous decision are at CD39 Appendix 16

² CD39 section 4.0

³ Copy included with Questionnaire

⁴ CD39 Appendix 2

that it would withdraw the first reason subject to the completion of a satisfactory planning obligation.⁵

6. A section 106 agreement between the appellant, the Council and West Sussex County Council was executed on 31 March 2015. At the inquiry an executed supplemental agreement and deed of variation dated 11 August 2016 was submitted.⁶
7. As a consequence of the above events following its decision to refuse permission, the Council put forward no evidence against the appeal scheme at the inquiry.⁷ Cases against the proposal were made by Hassocks Parish Council and a local group known as Protect Historic Hamfields.
8. I carried out an accompanied site visit on 12 August 2016 based on an agreed itinerary which took in the site and surrounding area.⁸

THE SITE AND SURROUNDINGS

9. The site is located on the western edge of Hassocks village. It is around 1km from the centre of the village, which contains a range of services and facilities. Hassocks railway station lies some 500m to the east of the site.⁹
10. The site comprises 5.3 hectares of undeveloped land, forming a rectangular-shaped area of grassland currently used as pasture for keeping horses. It is relatively flat, with a gentle slope down towards the south-east corner. It contains a number of mature trees and hedgerows. Tree Preservation Order TP/13/0014 protects individual mature trees on the boundaries of the site.¹⁰
11. Most of the east boundary abuts the rear gardens of residential properties on the west side of London Road, with a small section at the south end fronting the road itself. To the north is a recreation ground, an agricultural field parcel and the Hassocks Golf Course grounds. To the south there are residential properties accessed from Hurst Road and separated from the site by a single field parcel. Beyond the site to the west is agricultural land. Field boundaries are predominantly marked by vegetation, either hedgerows, tree belts or a combination of both.
12. The site is in single private ownership, with a footpath which is a public right of way across part of it running north-westwards from the south-east corner.

THE PROPOSAL

13. The illustrative scheme shows housing development across most of the eastern part of the site and open space along the western side. Existing tree belts are indicated for retention. The vehicular access would be onto London Road, with the existing route of the public right of way retained. Up to 30% of the dwellings are proposed to be provided as affordable housing.¹¹

⁵ CD39 Appendix 3

⁶ CD47

⁷ CD39 paras 2.6-2.8 & Appendix 4

⁸ CD44

⁹ CD39 section 3.0; plan at APP7 Appendix MCG6

¹⁰ Copy included with Questionnaire

¹¹ CD39 section 4.0

PLANNING POLICY

Adopted development plan

14. The development plan for the area comprises the Saved Policies of the Mid Sussex Local Plan adopted in May 2004 and the Small Scale Housing Allocations Development Plan Document adopted in 2008. There are no policies in the latter part of the development plan which are relevant. The following are relevant policies in the Local Plan.¹²
15. Policy G2 sets out requirements in pursuit of sustainable development. Policy G3 seeks to provide for infrastructure to support development.
16. Policy C1 sets out that, outside defined built-up area boundaries, the remainder of the plan area is classified as a Countryside Area of Development Restraint where the countryside will be protected for its own sake. Development will be restricted to specific categories. Policy C2 seeks to safeguard strategic gaps, including between Burgess Hill and Hurstpierpoint/Keymer/Hassocks (in which the site lies). Policy C3 similarly seeks to safeguard Local Gaps including between Keymer/Hassocks and Hurstpierpoint (in which the site also falls). In both cases the objectives are to prevent coalescence and retain the separate identity and amenity of settlements. Development will not be permitted in the gaps unless (a) it is necessary for the purposes of agriculture, or some other use which has to be located in the countryside; (b) it makes a valuable contribution to the landscape and amenity of the gap and enhances its value as open countryside; and (c) it would not compromise individually or cumulatively the objectives and fundamental integrity of the gap. Policy C5 sets out an approach to be taken on nature conservation.
17. Policy B1 lists requirements towards an expectation for a high standard of design, construction and layout in new buildings. Policy B2 contains additional requirements for residential estate development. Under policy B3, significant harm to the amenities of nearby residents from new development will be prevented. Policy B4 seeks a regard to maximising opportunities for energy and water efficiency and, where possible, natural drainage. Policy B7 sets out that development resulting in the loss of trees which are of significant public amenity value will be resisted.
18. Policy H2 requires a mix of dwelling types, sizes and affordability in new housing developments. Further expectations on affordable housing in larger developments are set out in policy H4, including that the proportion should generally be 30% of the total number of dwellings.
19. Policy T4 contains criteria with respect to sustainability requirements and traffic generation for all new development. Parking standards are dealt with by policy T5, and cycle parking by policy T6.
20. Policies R3 and R4 set out playing space requirements.
21. Policy CS9 seeks provision for new community facilities where residential development creates a need for these. Policy CS11 requires provision for new or improved infrastructure where developments create a need. Policy CS13 deals

¹² CD39 section 5.0; CD8; CD9

with site drainage. Under policy CS22 development will only be permitted which does not cause unacceptable levels of pollution to land, air or water.

Emerging development plan

Mid Sussex District Plan

22. A Pre-Submission draft of the Mid Sussex District Plan 2014 - 2031 was published for consultation in June 2015.¹³ This was subject to objection, particularly in relation to housing matters.
23. Further to this the Council published a document entitled 'Focussed Amendments to the Pre-Submission Draft' in November 2015.¹⁴ Amongst other matters, this sought to:
- i. increase the proposed housing provision figure from 650 dwellings per annum to 800 dwellings per annum;
 - ii. identify a new strategic development site for 600 homes on land within the Area of Outstanding Natural Beauty at Pease Pottage;
 - iii. include a housing density policy to maximise the yield from allocated sites and those in the built up areas; and
 - iv. update the District Plan to reflect new Government policy on various issues.
24. The Focused Amendments document was also subject to objection, particularly on housing-related matters.
25. Policy DP11 deals with Preventing Coalescence. It includes that Local Gaps can be identified in Neighbourhood Plans or a Site Allocations Development Plan Document, where there is robust evidence that development within the Gap would individually or cumulatively result in coalescence and the loss of the separate identity and amenity of nearby settlements. Evidence must demonstrate that existing local and national policies cannot provide the necessary protection.
26. The Council envisaged submitting the District Plan for Examination in summer 2016, with an Examination taking place in Autumn 2016 and Adoption by the end of 2016.

Hassocks Neighbourhood Plan

27. A Regulation 14 Pre-Submission version of the Hassocks Neighbourhood Plan was published in January 2016 for consultation.¹⁵ The Regulation 16 Submission version¹⁶ has subsequently been submitted to the Council, with the Regulation 16 consultation taking place between 21 July and 8 September 2016. The examination of the Neighbourhood Plan is expected to be carried out in the Autumn 2016. At present there are unresolved objections on housing-related matters, including significant matters raised by the appellant which are specific to the appeal site.¹⁷

¹³ CD11

¹⁴ CD12

¹⁵ CD15

¹⁶ HPC4

¹⁷ CD39 para 5.13

28. Policy 2 of the emerging Neighbourhood Plan deals with the Ditchling Gap and Hurstpierpoint Gap. This includes that a Local Gap has been defined and will be safeguarded between Keymer/Hassocks and Hurstpierpoint. The objectives and categories of development are as in the adopted Local Plan, with the additional requirement that, to be supported, development within the Gap should conserve and where possible enhance relative tranquillity in relation to noise and light pollution and dark skies. The boundary of this Local Gap is unchanged from the Local Plan, and the appeal site thus lies within it.
29. Policy 3 refers to the designation of a number of locations as Local Green Spaces, one of which (LGS2 Land at the Ham) includes part of the site. Under the policy, proposals which conflict with the purpose of the designation will be resisted.

Hurstpierpoint and Sayers Common Neighbourhood Plan

30. The appeal site lies some 490m to the east of the boundary of the Parish of Hurstpierpoint. The Hurstpierpoint and Sayers Common Neighbourhood Plan was made and became part of the development plan on 19 March 2015.¹⁸

AGREED MATTERS

31. A Planning Statement of Common Ground has been agreed between the appellant and the Council.¹⁹ This describes the site, the proposal and its planning history, and the policy context. The following points can also be noted as agreed:
- a. The proposal represents sustainable development.²⁰
 - b. The site is well located in relation to services and facilities and a range of sustainable transport options are available.²¹
 - c. The scheme masterplan demonstrates that the site can accommodate development of the scale proposed, with necessary on-site mitigation, forming the framework for high quality development.²²
 - d. The policies of the emerging Mid Sussex District Plan can carry only limited weight, at best, given the stage of preparation reached and the extent of unresolved objections.²³
 - e. The emerging Hassocks Neighbourhood Plan also can only carry some weight, which is limited at best, given the stage of preparation reached and the extent to which there are unresolved objections.²⁴
 - f. On housing land supply, a 20% buffer should be applied²⁵; the Council does not have an identified housing target that has been through

¹⁸ CD39 para 5.16

¹⁹ CD39

²⁰ CD39 para 1.2

²¹ CD39 para 3.6

²² CD39 para 4.6

²³ CD39 para 5.9

²⁴ CD39 para 5.13

²⁵ CD39 para 6.4

examination²⁶; and as there is no up-to-date Local Plan in place the Council is unable to demonstrate a five-year housing land supply²⁷.

- g. Irrespective of the precise housing land supply position, significant weight should be given to the shortfall, and the presumption in favour of granting planning permission for sustainable development under paragraph 14 of the NPPF is engaged.²⁸
- h. Given the District's acute affordable housing need the proposal's contribution to the provision of this attracts substantial weight.²⁹
- i. Policies C1, C2 and C3 of the Mid Sussex Local Plan are policies for the supply of housing which should carry reduced weight due to the housing land position and inconsistency with the NPPF.³⁰
- j. There would be social, quantified economic and environmental benefits from the proposal.³¹
- k. On air quality, the appellant's approach to assessment is appropriate, and this points towards the air quality impact of the scheme having an insignificant effect on health.³²
- l. With mitigation, the residual harmful visual impact of the scheme would not be significant.³³
- m. There are no landscape features that elevate the site's value above countryside.³⁴
- n. The scheme would not fundamentally weaken the objective of the Local Gap policy to prevent coalescence, or harm settlement identity.³⁵
- o. The landscape impact on the South Downs National Park is likely to be low, with the site extremely difficult to perceive from Wolstonbury Hill.³⁶
- p. On biodiversity, there would be a probable beneficial impact.³⁷
- q. There is no reason to assume that a suitable drainage strategy could not be achieved for the scheme.³⁸
- r. Suitable safeguards on archaeology could be provided for by planning condition.³⁹
- s. There are no matters in dispute that go to whether should permission be granted for the scheme.⁴⁰

²⁶ CD39 para 6.6

²⁷ CD39 para 6.7

²⁸ CD39 para 6.8

²⁹ CD39 para 7.7

³⁰ CD39 paras 8.1-8.10

³¹ CD39 paras 9.1-9.11

³² CD39 paras 11.12; 11.29

³³ CD39 para 12.1

³⁴ CD39 para 12.4

³⁵ CD39 para 12.6

³⁶ CD39 paras 12.10-12.11

³⁷ CD39 para 14.1

³⁸ CD39 para 15.3

³⁹ CD39 para 16.1

32. A separate Addendum Transport Statement of Common Ground (SoCG) has been agreed between the appellant and West Sussex County Council as local highway authority.⁴¹ This is intended to be read in conjunction with an earlier Transport SoCG agreed in March 2015.⁴² The addendum utilises the most up-to-date public transport information and traffic analysis parameters. The Statement confirms agreement that:
- a. A safe and suitable access to the site is proposed from London Road.
 - b. The site has good accessibility to a range of destinations and facilities by a choice of travel modes and the site is sustainable in transport terms.
 - c. There is no objection to the impact of the proposal on the operation of the Stonepound Crossroads on the basis that an improvement scheme is secured and delivered prior to occupation of the site. Whilst still operating over capacity, there would be a measurable improvement for all users of the junction, and the residual cumulative impacts of the development fall short of the 'severe' test of paragraph 32 of the NPPF.
 - d. The local highway authority is satisfied with the scheme in respect of all highway and transport matters subject to conditions and obligations.⁴³
33. The summaries of cases of the parties put forward at the inquiry now set out are based on closing submissions⁴⁴, as supplemented orally, and the written and oral evidence, with references given to relevant sources.

THE CASE FOR HAS SOCKS PARISH COUNCIL

Weight to be given to the Mid Sussex Local Plan

34. The relevant development plan for the purposes of the determination of the appeal is the Mid Sussex Local Plan (LP).
35. It is accepted by all parties that the Council is currently unable to demonstrate a five-year housing land supply. As such policies for the supply of housing in the LP are deemed 'out-of-date'. Having regard to the judgement in Hopkins Homes/ Richborough Estates⁴⁵, and for the purposes of this appeal, this includes policies C1, C2 and C3 of the LP.
36. This judgement makes clear that the National Planning Policy Framework (NPPF), in particular paragraphs 14 and 49, does not make 'out-of-date' policies irrelevant in the determination of an application or appeal; they should not be ignored or disapplied. Nor does it prescribe how much weight should be given to such policies; that remains a matter for the decision-maker.⁴⁶
37. The judgement notes that one may infer that the Government's view of the weight to be given to out-of-date policies will normally be less than the weight to be given to policies that provide fully for the requisite supply. However, that weight is not dictated by the NPPF or the courts. It will vary according to the

⁴⁰ CD39 para 20.1

⁴¹ CD40

⁴² Copy with previous inquiry evidence

⁴³ CD40 para 1.3

⁴⁴ APP16; HPC9

⁴⁵ CD20

⁴⁶ CD20 para 46

circumstances of the case, including the particular purpose of the policy. The judgement notes that there will be many cases where out-of-date policies are given sufficient weight to justify a refusal of planning permission, despite their not being up-to-date under the policy in paragraph of 49 of the NPPF.⁴⁷

38. The Local Gap policy (C3) of the LP, noting its targeted approach and intended purpose, is in accordance with the aims of the NPPF, and should therefore attract significant weight in the determination of the appeal.

Weight to be given to the emerging Hassocks Neighbourhood Plan

39. The Regulation 16 Submission Version of the Hassocks Neighbourhood Plan (HNP) is currently within its consultation period, which runs until 8 September 2016.
40. Paragraph 216 of the NPPF gives guidance on the weight to be attached to emerging plans. This has been expanded upon in the Planning Practice Guidance (PPG)⁴⁸ which makes clear that an emerging neighbourhood plan may be a material consideration. It sets out factors for the decision-maker to consider in determining what weight to give it.
41. It notes that the Consultation Statement that accompanies a Regulation 16 Submission Version plan should reveal the quality and effectiveness of the consultation that has informed the plan's proposals.
42. The PPG also sets out guidance on the weight to be attached to an emerging neighbourhood plan where the local planning authority cannot demonstrate a five-year housing land supply.⁴⁹ This confirms that decision makers may still give weight to relevant policies in the emerging neighbourhood plan, even though these policies are not to be considered up-to-date. It similarly notes that the documentation submitted in support of the Regulation 16 neighbourhood plan may be useful to decision-makers in their deliberations.
43. The Consultation Statement that accompanies the emerging HNP⁵⁰ describes the extensive and detailed consultation that has underpinned the preparation of the plan. It summarises the stakeholder engagement that has been undertaken over the last 2 years. This sets out the feedback received, including stakeholders' views on candidate housing sites, and how these have been given due consideration in the Parish Council's decisions on, amongst other things, determining the selection of sites to be allocated for housing. In particular, it reveals the level of objection of local stakeholders to the allocation of the appeal site for housing, set against other sites.⁵¹ The appeal site was ranked 18 out of 20 candidate housing sites in preference order.⁵²
44. Having regard to the above, it is submitted that the emerging HNP is a material consideration in the determination of this appeal. The weight to be attached to it is a matter for the decision-maker.

⁴⁷ CD20 para 47

⁴⁸ see ID 41-007-20140306

⁴⁹ see ID 41-083-20160211

⁵⁰ HPC7

⁵¹ see for example stakeholder feedback on preferred housing sites at the January 2015 Consultation event at Appendix 10 of the Consultation Statement (HPC7) and how this was summarised and presented at the July 2015 Consultation event at Appendix 14

⁵² rank 1 being the most popular and 20 the least popular

Effect on character and appearance of the landscape and role of the site on the Local Gap

45. The site is located on the western edge of the village of Hassocks. It is part of the defined Local Gap between Hurstpierpoint and Hassocks as set out in policy C3 of the LP and policy 2 of the emerging HNP.
46. Policy C3 of the LP notes that Local Gaps are identified in areas between towns and villages which are particularly vulnerable to development pressure, and the loss or erosion of which would have a harmful effect on the character of the rural areas and the amenity and setting of villages. The LP designates these Local Gaps to give specific policy protection in order to prevent coalescence and retain the separate identities and amenities of settlements.⁵³ Policy C3(c) seeks to specifically prohibit development in Local Gaps that would compromise individually or cumulatively their objectives and fundamental integrity.
47. This Local Gap is already relatively small, some 0.9km when measured in a straight line from the rear gardens on College Lane to the rear gardens on London Road.
48. None of the witnesses for the appellant sought to challenge the need for a Local Gap policy between Hassocks and Hurstpierpoint in principle. The dispute lies over the extent of the delineation of the Gap and the contribution that the site makes to the Gap, its objectives and its integrity.
49. The appellant's landscape witness accepted that the urbanising effect of the appeal proposal would erode the openness of the Gap.⁵⁴ It would harm the rural character of the appeal site⁵⁵ and the urbanising effects would be appreciable from land beyond the appeal site; in particular in views from London Road (especially from close to the proposed junction of the access to the site with London Road), from the Belmont Recreation Ground, from the public footpath crossing and leading north-west from the appeal site, and views from the footpath crossing the golf course.⁵⁶ The appellant's landscape witness acknowledged that there is currently a clear, distinctive linear edge to the built-up area along the rear of houses in London Road, and that this would be lost through the appeal proposal.⁵⁷
50. The appellant's landscape witness seeks to argue that these effects are acceptable on the basis that the site is already *"influenced by the western edge of Hassocks"*.⁵⁸ This contention does not legitimise the diminution of the Gap at this point. Such an approach, when followed to its natural conclusion, would allow the continuous, incremental erosion of the Gap until nothing remained. The presence of urban influences on the edge of a Gap is a natural and inevitable consequence of the existence of the settlements that a Gap policy is seeking to maintain separation of.
51. The impact of the development on the appeal site would be significant. It would represent a substantial urbanising form of development on land that is a

⁵³ CD8 para 3.30

⁵⁴ Cross-examination of Ms Simes

⁵⁵ APP1 para 9.07

⁵⁶ Cross-examination of Ms Simes

⁵⁷ Evidence in chief and cross-examination of Ms Simes

⁵⁸ APP3 Appendix L7 Figure 4 for example

significant and integral part of the Gap. It would permanently and detrimentally change the character of the appeal site. It would reduce the openness of the Gap and it would undermine its purpose. This is a clear conflict with the objectives of the Gap and would undermine its integrity.

52. There are direct parallels to be drawn between this appeal case and a called-in decision of 4 September 2014 on a planning application for a development on land off College Lane to the west of this site.⁵⁹ It is within the same Gap, subject to the same LP policy (C3), and was determined at a time when the District had a similar position with respect to the five-year housing land supply.⁶⁰

53. The appellant's landscape witness contends that the College Lane site is influenced by the urban edge of Hurstpierpoint⁶¹ and makes no meaningful contribution to the Gap⁶². That view is in clear conflict with the conclusions of the Inspector in that case, and supported by the Secretary of State, who considered that the site forms an integral part of the Gap.⁶³ The appellant's landscape witness reluctantly accepted that the Inspector and Secretary of State took into account the built-up surroundings of that application site. Having regard to this concession, it is pertinent to note that the Inspector and Secretary of State did not consider the urban influences of that site rendered it any less valuable in its contribution to the Gap.

54. The Secretary of State found:

*"With regard to policy C3 (and the policy of similar intent included in the emerging Hurstpierpoint Neighbourhood Plan) the Secretary of State agrees with the Inspector that, although policy C3 is out of date in so far as it impacts upon the supply of housing, it continues to serve an important planning function in preventing the coalescence of the settlements of Hurstpierpoint and Hassocks and maintaining their separate identities and amenity, with no conflict with the thrust of the Framework.... [The Secretary of State agrees with the Inspector's] conclusion that the proposed development would undermine the purposes of the Local Gap and change its character. He agrees that the Gap continues to serve a useful and much valued planning purpose (irrespective of the landscape capacity assessment of the site) and that an increase in built development would result in a small but nevertheless significant diminution of openness."*⁶⁴

55. The conclusions of the Inspector, supported by the Secretary of State, are a material consideration in the determination of this appeal. They support the submissions in respect of the importance of the Local Gap, and the harmful impact of residential proposals on its integrity and purpose.⁶⁵

⁵⁹ CD28

⁶⁰ CD28 Inspector's report paras 7.6, 7.13 and 13.2; CD42 Inspector's report para 21

⁶¹ APP3 Appendix L7 Figure 5

⁶² Cross-examination of Ms Simes

⁶³ CD28 Inspector's report paras 13.19-13.23

⁶⁴ CD28 Decision para 14

⁶⁵ HPC1 para 11.31

Overall balance of harm and benefit and whether the proposal amounts to sustainable development

56. The purpose of the planning system is to contribute to the achievement of sustainable development, made up of its three limbs of economic, social and environmental, which should be sought jointly and simultaneously.⁶⁶
57. In light of the lack of the five-year housing land supply, paragraph 49 of the NPPF engages the second bullet-point of paragraph 14, in respect of decision-taking. This states that planning permission should be approved 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 this Framework indicate development should be restricted*".
58. The appeal proposal would significantly erode the separation, identity and character of Hassocks. The urbanising effect of the appeal proposal would have a harmful impact not only on the appeal site and the public footpath that crosses it, but also on numerous surrounding public vantage points. This would be in conflict with the environmental limb of sustainable development, and in particular the fifth bullet point of paragraph 17, paragraph 109 and paragraph 114.
59. The harm that would result is serious enough to significantly and demonstrably outweigh the scheme's benefits. This brings it into conflict with the NPPF when taken as a whole. It cannot be regarded as sustainable development and as such does not enjoy the presumption in favour of sustainable development.

Conclusion

60. For the above reasons it is submitted that the appeal should be dismissed and planning permission refused.

THE CASE FOR PHILIP WEIR ON BEHALF OF PROTECT HISTORIC HAMFIELDS⁶⁷

61. Mr Weir is a retired management consultant who with his wife lives directly opposite the highway entrance to the proposed development and a proposed upgraded pedestrian crossing. He advised that Ian Tovey, chairman of Protect Historic Hamfields, was unable to attend the inquiry.

Process

62. This is an unusual inquiry in that the only people left objecting are the community of Hassocks itself, and not any of the professionals. This is important as the professionals can work full time on the proposal, have immediate and full access to each other and are paid.
63. On the other hand, the residents of Hassocks have other jobs they must undertake, their access to officials is limited and they have to use their own time, resources and money. (The exception here may be Dowsett Mayhew who have been commissioned by Hassocks Parish Council).
64. With this uneven playing field in mind it is clearly important that proper process is followed. In the case of this inquiry it has been found that a notice to the public was not posted on site until 1 August – less than the 2 weeks prior to the

⁶⁶ CD1 paras 6-8

⁶⁷ PHH3

inquiry specified by the PPG.⁶⁸ Documents supporting the application and appeal were not made available to the public. Both the Council and the appellant have failed to be timely in their submission of documents.⁶⁹

Impact on our neighbours

65. Neighbouring authorities have objected to the proposal, as evidenced by South Downs National Park Authority in their consultation response of December 2013⁷⁰, and Hurstpierpoint and Sayers Common Parish Council in their consultation response of January 2014⁷¹.

The Hassocks Neighbourhood Plan

66. Hassocks village, since about early 2012, has been working on establishing a Neighbourhood Plan in accordance with the Localism Act of 2011. This stated that the Government thinks local communities should have genuine opportunities to influence the future of the places where they live.
67. Consultations with the local community have been extensive.⁷² The Hassocks Neighbourhood Plan (HNP) is at an advanced stage, with a 'Regulation 16' version published in early July 2016. This particular site is the least, or nearly least, acceptable for development, ranking 14th out of 15. The HNP designates a portion of the site as Local Green Space (policy 3).⁷³
68. The appellant asserts that the portion of the site does not meet the criteria for being considered Local Green Space.⁷⁴ However, the site is *at* the boundary of the village, and not away from it. The site is demonstrably special to a local community and holds a particular local significance. Some of the hedgerows were mentioned in the doomsday book. Wildlife is extensive.⁷⁵ Easements over the land have been granted to a number of local residents. Clearly the site is of particular local significance as evidenced by the existence of Protect Historic Hamfields. The proposed LGS2 is clearly local and not an extensive tract of land.

The Strategic and Local Gap

69. The essential gap between the settlements of Hassocks and Hurstpierpoint would be eroded. Judgements on this matter must be understandable and accepted by the public and community at large and particularly those affected. At the moment it is seen that there is *one* gap between Hurstpierpoint and Hassocks and that its diminution has been, rightly, rejected on a number of occasions. To argue otherwise would be perceived as truly bizarre, if not actually obtuse.

⁶⁸ Inspector's Note: no prejudice to any party as a result of this was brought to my attention.

⁶⁹ PHH4

⁷⁰ PHH1 section D Appendix 1.1

⁷¹ PHH1 final Appendix

⁷² HPC7: Consultations in May 2014, September 2014, January 2015 and July 2015

⁷³ HPC4

⁷⁴ APP1 para 7.04

⁷⁵ Ecological Impact Assessment submitted with application

Traffic and Transport

The Selection of "Peak" Hour for subsequent modelling

70. The appellant originally published a Transport Assessment towards the end of October 2013 which relied upon survey data gathered on 18 July 2013.⁷⁶ Notwithstanding the fact that this date was atypical (it was effectively a non-school day for children, parents, teachers and ancillary staff in what was called a 'Curriculum Enrichment' week) it clearly demonstrated that morning peak times, through Stonepound Crossroads, were 7.45am to 8.45am. The same is true for the Stanford Avenue and London Road junction.
71. In the case of the petrol station and garage the morning peak hour was 9am to 10am.⁷⁷ For whatever reason the appellant decided to ignore this data and selected a time for the morning peak between 8.15am and 9.15am which was used in their modelling.⁷⁸

The wrong road

72. The traffic figures contained in the Transport Assessment not only analysed an incorrect time period for the morning peak but also the wrong road. All figures refer to the "A237" which is a road in south London. Obviously this is a typographical error but clearly demonstrates a lack of attention to detail where such care is paramount.

Turn counts

73. The appellant erred in their analysis and modelling of the Stanford Avenue and London Road junction by as much as 38%.⁷⁹ Once again this demonstrates a lack of quality and attention to detail.

The Technical Note

74. In the appellant's Technical Note entitled Addendum Transport Assessment⁸⁰ there was no analysis of the impact of increased traffic through Stanford Avenue; no comment regarding the time of day being used for peak traffic analysis; and no comment regarding the incorrect summation of the underlying data subsequently being used for modelling.

Later work

75. Clearly there has been an acceptance by the appellant that some of the previous criticisms, particularly regarding turn counts and peak times, are justified, as new data gathering was conducted in mid-2014 and now presented in the latest submission of evidence.⁸¹ In the time available it is noted that:
- In the summary Proof of Evidence there is no definition of the AM peak.⁸²

⁷⁶ Transport Assessment submitted with application

⁷⁷ Transport Assessment Appendix E pp 8,15 & 20

⁷⁸ Transport Assessment - Contents page and "Traffic Figures"

⁷⁹ Mr Weir's letter to the Council dated 1 December 2013, copy included with Questionnaire

⁸⁰ Addendum Transport Assessment ref ITB8203-004 TN submitted at application stage; Mr Weir's response entitled "A local residents commentary on the recent Technical Note" dated 30 January 2014, copy included with Questionnaire

⁸¹ APP5 Section 5

⁸² APP6

- In the latest Transport Statement of Common Ground, the AM peak is defined as 07.45 to 08.45 based on June 2016 data.⁸³
- In the original Transport Assessment the AM peak was defined as 08.15 to 09.15 yet the data clearly shows it as being 07.45 to 08.45.
- In the latest Proof of Evidence, the AM peak is defined in table 5.2 as 08.00 to 09.00.⁸⁴

76. It is therefore entirely unclear when the AM peak really arises.

77. The complete package of work on traffic analysis has been so shoddy that it must be rejected. The very basis of the work on air quality is the same traffic analysis, so that too should be rejected.

Mitigation

78. The appellant has proposed that some expensive mitigation be undertaken at Stonepound Crossroads in order to address the concerns over traffic volumes, traffic flows and impacts on air quality.⁸⁵ If these mitigations are warranted, then it must be interpreted that the appellant thinks that the impact of the proposed development will be significant.

79. Additionally, one element of the mitigation is to introduce detector packs. This is a new technique that has been accepted as being unproven technology.⁸⁶

Conclusion

80. The appeal should be refused for reasons of amplification of problems of air quality; diminution of the strategic/local gap; maturity of the Hassocks Neighbourhood Plan; exacerbation of traffic volumes and flows.

THE CASE FOR ROBERT BREWER ON BEHALF OF PROTECT HISTORIC HAMFIELDS⁸⁷

81. Mr Brewer is a retired auto mechanic engineer and local resident. His career was within the Automotive Design and Development disciplines, including heavy duty diesel engine combustion development for commercial vehicles.⁸⁸

Public Health⁸⁹

82. Studies point to serious concerns regarding the fact that the impact of air pollution on human health has been underestimated.

83. There have been many significant reports published in 2015 and 2016 regarding the impact of pollution on public health, which strongly support the recommendations of the House of Commons Environmental Audit Committee's 6th Report Session 2014 to 2015. Local and National Authorities must continue to act to protect public health when air pollution levels are high or where the legal limits are exceeded by following the statutory policies and Defra guidance.

⁸³ CD40 section 4

⁸⁴ APP5 p34

⁸⁵ APP5 section 7

⁸⁶ APP5 para 7.2.9

⁸⁷ PHH2

⁸⁸ PHH1 section B p1

⁸⁹ PHH1 section B part 5

84. The following eminent bodies have reported concerns regarding the effect of pollution, including NO₂:
- Royal College of Physicians report 'Every breath we take: the lifelong impact of pollution' February 2016.
 - Defra reports 'Tackling nitrogen dioxide in our towns and cities' in December 2015.
 - Committee for the Medical Effects of Air Pollutants (COMEAP) in 2015.
 - European Environment Agency Air Quality in Europe Report in 2015.
 - House of Commons Environmental Audit Committee 6th Report Session 2014-15.
85. In short, every report produced recently points to serious concerns regarding the fact that the impacts of air pollution on human health have been underestimated. The problem is far worse than previously thought.

Defra published 'Emission Factor'⁹⁰

86. Defra and the Department for Transport (DfT) are reporting significant concerns based on Euro 6 diesel passenger cars, indicating the current COPERT data may underestimate emissions for some vehicles. The Government presented their published research to European Research for Mobile Emission Sources in May 2016.
87. The developer's Air Quality models use the Defra Emissions Factor Toolkit (EFT) which is based on the European Environment Agency's (EEA) COPERT 4. EFT Version 6 released in June 2014 is taken from the EEA's COPERT 4v10 with an issued date of November 2012. It stated: *"The changed factors provided here reflect the new evidence on the performance of Euro 5 and 6 diesel vehicles and LGVs NOx under real-world conditions."*
88. EFT Version 7 released in July 2016 is taken from the EEA's COPERT 4 v11 with an issued date of September 2014. This says: *"NOx and PM Emission Factors are taken from the European Agency (EEA) COPERT 4 (v11) emission tool kit."*
89. EMISIA SA are the authors of COPERT 4 in association with the EEA. Their report dated 12 May 2014 details their design specification for COPERT 4 v11. EMISIA advised in their 'Update of the Air Emissions Inventory Guidebook D Road Transport 2014' in a section called 'Update of f-NO₂ emission factors, section 5.5 Conclusions that:
- "Thus, a wide range of possible values for f-NO₂ exists for diesel Euro 6 cars, and the actual average value will depend on the share of each aftertreatment configuration to the total vehicle fleet. The suggested value in Table 6 assumes SCR to be the dominant deNOx technology with some 70% of SCRs preceding the Diesel Particulate Filter (DPF) and 30% of SCRs following the DPF."*
90. Vehicle manufactures will decide the final emission treatment specification of their production vehicles and will not necessarily use selective catalytic reduction (SCR) as there are alternative technologies.

⁹⁰ PHH1 section B part 6

91. The DfT and Vehicle Certification Agency's report of 21 April 2016 post dates COPERT 4 v11 issue date of September 2014 by some 18 months and indicates there is a significant body of new UK and German evidence being presented. This evidence is particularly in the area of real-world driving and vehicle operating temperatures, which will have a bearing on the future refinement of emission factors.
92. Defra have released a new report on improving air quality in the UK. 'Tackling nitrogen dioxide in our towns and cities Technical report December 2015 Revised: 18 January 2016' highlights the fact that there are still uncertainties.
93. These Defra and DfT reports show there are significant concerns based on Euro 6 diesel passenger cars, indicating that the current COPERT data may underestimate emissions for some vehicles.
94. The staggered timing of introduction over 2017 to 2021 of Euro 6d Real Driving Emissions with reducing conformity factors means the new legislation will take several years to effect a significant change to the in-service vehicle real-world emissions.
95. The ongoing European Parliament's EMIS Committee will reconvene their 'Inquiry into Emission Measurement in the Automotive Sector' on 30 August 2016. Its objectives were advised on 21 January 2016:

"Parliament appointed the 45 members of a committee of inquiry into car makers' breaches of EU rules on car emission tests in a vote on Thursday. The committee will also investigate alleged failures by EU member states and the European Commission to enforce EU standards. It will present an interim report within 6 months, and a final one within 12 months, of starting its work."

Model validation, verification, adjustment and uncertainty⁹¹

96. It is of fundamental importance to demonstrate the viability and robustness of a model's verification, adjustment and uncertainty strategies.
97. The appellant's Updated Air Quality Assessment of 12 April 2016⁹² does not detail verification, adjustment and uncertainty processes.
98. The Council's Air Quality portal's most recent Updating and Screening Assessment for Mid Sussex District Council is for the year January to December 2014.
99. The appellant's Air Quality reports of 13 and 28 July⁹³ use NO₂ annual monitored levels for January to December 2015 for the verification, adjustment and uncertainty processes. These 2015 monitored levels are not currently published on the Council's Air Quality portal.
100. Defra has a process for a local authority's Annual Status Report (ASR) for consideration by Defra.⁹⁴ This requires local authorities to submit an ASR each year. The overall aim of this document is to report on progress in achieving reductions in concentrations of emissions relating to relevant pollutants below air quality objective levels. It is also where local authorities identify new or

⁹¹ PHH1 section B part 7

⁹² AA506/03/04/2016/AQ - Appendix 7 to Appellant's Updated Statement of Case

⁹³ APP9 Appendix 1 - AA506/13/07/2016; APP11

⁹⁴ The LAQM Review and Assessment Process

changing sources of emissions. Defra will consider the report and provide comments back in a timely manner, to which a local authority is expected to have regard. The report should also be made available to the public, the Environment Agency, Highways England and other relevant departments/stakeholders. If Defra has concerns regarding the conclusions in a local authority's report, the authority will be invited to provide written comments justifying their decision within a specified deadline set out in the appraisal letter.

101. In this case the model's verification, adjustment and uncertainty processes are using data which still requires completion of Defra's consideration, comments and approval. It is inappropriate to predict future air quality levels at Stonepound Crossroads using unpublished data, and the air quality report's conclusions should not be relied upon.
102. Therefore, the viability of the air quality report's strategies and conclusions have not been reliably demonstrated, nor address the implication of the responsibilities placed upon a local authority to manage an Air Quality Management Area and show conformance to the UK and EU Air Quality requirements.

Compliance to EU Directive (2008/50/EC) Protection of Human Health⁹⁵

103. There is an existing Air Quality Management Area (AQMA) at the Stonepound Crossroads which was declared on 13 March 2012, with 8 residential dwellings affected within 3 buildings. The proposed development would increase the air pollution for this AQMA as more vehicle journeys would mean more air pollution.
104. The NPPF and Defra's Guidance do not include 'impact descriptors' to allow a development to increase the level of pollution, but require compliance to EU Directive (2008/50/EC) for the protection of human health for an AQMA which exceeds the calendar year limit for NO₂ of 40 µg/m³.
105. Defra advise that the responsible authorities always give precedence to measured concentrations over predicted concentrations.⁹⁶
106. The appellant's methodology of interpreting the impact tables is incorrect for a failing AQMA. The correct interpretation for a failing AQMA results in an impact from the proposed development on air quality as 'Significant' (IAQM/EPUK) and 'Very High' (SussexDAir).⁹⁷
107. The suggestion that levels of impact predicted for this development are 'small' and mitigation rather than refusal is the appropriate position is not consistent with meeting the requirements of current UK and EU legislation or planning policy for a failing AQMA. There must be a high degree of confidence that conformity will be maintained. This is born out by IAQM/EPUK guidance documents.
108. There is no specific UK or EU Air Quality legislation or national planning guidance which allows an increase in pollution due to a planning application when the AQMA is non-compliant.
109. Defra Guidance says that the process for amending or revoking an AQMA is similar (from the technical point of view) to that for declaring an AQMA in the

⁹⁵ PHH1 section B part 8

⁹⁶ Defra Technical Guidance regarding Monitoring paras 3.01 to 3.05

⁹⁷ IAQM/EPUK paragraphs 2.6, 7.11, SussexDAir section 4, table 3 & 4

first instance. The authority will therefore need to be able to demonstrate the same degree of confidence in its decision to revoke or amend an AQMA, as was provided for in the original declaration. It is expected that authorities will need to consider measurements carried out over several years or more, as well as the national trends in emissions, and local factors that may affect the AQMA, including measures introduced as part of the Action Plan, together with information from national monitoring on high and low pollution years.

110. Independently approving that the Stonepound Crossroads AQMA will be compliant to Ambient Air Quality Directive (2008/50/EC) NO₂ annual limit of 40 µg/m³ by 2018 solely based on a model's predictions from a third party is unsustainable. It does not recognise that the Council will have to apply for official approval from Defra to 'revoke' the AQMA by submitting a Detailed Assessment.
111. The most recent 'Updating and Screening Assessment for Mid Sussex District Council 2015' continues to report non-compliance to the NO₂ annual limit for the period January to December 2014. The development would have an overall worsening impact on the level of NO₂ within the AQMA. The application should be refused based on measured concentrations of NO₂ exceeding 40 µg/m³.
112. Policy C22 of the Mid Sussex Local Plan and the provisions of NPPF paragraphs 109, 120 and 124, all reinforce the fact that planning policies and decisions should sustain compliance with EU limits and national objectives. Paragraph 124 states:
- "Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan."*
113. The risks associated with relying only on modelled air quality projections rather than measured data to validate compliance with planning regulations and legal requirements are unacceptable and not sustainable for the protection of human health at Stonepound Crossroads AQMA.

THE CASE FOR GLEESON DEVELOPMENTS LIMITED

Introduction

114. The site lies outside but immediately adjacent to the settlement boundary of Hassocks as shown in the adopted Mid Sussex Local Plan (LP) of 2004. Hassocks is recognised to be a sustainable settlement for the accommodation of housing growth.⁹⁸ The site itself is acknowledged to be in a sustainable location in terms of its access to services and facilities within that settlement, and beyond it by non-car modes.⁹⁹
115. The Council is unable to demonstrate a five-year housing land supply, contrary to the requirement of paragraph 47(2) of the NPPF.¹⁰⁰

⁹⁸ Cross-examination of Mr Mayhew

⁹⁹ CD 40 section 3; CD39 paras 3.7 & 3.15

¹⁰⁰ CD39 paras 6.7 & 6.8

116. The application was refused by the Council on 1 May 2014 for three reasons, relating to lack of a section 106 agreement; traffic impact; and air quality.¹⁰¹
117. Notably, it did not seek to refuse the application by reference to landscape character or visual harm, nor by reference to impact on coalescence or loss of separate identity or amenity in terms of the Local Gap policy of the LP (policy C3). This was a result not only of accepting the limited policy weight attributable to C3, but also of the merits of the scheme, in that the landscape officer did not consider the scheme to be objectionable in Gap terms.
118. Following the submission of further information, the Council resolved on 22 January 2015 that it would withdraw all three reasons for refusal and no longer oppose the grant of planning permission.¹⁰² That remains the Council's position¹⁰³: it does not resist the appeal or the grant of permission for what it recognises to be sustainable development as measured against the NPPF¹⁰⁴.
119. However, Hassocks Parish Council and an organisation calling itself 'Protect Historic Hamfields' have led objections to the proposal on Gap, air quality, and traffic grounds. Protect Historic Hamfields is a group formed in 2013 specifically with the object of opposing development on this site.¹⁰⁵ The Parish Council has been conducting the process to establish a Hassocks Neighbourhood Plan (HNP), which has just reached its Regulation 16 consultation stage. It is notable, and concerning, that both have at different times been represented by the same planning consultant¹⁰⁶: for the one, opposing development on the appeal site; and for the other, supposedly generating objective analysis to establish whether it should be designated for housing or Gap.

Weight to be accorded to the adopted Local Plan and emerging Hassocks Neighbourhood Plan

Adopted development plan

120. The only relevant adopted development plan document comprises the saved policies of the 2004 Mid Sussex Local Plan (LP), which sought to plan to 2006.¹⁰⁷ Of these, policies C1 (Countryside), C2 (Strategic Gap) and C3 (Local Gap) are applicable to the appeal site. However, no party alleges harm to policy C2, which concerns coalescence with Burgess Hill to the north, a matter in which the appeal site has no part to play.
121. The weight to be given to adopted policy is directed by paragraph 215 of the NPPF and the policy's consistency with the policies of the NPPF. The settlement boundary to which policy C1 attaches itself is in this location precisely the same as the designation boundary for the Local Gap, subject to policy C3.¹⁰⁸ No landscape-based justification has been identified for the extent of the land in the C3 designation, which appears simply to follow the countryside boundary of C1.

¹⁰¹ CD39 para 2.1 & Appendix 2

¹⁰² CD39 paras 2.4-2.6

¹⁰³ CD39 paras 2.4-2.6

¹⁰⁴ CD39 sections 8, 9 & 20

¹⁰⁵ Inspector's questions to Mr Weir

¹⁰⁶ Mr Mayhew

¹⁰⁷ CD39 para 5.1; CD8

¹⁰⁸ CD8 Inset Map 29

This makes C3 a classic 'development control' policy to prevent housing in the intervening open area.

122. The choice of where that boundary lay in the 2004 LP was, of course, informed by judgements as to development pressure based on the then understanding of development needs.¹⁰⁹ That plan only provided for development needs to 2006, and there is no question that it was not and does not purport to be a plan which provides for development needs of 2016 and in a NPPF-compliant manner.
123. Consequently, while the principle of having settlement boundaries and gap policies might be wholly unobjectionable to the NPPF, the spatial application of that boundary (that is, where it is drawn on the 2004 map) is manifestly out-of-date and in conflict with the NPPF's imperative that the objectively assessed development needs of today be provided for.¹¹⁰ A plan and its policies which are out-of-date and in conflict with the NPPF can, under its paragraph 215, only be afforded limited weight.¹¹¹
124. In addition to the above, the agreed inability to demonstrate a five-year housing land supply engages paragraph 49 of the NPPF. This deems policies such as C1, C2 and C3 to be 'out-of-date', thereby affecting the weight that would otherwise be given to them. The actual degree of five-year failure is not established, as the Council does not know its requirement against which to set its supply¹¹², but estimates hover around 2 years¹¹³. There is no dispute that the shortfall is significant and that significant weight should be accorded to it.¹¹⁴
125. As to the correct approach to weight in these circumstances, assistance may be drawn from the Secretary of State's most recent decision of 8 August 2016 at Birchen Lane within this District.¹¹⁵ In that case, as a result of the absence of the five-year land supply, the adopted development plan policy (there, the made Neighbourhood Plan) was given only 'limited weight.' That must be equally applicable to the policies of the 2004 LP.
126. By operation of both paragraphs 215 and 49, this case falls to be determined by reference to the 'tilted balance' in the first dagger of the second bullet of the second half of paragraph 14 of the NPPF.¹¹⁶

Emerging development plan

127. Adopted policy C3 (Local Gap) is to be replaced in the emerging District Plan by policy DP11.¹¹⁷ This sets purposes and an evidential test for Gap designation, but no boundaries. These are to be determined by 'robust evidence' at Neighbourhood Plan level. The emerging District Plan, however, is itself only to be accorded limited weight given its progress through the system, the outstanding substantial unresolved objections (starting with housing numbers) and the allegations of conflict with the NPPF. This is by reference to paragraph

¹⁰⁹ Cross-examination of Mr Mayhew

¹¹⁰ CD1 paras 14(1), 17(1) & (3), 47(1), 156, 157, 159, 182(1)

¹¹¹ CD39 section 8

¹¹² CD39 section 6

¹¹³ Evidence in chief of Ms Mulliner

¹¹⁴ CD39 para 6.8

¹¹⁵ CD42 Decision para 5

¹¹⁶ CD39 sections 6 & 8; cross-examination of Mr Mayhew

¹¹⁷ CD11

216 of the NPPF, and limited weight is the position adopted by the Secretary of State on the same emerging plan on 8 August 2016 in the Birchen Lane decision.¹¹⁸ In addition, following Woodcock Holdings¹¹⁹, the emerging District Plan is as equally subject to the effects of paragraph 49 of the NPPF as is the adopted LP, and deemed out-of-date.

128. Hassocks Parish Council in the Hassocks Neighbourhood Plan (HNP) seeks to designate the site as part of a Local Gap policy (Policy 2) and make it subject to a 'Local Green Space' designation.¹²⁰ The Regulation 16 consultation on the HNP has just opened and substantial objections can be expected. These are necessarily as yet unresolved and (if they follow the Regulation 14 objections) will be alleging conflict with the NPPF. This emerging part of the development plan, following the case of Woodcock Holdings, is also subject to both paragraphs 216 and 49 of the NPPF.
129. The Secretary of State's Birchen Lane decision again indicates the correct approach to an emerging neighbourhood plan. Dealing with the emerging Haywards Heath Neighbourhood Plan, which had completed its Regulation 16 consultation but had not yet gone to examination, the Secretary of State accorded it only limited weight by reference to paragraph 216 of the NPPF.¹²¹
130. The low level of weight to be accorded to the HNP policies is further underscored by the absence of evidence to support its emerging policies of restriction. The plan has a serious failure to allocate sufficient land for development needs, allocating only 290 units in the plan period while the Housing and Economic Needs Assessment shows a need of 630.¹²² Setting this aside, the Parish Council's witness¹²³ was unable to point to any evidential document to support the proposed boundaries of the Gap policy (policy 2). It is not in the Landscape Character Appraisal¹²⁴ nor the Strategic Views relied upon¹²⁵. Indeed, it appears that the extent of the necessary land to comply with policy DP11 has not even been analysed, let alone provided with 'robust evidence' in support. It seems to have followed, not informed, the decision as to where the Parish Council wanted to see housing.¹²⁶ So unconvincing is the Local Green Space work that the Parish Council's witness volunteered¹²⁷ (contrary to his proof¹²⁸) that the Parish would not be relying on the emerging designation as Local Green Space to justify refusal of the appeal proposal.
131. The consequence of the above is that it is agreed that the appeal falls to be determined by the operation of the 'tilted balance' in paragraph 14 of the NPPF and permission should be granted unless the adverse impacts are significantly and demonstrably weightier than the benefits. The Parish Council's witness

¹¹⁸ CD42 Decision para 6

¹¹⁹ CD22

¹²⁰ HPC4

¹²¹ CD42 Decision para 7

¹²² CD13

¹²³ Cross-examination of Mr Mayhew

¹²⁴ CD17

¹²⁵ CD18

¹²⁶ Cross-examination of Mr Mayhew

¹²⁷ Evidence in chief of Mr Mayhew; HPC8

¹²⁸ HPC1 para 11.51

accepted that this exercise, following the Cheshire East case¹²⁹, does not require a finding of a positive in each of the 3 dimensions in paragraph 7 of the NPPF, nor a pre-finding of sustainability outside paragraph 14, but simply a weighing exercise within paragraph 14, the outcome of which will determine whether or not the scheme is 'sustainable development'.¹³⁰ The Parish Council leads no evidence that these 'adverse impacts' include traffic or air quality. The only adverse impact it identifies is offence to Gap policies. On merit this is contrary to the expert view of both the Council's own officer and the appellant's landscape expert. It is also against an adopted policy that is only to be accorded limited weight by reference to paragraphs 215 and 49 and an emerging policy that is to be accorded even less weight under paragraphs 216 and 49 of the NPPF.

132. Lastly under the policy framework, the Parish Council (very properly) abandoned any allegation of prematurity to the HNP¹³¹, which it had sought to suggest in its written proof¹³² but withdrew as a result of the oral evidence of its witness¹³³.

Impact on character and appearance of the landscape and the role of the site in the designated Local Gap

133. The site lies in the adopted Local Gap (policy C3) and the proposed HNP Local Gap (policy 2). In both cases it is on the easternmost edge against the settlement of Hassocks and not breaching the first field boundary running north/south in the designated area.

134. As set out above, policy C3 is out-of-date in its own terms and in terms of paragraph 49 of the NPPF and the effect of the absence of a five-year land supply. Its boundary therefore carries little weight. Further, the extent of the HNP policy 2 designation is not only un-adopted but policy DP11 in the emerging District Plan sets no boundaries, only a test of 'robust evidence'. As it goes through the consultation process, HNP policy 2 is unsupported by *any* evidential basis examining the role of land against the purposes of coalescence, separate identities and amenity.¹³⁴

135. It is with that policy context that the alleged impact of the proposal on any gap function of the land that lies between the settlements of Hassocks and Hurstpierpoint is to be weighed. Only the appellant's landscape witness has done that exercise, as illustrated in her assessment.¹³⁵ This identifies that there is no intervisibility or awareness from Hassocks of Hurstpierpoint, or from Hurstpierpoint to Hassocks. Moreover, while there is a zone in the west influenced by the urban area of Hurstpierpoint, and a zone in the east influenced by the urban area of Hassocks, there is a zone in the centre influenced by neither.¹³⁶

¹²⁹ CD23

¹³⁰ Cross-examination of Mr Mayhew

¹³¹ Evidence in chief of Mr Mayhew; HPC8

¹³² HPC1 paras 11.48-11.51

¹³³ Cross-examination of Mr Mayhew

¹³⁴ Cross-examination of Mr Mayhew

¹³⁵ APP3 Appendix L7 Figures 4-7

¹³⁶ APP3 Appendix L7 Figures 4-7 (marked green)

136. This allows an assessment of the impact, if any, of developing the appeal site on the function of the gap. It is apparent from the footpaths crossing the gap, that the point heading east at which one becomes aware of approaching (but not yet entering) Hassocks is unchanged whether the appeal site is built or not.¹³⁷ By then one is conscious of having left Hurstpierpoint far behind. Similarly, it can be concluded that the land already influenced by the built edge of Hassocks¹³⁸ would not move westwards into the undisturbed zone were the development to be in place¹³⁹. The area influenced by the built form of Hassocks would retain its existing westward extent; although there would be limited change in some views, the character and appearance of the gap would remain unchanged and its function and role unaltered.
137. While the Parish Council's consultant sought to pick at the details of the evidence of the appellant's landscape witness, critically he did not challenge or dispute¹⁴⁰ her conclusions¹⁴¹ that with or without the development proposed the boundary between the area already influenced by the western edge of Hassocks and the area not influenced by either Hassocks or Hurstpierpoint would not alter. As such, although development would be placed within the (out-of-date) Gap boundary, the function, character and appearance of the Gap would be left unchanged. The settlement edge to Hassocks would, in fact, be improved by the proposal compared to the existing harsh settlement edge.¹⁴²
138. There is an important distinction between development of the appeal site and the Secretary of State's decision in respect of land on the eastern edge of Hurstpierpoint, off College Lane, in the same Gap as the appeal site (APP/D3830/V/14/2211499).¹⁴³ In that case, the Inspector was concerned about the relationship of that site with the ribbon development along Hurst Road and with Belmont Lane, which extends off Hurst Road, finding that:

[it provides] "*pleasant and unobstructed views from College Lane, from Belmont Lane (also a public bridleway) and from the houses that back onto and which overlook the site. Crucially, though, it forms what I consider to be an integral part of an area that provides very clear separation between Hurstpierpoint and Hassocks, particularly when seen from College Lane and Belmont Lane.*"¹⁴⁴

"I recognise that ... neither the built development proposed, nor the application site as a whole, would entirely 'fill' the gap between the built up edges of the two settlements and the proposal would not, of itself, result in coalescence in that regard. However, the site does extend up to the boundary between the two settlements, as defined by Belmont Lane. Although the parkland/wildlife corridor would provide a buffer between the houses proposed and Belmont Lane, the development would, nevertheless, erode the Gap at what is already its narrowest, and thus its most sensitive, point, the gap between the built up

¹³⁷ Evidence in chief of Ms Simes; APP3 Appendix L9; cross-examination of Mr Mayhew

¹³⁸ APP3 Appendix L7 Figures 4-7 (marked yellow)

¹³⁹ APP3 Appendix L7 Figure 7

¹⁴⁰ Mr Mayhew (either as advocate or witness)

¹⁴¹ APP3 Appendix L7 Figures 4 & 7

¹⁴² Cross-examination of Ms Simes; cross-examination of Ms Mulliner

¹⁴³ APP12 para 5.65

¹⁴⁴ CD28 Inspector's Report para 13.19

*edges of the settlements being as little as 900 metres at this point. In my view, that erosion of the Gap would permanently impair the character of this part of the Local Gap, and thus the amenity and setting of Hurstpierpoint and Hassocks."*¹⁴⁵

139. In the current case, as the Council's officers have long recognised¹⁴⁶, there is no justification for withholding planning permission by reference to impact on character and appearance of the area or the site's role as part of a Local Gap between Hassocks and Hurstpierpoint.

Impact on highway safety and traffic flows

140. Access to the site from the local highway network is proposed in the form of a ghost island junction from London Road. This would provide visibility splays that are adequate for the prevailing 85th percentile vehicle speeds. An existing informal pedestrian crossing with central refuge, located immediately to the south of the proposed access, would be upgraded to a signal controlled toucan crossing. It is envisaged that this would operate as a standalone crossing with vehicle and pedestrian detection equipment provided to ensure minimal disruption to traffic. A Stage 1 Road Safety Audit has been undertaken in respect of the proposed site access and this raises no road safety concerns. Operational analysis shows that London Road and the junctions off it would operate satisfactorily in terms of queues and delays.¹⁴⁷
141. The A273/B2116 Stonepound Crossroads to the south of the site is a busy signal controlled junction. An improvement scheme with two steps, to be delivered as one overall improvement, has been agreed with the local highway authority. Step 1 would be signal staging changes including upgraded microprocessor control and relocated detectors. Stage 2 would introduce widening work on Hurst Road including the creation of a left turn filter and the introduction of a user-activated Puffin crossing. The works are achievable within the highway boundary. A Stage 1 Road Safety Audit of the improvements has raised no road safety concerns. Operational analysis shows that the junction currently operates at capacity with some queuing and delay during the weekday highway network peak hours. The analysis indicates that in 2018 (development year of opening) the improved junction would still be operating over capacity but the proposed alterations to the junction would provide a measureable improvement for all users of the junction when compared to the 2018 baseline situation. The same applies for 2020 (year of development completion). The scheme therefore would deliver a highway improvement that cost effectively limits the significant impacts of development, and the residual cumulative impacts would fall short of the severe test set by the NPPF.¹⁴⁸
142. Only Protect Historic Hamfields take points of issue on this matter. The statutory Highway Authority is satisfied both as to the safety aspects and the highways network impacts of the proposal.¹⁴⁹

¹⁴⁵ CD28 Inspector's Report para 13.22

¹⁴⁶ CD38

¹⁴⁷ APP5 section 6

¹⁴⁸ APP5 section 7

¹⁴⁹ CD40

143. No technical or expert evidence was led by Protect Historic Hamfields and its points were answered by the appellant's transport witness¹⁵⁰ as follows.
144. Although the transport assessment referred in error to the A237 rather than the A273¹⁵¹, it was the A273 that was assessed, and the error has been corrected.
145. The (July 2013) traffic data in the 2013 Traffic Assessment (TA) has long since been superseded by updated evidence, as detailed in the March 2015 Transport SoCG (which used June 2014 traffic surveys) and more recently the July 2016 Addendum Transport SoCG (which uses June 2016 traffic surveys).¹⁵² Both of these are 'neutral' months in traffic terms, and up-to-date.
146. The October 2013 TA incorrectly referenced an AM Peak Hour as 8.15-9.15, but this was corrected by the time of the March 2015 Transport SoCG. This uses the correct AM peak of 7.45-8.45 (albeit by applying to that period, for robustness, the morning peak residential traffic generation, which actually occurs a little later).
147. In short, none of the points taken should dislodge the weight to be given to the agreement with the statutory Highways Authority that the development would be sustainably located in terms of accessibility to non-car modes, provide a safe and appropriate access, and would not have a detrimental impact on the operation of the highway network. Indeed, a modest benefit for all users of Stonepound Crossroads is identified.¹⁵³
148. Paragraph 32 of the NPPF is fully complied with.

Impact on air quality in the AQMA

149. Stonepound Crossroads Air Quality Management Area (AQMA) is designated for only one pollutant, NO₂ (annual mean), in respect of certain named residential properties on an AQ Objective of 40 µg/m³.¹⁵⁴ Of the 3 residential properties listed (containing 8 units), only one façade (the northern facade of 1-6 Overcourt – MSAQ11) is relevant, the others all already being below the Objective.¹⁵⁵ The appellant's air quality expert had predicted the NO₂ levels with the development and without the development (baseline) for the opening year of 2018¹⁵⁶ and the completion year of 2020¹⁵⁷. In both years, the AQ Objective is predicted to be met by some margin and the impact at the receptors is judged 'negligible'.¹⁵⁸
150. A witness (Mr Brewer) appeared on this topic on behalf of Protect Historic Hamfields. He candidly admitted that he had no expertise in air quality modelling and presented no alternative data as to future air quality within the AQMA. His information was drawn from his researches on the internet.¹⁵⁹

¹⁵⁰ Evidence in chief of Mr Gimingham

¹⁵¹ Transport Assessment submitted with the application

¹⁵² CD40 Appendix M

¹⁵³ CD40 para 6.9

¹⁵⁴ APP9 Appendix 2 of Appendix 1

¹⁵⁵ APP9 Appendix 1 table 4.1

¹⁵⁶ This 'robustly' assumes all houses occupied on opening day

¹⁵⁷ A more realistic date for full occupation

¹⁵⁸ APP11 Table 1

¹⁵⁹ PHH1 Section B; PHH2

151. It seems that Mr Brewer had mistakenly thought that the appellant was asking for the AQMA to be revoked. That was never the case. What was being considered by the appellant was the impact of the development on air quality in future years, a matter that could only be undertaken by predictive modelling.¹⁶⁰
152. Mr Brewer had argued that the Copert 4v11 emissions factor should be used in that modelling.¹⁶¹ When he made that assertion, such an exercise had not been possible because Defra had not published the necessary Toolkit. Defra did so on 14 July 2016. The appellant, as had been promised¹⁶², then undertook modelling using Copert 4v11, which is founded on the latest assessment of real-world emissions as opposed to emission standards.¹⁶³ This actually showed *lower* predicted levels when compared to the assessment using EFT Copert 4v10.¹⁶⁴
153. Mr Brewer then alleged that Copert 4v11 was expected by Government reports to under-predict real-world emissions. Not only is it not possible in the remit of a section 78 planning appeal to dispute Government policy, but the reports he relied on all pre-dated the publication by Defra of the Toolkit as fit for purpose on 14 July 2016. Defra can, therefore, be taken to have been aware of them when it published that Toolkit as fit for purpose – the purpose being to allow modelling of future year air quality impacts of traffic flows.
154. Next, Mr Brewer took issue with the transparency of the verification method used in the modelling. However, this was laid out in the submitted report and update.¹⁶⁵ The verification was entirely transparent, in accordance with Government guidance, and used the four relevant monitoring points.¹⁶⁶
155. Mr Brewer took exception to the use of 2015 monitoring data as this was not on the Council's website. However, it was freely available from the Council and had been provided by it to the appellant's expert for his use in the assessment. Mr Brewer had misunderstood the requirement for the Council to submit an annual report of progress to Defra for a requirement that Defra 'verify' the accuracy of the monitoring data. That is not the process, and it was right – indeed necessary – for the appellant to make use of the most up-to-date monitoring data, from 2015, which continues to show a steady decline in NO₂.¹⁶⁷
156. When looking at the end results, be it for Copert 4v10, the sensitivity test applied to that of x2, or the most up-to-date Government Toolkit using Copert 4v11 dated 14 July 2016, the scheme maintains the NO₂ levels at below the Objective by some margin, with a 'negligible' impact at all relevant receptors.¹⁶⁸
157. It can be concluded, as the Council has done, that there is no objection to the scheme by reference to its impact on air quality.

¹⁶⁰ Cross-examination of Mr Brewer

¹⁶¹ PHH1 Section B

¹⁶² APP9 Appendix 3 p40

¹⁶³ APP11 - attached Miller Goodall report

¹⁶⁴ APP11 Table 1

¹⁶⁵ APP9 Appendix 1; APP11 - attached Miller Goodall report

¹⁶⁶ Cross-examination of Mr Brewer

¹⁶⁷ APP9 Appendix 1 p18 Table 4.1 & Figure 4.2 p21

¹⁶⁸ APP11 Table 1

Overall balance of harm and benefits and whether the scheme amounts to sustainable development

158. It is agreed by all parties that this scheme falls to be determined by the 'tilted balance' in paragraph 14(2) of the NPPF.
159. It is agreed that this requires a balancing of all of the benefits against all of the disbenefits, and the scheme will only be 'unsustainable development' such that permission should be refused if the harms significantly and demonstrably (that is, by evidence not assertion) outweigh the benefits.
160. The economic benefits are agreed and quantified as between the Council and the appellant.¹⁶⁹ They are not disputed by the Parish Council.¹⁷⁰ These are significant sums, to which, by reference to paragraph 19 of the NPPF, the Government attaches 'significant' weight.¹⁷¹
161. The social benefits of providing for housing are recognised by all parties as warranting 'substantial' weight¹⁷², especially given the serious failure of the Council to be able to demonstrate its five-year housing land supply.
162. Similarly, the provision of affordable housing is agreed by all parties¹⁷³ to be accorded 'substantial weight', again given the serious failure of the Council to meet its affordable housing need, which is agreed to be acute and worsening¹⁷⁴.
163. There is no dispute that the proposed houses would be in an accessible location for services and facilities on the edge of a sustainable settlement expected to receive housing growth.¹⁷⁵ There is also no suggestion that through the reserved matters this development would be other than a high quality place to live.
164. There is no ecological, natural, built or historic environment harm alleged, indeed there may be some beneficial impact on biodiversity¹⁷⁶ which would warrant some positive weight.
165. Against this sum of weighty benefits, the harms alleged must be *demonstrably* and *significantly* more weighty to justify refusal. This could not, rationally, be concluded on the evidence.
166. The air quality and traffic objections are simply not made out. There would be no harm arising from the scheme in those regards and nothing to weigh on the negative side.
167. On the Gap point there would be limited harm to the tests of the out-of-date adopted policy C3 and the still-nascent and out-of-date HNP policy 2. Neither can be said to carry more than limited weight, so the weight to be attributed to this limited harm cannot itself be more than limited. Moreover, as recognised by the Council and as evidenced by the appellant, there would be *no* harm to the

¹⁶⁹ CD39 paras 9.4-9.9

¹⁷⁰ Cross-examination of Mr Mayhew

¹⁷¹ Cross-examination of Mr Mayhew

¹⁷² CD39 para 9.1; cross-examination of Mr Mayhew

¹⁷³ CD39 para 9.2; cross-examination of Mr Mayhew

¹⁷⁴ CD39 Section 7

¹⁷⁵ Cross-examination of Mr Mayhew

¹⁷⁶ CD39 Section 14

purpose of those policies, nor to the emerging DP11, as there would be no coalescence or loss of separate identities or amenity of the settlements; indeed these factors would remain unchanged as a result of the development. By (very properly) abandoning prematurity as an objection, the Parish Council has acknowledged that development of this site would neither prejudice the on-going process of its emerging Neighbourhood Plan, nor be of sufficient scale as to pre-judge the emerging strategy for the provision of housing within the HNP area.

168. Striking the balance, therefore, the adverse impacts alleged by no stretch of imagination could be said to outweigh (significantly or at all) the many and substantial positives, and the Secretary of State's policy at paragraph 14(2) of the NPPF would indicate that permission should be granted.

Conclusion

169. For all of the above reasons permission should, in accordance with national policy, be granted for this much needed sustainable housing development.

WRITTEN REPRESENTATIONS

Representations Made at Appeal Stage

170. Around 40 written representations had been received prior to the previous inquiry, with a further 4 representations made prior to the current inquiry. Most of these are objections to the proposal covering the same matters as the cases of third parties made in oral submissions at the inquiry.¹⁷⁷

Representations Made at Application Stage

171. The representations received by the Council as a result of its consultation on the planning application were summarised in the Committee report.¹⁷⁸ The report records that **191 third party objections were received**. It provides an analysis of the matters raised in the objections, which are generally are on grounds repeated at appeal stage. **One letter of support** is noted.
172. The report also sets out the responses from **consultative bodies** to the application.

CONDITIONS

173. The Planning Statement of Common Ground includes a list of recommended conditions in the event of the appeal being allowed.¹⁷⁹ The suggested conditions were discussed at the inquiry, with a number of minor points of amendment agreed. Also agreed was the deletion of the final condition (no. 22) relating to energy supply on the basis that its wording is imprecise and the matter is more appropriately dealt with by the building regulations.

OBLIGATIONS

174. The 31 March 2015 section 106 Agreement¹⁸⁰ is between the Council, West Sussex County Council, the owner and the developer.

¹⁷⁷ INSP1

¹⁷⁸ CD38

¹⁷⁹ CD39 para 19.1 & Appendix 15

¹⁸⁰ CD47

175. Having regard to the outline nature of the application, the precise amounts of the financial contributions that would be secured (other than for air quality) are based on formulae that would apply to the final number and mix of units in the scheme as approved under reserved matters. The parties have agreed indicative amounts based on the mix set out in the design and access statement, and these are recorded below.¹⁸¹
176. The following contributions are payable to the Council:
- Air Quality - £15,001.90
 - Community building - £41,237
 - Formal sports - £94,954
 - Kickabout - £21,922
 - Local community infrastructure - £53,713
 - Play space - £77,338
177. The following contributions are payable to the County Council:
- Primary education - £229,061
 - Secondary education - £246,532
 - Library - £23,284
 - Fire hydrants - 2 within the development
178. Clause 4 requires 30% of the proposed new dwellings to be provided as 'affordable housing', of which 75% are to be affordable rented units and the remainder shared ownership units. The clause also deals with the location, phasing, transfer, allocation and other mechanisms relating to the future use of these units.
179. Clause 13(o) is intended to disapply individual obligations contained in the Agreement in the event of a finding of non-compliance with Regulation 122 of the Community Infrastructure Levy Regulations 2010. However, the parties agree that the obligations are compliant with Regulation 122.¹⁸²
180. The supplemental agreement and deed of variation dated 11 August 2016 is between the same parties. This adds a contribution towards Hassocks Health Centre to enable the expansion of complementary community NHS services, based on a formula per house and flat. This responds to a recent request made by the Mid Sussex Clinical Commissioning Group.¹⁸³ The minor variations cover an amendment to the working of the affordable housing clauses to allow flexibility in terms of tenure, and to accommodate a change to the appeal reference notation.¹⁸⁴
181. The Council has provided evidence in support of the obligations¹⁸⁵, as has the County Council on the matters which fall within its remit¹⁸⁶. They are also

¹⁸¹ CD46 p2

¹⁸² CD46 p1

¹⁸³ CD39 Appendix 19

¹⁸⁴ CD45

¹⁸⁵ LPA1

¹⁸⁶ LPA2

addressed in the Planning Statement of Common Ground.¹⁸⁷ This evidence covers the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and explains in each case why it is considered that the obligations meet these on the basis of dealing with needs that would arise from the development and how the sums would be spent. Copies of local guidance documents dealing with the relevant matters, setting out the basis of the contributions that are sought from developments, are provided. Policies G3, CS9, CS11, R3, R4 and H4 of the Local Plan are relevant. With respect to the requirement of Regulation 123 relating to a maximum number of projects for pooling, the statements confirm that in no case would the limit be breached. This includes with respect to the additional obligation in the supplemental agreement.

182. Some references are made in the supporting material to highway obligations, but in the final form highway matters are proposed to be addressed by way of the agreed conditions.

¹⁸⁷ CD39 section 18

CONCLUSIONS

183. The numbers in square brackets in this section are references to previous paragraphs in the Report which are particularly relied upon in reaching the conclusions.

Main Considerations

184. Having regard to the policy context and the evidence to the inquiry, the main considerations that need to be addressed are as follows:

- a) the weight to be given to relevant policies of the adopted Local Plan and the emerging Hassocks Neighbourhood Plan including with respect to the implications of the housing land supply position in the District and having regard to national policy advice;
- b) the effect the proposal would have on the character and appearance of the area in terms of landscape and the role of the site as part of a designated Local Gap;
- c) the effect the proposal would have on highway safety and traffic flow, including at the Stonepound Crossroads;
- d) the effect the proposal would have on air quality within the Stonepound Crossroads Air Quality Management Area;
- e) whether infrastructure needs arising from the development could be satisfactorily provided for including by way of planning obligations and conditions;
- f) the overall balance of harm and benefits that would result from the proposal and whether or not it amounts to a sustainable development.

a) The weight to be given to relevant policies of the adopted Local Plan and the emerging Hassocks Neighbourhood Plan including with respect to the implications of the housing land supply position in the District and having regard to national policy advice

Adopted development plan

185. The development plan for the area comprises the Saved Policies of the Mid Sussex Local Plan (LP) adopted in May 2004 and the Small Scale Housing Allocations Development Plan Document adopted in 2008. There are no relevant policies in the latter part of the development plan. [14,34,120]

186. The site lies adjacent to but outside the built-up area boundary of the settlement of Hassocks as defined in the LP. As a result, under policy C1 it falls within a Countryside Area of Development Restraint where the countryside will be protected for its own sake. Residential development as proposed on the site in the appeal scheme is not allowed for by the specific categories to which development will be restricted under the policy. The site also lies within the defined strategic gap between Burgess Hill and Hurstpierpoint/Keymer/Hassocks, and the defined Local Gap between Keymer/Hassocks and Hurstpierpoint. Under policies C2 and C3 respectively, the proposal does not meet the requirement of part (a) of being necessary for the purposes of agriculture or some other use which has to be located within the countryside. The proposal therefore is in

conflict with these policies, and does not accord with the development plan.
[13,16,45,114,123]

187. The National Planning Policy Framework (NPPF) sets out a presumption in favour of sustainable development. Paragraph 14 indicates that, for decision-taking, this means, where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.
188. The NPPF sets out an aim in paragraph 47 to boost significantly the supply of housing. It requires that local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework. They should identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements, with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. The NPPF indicates that the buffer should be increased to 20% where there has been a record of persistent under delivery of housing.
189. According to paragraph 49 of the NPPF, relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
190. With respect to the housing land supply in Mid Sussex, it is common ground that a 20% buffer should be applied; that the Council does not have an identified housing target that has been through examination; and that as there is no up-to-date Local Plan in place the Council is unable to demonstrate a five-year housing land supply. No evidence was provided to establish the actual degree of five-year failure, on the basis that the Council does not know its requirement against which to assess its supply, although a suggestion was made that the position could be around 2 years. However, there is no dispute that the shortfall is significant and that significant weight should be accorded to it.
[31f&g,35,115,124]
191. There is also no dispute that policies C1, C2 and C3 are policies for the supply of housing. They are therefore deemed to be out-of-date having regard to paragraph 49 of the NPPF. The appellant and the Council also agree that these policies should carry reduced weight due to the housing land position and inconsistency with the NPPF. [31i,35-38,124,125]
192. On the latter point, the Countryside Area designation under policy C1 relates to all land outside defined built-up area boundaries. Such boundaries were drawn up to accommodate development needs to 2006, and was based on judgements made prior to 2004 on the extent of such needs. The NPPF requires Local Plans, as far as possible, to meet current objectively assessed needs. Having regard to the agreed five-year housing land position, it is apparent that this is not achieved by the relevant LP. A strict application of policy C1 in this case would preclude a contribution being made towards meeting housing needs on the edge of Hassocks, which is agreed to be a sustainable location. In these circumstances policy C1 is not consistent with policies in the NPPF, and having

regard to paragraph 215 can be accorded limited weight. The in-principle conflict with policy C1 therefore does not in itself warrant withholding permission. [9,31b&i,32b,36,114,121-123]

193. With respect to policies C2 and C3 of the LP on gaps, there is no direct challenge to the general approach of a gap policy in this location in principle or suggestion that this in itself is in conflict with the NPPF. The important matters in assessing the harm that would arise are the landscape functions of the gaps as drawn and the impact of the proposal on these. They will be considered below under the second main issue before determining the weight that it would be appropriate to give the gap policies and the conflict with them in the decision. [31i,36-38,48,121-123]

Emerging development plan

194. The Mid Sussex District Plan 2014-2031 is at pre-submission stage. A draft published for consultation in June 2015 was subject to objection, particularly in relation to housing related matters, as was a document entitled 'Focussed Amendments to the Pre-Submission Draft' issued in November 2015. These appear to amount to unresolved objections to the relevant policies. Policies for the supply of housing in the emerging plan are also out-of-date by virtue of the five-year housing land position. Policy DP11 on Preventing Coalescence provides for the detail of Local Gap policy to be set out at Neighbourhood Plan level. Having regard to paragraph 216 of the NPPF, the relevant policies in the emerging District Plan therefore carry limited weight, which is the common ground position. That was also the view taken by the Secretary of State on the same emerging plan in a recent decision. [22-26,31d,127]
195. A Regulation 16 Submission version of the Hassocks Neighbourhood Plan (HNP) has recently been submitted to the Council, with the Regulation 16 consultation taking place between 21 July and 8 September 2016. The examination of the HNP is expected to be carried out in the Autumn 2016. At present there are unresolved objections on housing-related matters, including significant matters raised by the appellant which are specific to the appeal site. [27-29]
196. The NPPF's guidance on the weight to be attached to emerging plans is expanded upon with respect to neighbourhood plans in the Planning Practice Guidance (PPG). This includes that where the local planning authority cannot demonstrate a five-year housing land supply weight can still be given to relevant policies in the emerging neighbourhood plan, even though these policies are not to be considered up-to-date. It notes that the documentation submitted in support of a Regulation 16 neighbourhood plan may be useful to decision-makers in their deliberations. Specifically, the Consultation Statement should reveal the quality and effectiveness of the consultation that has informed the plan's proposals. [40-44]
197. In this case the Consultation Statement that accompanies the emerging HNP appears to support the claim that the preparation of the HNP has been underpinned by extensive and detailed consultation. This includes the degree of stakeholder engagement that has been undertaken over the last 2 years on candidate housing sites. It is notable that there has been a relatively high level of objection to the allocation of the appeal site for housing, with this ranked 18th out of 20 candidate housing sites in preference order. [43,67]

198. However, pertinent questions have been raised relating to the evidence base underlying the proposed boundaries for the purposes of the Gap policy (policy 2), in particular in the context of the requirement of policy DP11 in the emerging District Plan for robust evidence to support such a policy in a neighbourhood plan and with respect to the adequacy of the HNP's land allocations. While the emerging HNP also includes a proposed 'Local Green Space' designation covering part of the site, this has not been relied upon by the Parish Council in the appeal. Significant unresolved objections to these aspects of the plan can be anticipated, and it is yet to be tested at examination against the basic conditions. No case against the proposal on grounds of prematurity in relation to the emerging HNP was pursued by the Parish Council, a position which is consistent with national advice on the circumstances in which such an objection might be justified. [68,128-130,132]

199. Taking these points together with the out-of-date status of the housing supply elements of the HNP, I consider that, while a material consideration, overall limited weight should be attached to the emerging plan at the current stage. That is the position agreed by the main parties. The appellant has drawn attention to the limited weight attached by the Secretary of State in a recent decision to the emerging Haywards Heath Neighbourhood Plan which had completed its Regulation 16 consultation but not yet gone to examination, although each case is to be considered on its own merits. [31e,44,128-130]

b) The effect the proposal would have on the character and appearance of the area in terms of landscape and the role of the site as part of a designated Local Gap

200. As set out above, the site lies within the strategic gap between Burgess Hill and Hurstpierpoint/Keymer/Hassocks and the Local Gap between Keymer/Hassocks and Hurstpierpoint as defined in the LP. [16,45,133]

201. With respect to the strategic gap, due to the location of the site on the western side of Hassocks and well south of the northernmost parts of development at Hassocks and Hurstpierpoint, the proposal would not have any material effect on coalescence or settlement identity in relation to Burgess Hill which lies to the north. There is no alleged harm in terms of policy C2 which seeks to safeguard strategic gaps. [69,120]

202. Turning to the Local Gap, the boundary of this along the west side of Hassocks as shown in both the LP and the emerging HNP coincides with the boundary of countryside for the purposes of policy C1. No specific landscape-based rationale has been cited for the extent of land included in the Gap. However, the supporting justification for policy C3 notes that Local Gaps are identified in areas between towns and villages which are particularly vulnerable to development pressure, and the loss or erosion of which would have a harmful effect on the character of the rural areas and the amenity and setting of villages. The objectives as set out in the policy are preventing coalescence and retaining the separate identities and amenities of settlements. In addition to restricting the type of development acceptable in the Gap, part (c) of the policy seeks specifically to prevent development in Local Gaps that would compromise individually or cumulatively the objectives and fundamental integrity of the Gap. [16,46,121,133-134]

203. The Gap between Hassocks and Hurstpierpoint at this point is relatively narrow, at some 0.9km when measured in a straight line from the rear gardens

of properties on London Road to the rear gardens of properties on College Lane on the east side of Hurstpierpoint. The appeal site, as undeveloped grassland currently used as pasture for keeping horses and containing trees and hedgerows, located to the west of London Road, is undoubtedly a part of the area of open countryside that separates the two settlements. [10,47,138]

204. The appellant's landscape case in support of the proposal focuses on the question of where there is an inter-visibility or awareness of the respective built-up areas from particular positions within the Gap. This leads to the identification of a central zone that is said to be influenced by neither Hassocks nor Hurstpierpoint, with the appeal site outside this zone on the basis that as part of a settlement fringe it is already influenced by the presence of the western edge of Hassocks. From this it is contended that, due to the isolation of the site from the central zone, the extent of this zone would be unaffected by the proposal since the point where there is an awareness of the eastern edge of Hassocks would be unchanged. Thus, it is argued, the character and appearance of the Gap, and its role and function, would be unaltered. [48-50,135-137]
205. These conclusions as to the geographical extent of the influence of the built-up areas of Hassocks and Hurstpierpoint are properly based on a landscape and visual impact appraisal, including assessment of relevant views and the interruption of these by vegetation. In particular, I agree that the appeal site is in a location with no special landscape features where the presence of Hassocks is already apparent, and the development would be visually contained from the more secluded countryside area between the settlements. [31m,135]
206. Nevertheless, the Parish Council correctly points out that urban influences are an expected feature of land on the edge of the settlements that the gap policy is seeking to keep separate from one another. In this case, the existing awareness of the adjacent presence of Hassocks at the site therefore does not in itself justify an extension of urban development onto the site. As a result of urbanising a part of the countryside that forms the gap, the effect with the proposed scheme in place would be a need to go further westwards in order to enter undeveloped countryside between the settlements. Similarly, the duration of the experience of passing through open countryside when moving eastwards towards Hassocks would be reduced. Although the depth of the zone in which there is no perception of either settlement would not alter, there would be a material change in the character and appearance of this part of the undeveloped gap from countryside to urban development. As well as from the site itself and the footpath across it, this would be apparent in views from a section of London Road, from the Belmont Recreation Ground to the north, and from parts of the footpath crossing the golf course further to the north. [49-53,69]
207. At the same time, there are a number of factors that limit the harmful effect that this would have in terms of preventing coalescence and retaining the separate identities and amenities of the settlements. In assessing this, weight can be placed on the indicative layout as the likely arrangement of the proposed development. It shows that the depth of the new housing area, while a projection outside the existing row of houses on the west side of London Road, would not extend north-westwards beyond the outer line of the recreation ground and adjacent residential development lying to the north-east. The distance and number of viewpoints over which the outward extension of Hassocks would be perceived are restricted by vegetation and other intervening features. With retained and new planting in the outer open space part of the site, there would

- be the opportunity of a softer edge to this part of the settlement than currently exists by way of the row of properties and their rear gardens fronting London Road, and the existing public right of way route would be retained. [13,135-137]
208. These factors support the common ground position of the main parties that, with mitigation, the residual harmful visual impact of the scheme would not be significant and it would not fundamentally weaken the objective of the Local Gap policy to prevent coalescence, or harm settlement identity and amenity. The wording of policy C3 is alert to the potential harm of cumulative developments to the objectives and integrity of Local Gaps. However, in this case there is no firm indication that the development would be part of an adverse incremental erosion of the Gap. [16,31n,46,139]
209. In a called-in decision dated 4 September 2014 the Secretary of State refused an application for a development including 81 dwellings on land off College Lane, Hurstpierpoint. That site lies in the same Local Gap as that of the current proposal, in the opposite part on the eastern edge of Hurstpierpoint. With regard to policy C3 (and the policy of similar intent included in the then emerging Hurstpierpoint Neighbourhood Plan) the Secretary of State agreed with the Inspector that, although out-of-date in so far as it impacts upon the supply of housing, it continues to serve an important planning function in preventing the coalescence of the settlements of Hurstpierpoint and Hassocks and maintaining their separate identities and amenity, with no conflict with the thrust of the Framework. I see no reason to take a different view. Indeed, the purpose of the Local Gap policy was not challenged in principle at the present inquiry. [30,38,53-55,123,136-138]
210. Further in that decision, the Secretary of State agreed with the Inspector that the proposed development would undermine the purposes of the Local Gap and change its character; and that the Gap continues to serve a useful and much valued planning purpose (irrespective of the landscape capacity assessment of the site) and that an increase in built development would result in a small but nevertheless significant diminution of openness. In assessing whether the current proposal would result in the same impact it is important to consider the individual features of the respective sites and schemes. In that case, the Inspector found that the site provided pleasant and unobstructed views from College Lane and from Belmont Lane (also a public bridleway) as well as from private houses. She added that "*crucially*" it formed an integral part of an area that provides very clear separation between Hurstpierpoint and Hassocks, particularly when seen from College Lane and Belmont Lane. She also noted that the site extended up to the boundary of the two settlements, as defined by Belmont Lane. [53-55,136-138]
211. While the current proposal would be in the same relatively narrow part of the Gap, the development would comprise a fairly modest extension of the existing built form of Hassocks which would not reduce the area between the settlements that is currently unaffected by urban influences. With the mitigation already referred to, although there would be conflict with the policy and some harm as identified above, and a reduction in the amount of open land able to perform the function of a Gap, I assess that this would not be to the extent of an undermining of the purposes of the Local Gap and change in its character. [53-55,136-138]
212. It is common ground between the main parties that the landscape impact of the proposal on the South Downs National Park is likely to be low, with the site

extremely difficult to perceive from Wolstonbury Hill. It is also agreed that the scheme masterplan demonstrates that the site could accommodate development of the scale proposed, with necessary on-site mitigation, forming the framework for high quality development. I find no evidence to warrant different conclusions on these points. [31c&o,65]

c) The effect the proposal would have on highway safety and traffic flow, including at the Stonepound Crossroads

213. The proposed access to the site onto London Road would be provided with appropriate sight lines and junction arrangement, together with an upgraded pedestrian crossing facility. A Stage 1 Road Safety Audit has raised no road safety concerns. The appellant's analysis indicates that London Road and the junctions off it would operate satisfactorily with the access in place in terms of queues and delays. [13,32a,140]
214. Stonepound Crossroads to the south of the site is a busy signal controlled junction. An improvement scheme to this is proposed, comprising signal staging changes and widening work including the introduction of a new pedestrian crossing facility. The works, to be delivered in one stage, are achievable within the highway boundary. There is no firm basis on which to doubt the technical scope for the vehicle detection upgrading. Again a Stage 1 Road Safety Audit has raised no road safety concerns. Operational analysis shows that the junction currently operates over capacity and that would still be the case with the development and improvement scheme in place. However, there would be a measureable improvement for all users of the junction by comparison with the baseline situation as a result of the upgrading scheme. [32c,141]
215. The local highway authority is satisfied with the development in respect of all highway and transport matters, subject to the proposed works being secured. This could be achieved by way of planning conditions. [32d,142]
216. A number of third party criticisms of the transport assessment have been made. Those relating to shortcomings in the original analysis have been met by the more recent assessment which uses up-to-date data and criteria, including corrected peak hour definition. The highways affects of other future developments that are not yet committed would need to be assessed and mitigated on their own merits. [70-79,142-147]
217. There is no robust counter-evidence to undermine the common ground technical conclusion on the acceptability of the development. Its residual cumulative impact would fall well short of the 'severe' test of paragraph 32 of the NPPF. [32,148]

d) The effect the proposal would have on air quality within the Stonepound Crossroads Air Quality Management Area

218. Stonepound Crossroads Air Quality Management Area (AQMA) was designated in 2012. This was based on an exceedance of the national Air Quality Objective level of 40 µg/m³ for NO₂ (annual mean) in relation to a number of named residential properties. Of the 3 residential properties listed (containing 8 units), only one façade (the northern facade of 1-6 Overcourt) is shown from monitoring to be exceeding the Objective. [103,149]

219. The appellant has undertaken an Air Quality Assessment based on a modelling of future levels of NO₂ within the AQMA both with and without the development at the opening and completion years of 2018 and 2020 respectively. The final version of the analysis makes use of the outputs of the most recent traffic modelling. From the assessment for these years it is predicted that the Objective would be met at the relevant receptors by some margin and that the impact of the proposal would be negligible. The findings of the assessment have been accepted by the Council, with the common ground position being that the appellant's approach to assessment is appropriate and that this points towards the air quality impact of the scheme having an insignificant effect on health. [31k,149,156-157]
220. A third party has put forward criticisms of the appellant's assessment on behalf of Protect Historic Hamfields, questioning the reliability of the results and arguing that approval of the development would not be consistent with the protection of human health. He has no expertise in air quality monitoring but has a background of experience within the Automotive Design and Development disciplines, including heavy duty diesel engine combustion development for commercial vehicles, and has undertaken his own research. The appellant's evidence responds in some detail to the points he has raised. [81,150]
221. Insofar as the objections emphasise the adverse impact of air pollution on public health, citing the findings of various reports, there appears to be no dispute on this point. It can be taken that the importance of air quality is reflected in relevant Government policy. [82-85,153]
222. The appellant's modelling was re-run shortly before the inquiry using the Defra Emissions Factor Toolkit version 7 issued on 14 July 2016, which is based on the latest revised emissions factors (COPERT 4 v11). These take account of real world emissions performance including of diesel vehicles, and I find no reason to doubt that the publication of the new Toolkit had regard to the most recent evidence on future changes in this. While uncertainty is inevitably a feature of predictive modelling, the appellant's assessment is therefore based on current Government-endorsed best estimates of future emissions. [86-95,152-153]
223. The appellant's model verification work appears to have been in accordance with standard procedures. It made use of unpublished monitoring data but this is publicly available and the most recent. The appellant points out that submission of an annual air quality progress report to Defra by the Council does not involve a check on the accuracy of the air quality monitoring data itself. [96-102,154-155]
224. The objection refers to Stonepound Crossroads as being a "*failing AQMA*". Regardless of the current breach of the Objective as shown by monitoring, the assessment firmly indicates that future improvements in air quality will lead to a reduction below the target and that the addition of traffic from the appeal scheme would not prevent this. Approval of the development would not in itself amount to a revoking of the AQMA, which would need to follow proper procedures. Despite the current breach, 'negligible' appears to be an appropriate descriptor of the impact of the development based on relevant guidance. The findings of the assessment can be accepted as reasonably robust having regard to the range of scenarios tested. [77,103-113,149,151,156]
225. The NPPF requires planning decisions to ensure that any new development in AQMA's is consistent with the local air quality action plan. Taking into account the

results of the assessment, it appears that the proposal would not impede the improvement in air quality within the AQMA sought by the action plan in this case, with a contribution by way of planning obligation to be made towards implementing its measures. [112,176]

226. I find that the proposal would not result in an unacceptable level of air pollution which would conflict with policy CS22 of the LP. [21,112]

e) Whether infrastructure needs arising from the development could be satisfactorily provided for including by way of planning obligations and conditions

Conditions

227. A list of recommended conditions in the event of the appeal being allowed has been agreed between the main parties, with some amendments to these agreed at the inquiry. [173]

228. Standard conditions for an outline permission are needed including on the approval of reserved matters. Given the scale of the scheme and likely form of implementation there is no requirement for these to make provision for phasing. Means of access to the site is not a reserved matter, and reference to the relevant plan is necessary to provide for certainty.

229. Off-site works involving the access to the site from London Road and improvements to Stonepound Crossroads are needed to ensure satisfactory highway conditions. The application supporting information provides the basis for the final details to be submitted for approval and implemented. A travel plan requirement is necessary in the interests of sustainable transport. [32d,182]

230. Details of boundary treatment and levels should be approved to ensure a satisfactory development that relates appropriately to adjoining sites. Conditions on drainage are needed to ensure that appropriate provision is made for this within the site without risk to adjoining land and property. [31q]

231. To safeguard archaeology, appropriate investigation is required of the identified interest. [31r]

232. Various requirements relating to vegetation and ecology are needed to ensure that proper provision is made for landscaping and bio-diversity as part of a high quality development. External lighting should be controlled to protect amenity. [31p]

233. Conditions on contamination are needed in view of the previous use of the site and to safeguard health and the environment.

234. Various controls on construction are necessary to protect the amenity of neighbouring properties and the area during implementation of the development.

Obligations

235. The NPPF sets out policy tests for the seeking of planning obligations, and there are similar statutory tests contained in Regulation 122 of the Community Infrastructure Levy Regulations (2010) which must be met for obligations to be given weight. Policies G3, CS9, CS11, R3, R4 and H4 of the Local Plan and the contents of local guidance documents on development requirements are also relevant. [15,18,20,21,181]

236. The obligations in the submitted section 106 Agreement for payments with respect to community facilities, sports and play space, primary and secondary education and library provision would deal with needs that can be anticipated would arise from residents of the new development, and are appropriately justified. The same applies to the health facility contribution in the supplemental agreement. The air quality contribution is in line with PPG advice on funding of measures to offset the effect on air quality arising from new development, taking account of the scheme's calculated impact. Fire hydrant provision would also meet a need arising from the development. The evidence indicates that none of these contributions would lead to a breach of the limit for pooled contributions in Regulation 123. [174-181]
237. With respect to affordable housing, provision towards this is required under local and national policy. [18]
238. The obligations all meet the relevant policy and statutory tests of being necessary, directly related to the development and fairly and reasonably related to it, and can be accorded weight in support of the proposal. [181]
239. Taken together, the suggested conditions and the obligations would deal satisfactorily with the impact of the development on infrastructure and the environment.

f) The overall balance of harm and benefits that would result from the proposal and whether or not it amounts to a sustainable development

240. The NPPF sets out that the purpose of the planning system is to contribute to the achievement of sustainable development. It states that the policies in its paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development means in practice. [56,159]
241. Paragraph 7 identifies three dimensions to sustainable development: economic, social and environmental. [56]
242. In economic terms, the development would generate a number of undisputed quantified benefits. These would support economic growth and can be accorded significant weight. [31j,160]
243. As part of the social dimension, the proposal would provide up to 97 new dwellings, of which 30% would be affordable housing. This would represent a substantial boost to housing supply and help to address housing needs. Particular weight can be given to this positive social aspect, especially having regard to the shortfall in five-year housing land supply and the acute local affordable housing need. Infrastructure needs arising from the development would be met. [13,31j,161-162]
244. In environmental terms, it is common ground that the site is well located in relation to services and facilities and a range of sustainable transport options are available. Also agreed is that the site could accommodate a high quality development and that there would be a probable beneficial biodiversity impact. No significant harm has been established in relation to highway and air quality impact. [31j,164,166]
245. On the negative side, the scheme would materially reduce the amount of open undeveloped land able to perform the function of a Local Gap between Hassocks and Hurstpierpoint, and the site is within a relatively narrow part of the Gap.

However, assessed on its own merits the development would comprise a fairly modest extension of the existing built form of Hassocks which would not reduce the area between the settlements that is currently unaffected by urban influences. There are mitigating factors that would limit the degree of resultant coalescence and harm to the amenity and identity of the settlements. The adverse impact would not be to the extent of an undermining of the purposes of the Local Gap and change in its character. [58,167]

246. Policies for the supply of housing in the adopted and emerging development plans are out-of-date as a result of the five-year housing land position. The principle of countryside protection under policy C1 of the Local Plan can be given little weight since it is based on a development boundary that does not reflect current needs. Local Gap policy, while criticised for lacking a firm evidential basis, continues to serve an important planning function in preventing the coalescence of the settlements of Hurstpierpoint and Hassocks and maintaining their separate identities and amenity, and does not conflict with the thrust of the NPPF. However, the degree of harm in relation to that policy would be relatively limited. Prematurity with regard to the Hassocks Neighbourhood Plan does not warrant refusal, and that emerging part of the development plan, including policies on Local Gap and Local Green Space, carries limited weight at this stage. Nevertheless, a decision that is seen not to accord with the emerging Neighbourhood Plan could be expected to lead to an erosion of local confidence in neighbourhood planning, which would be a harmful outcome having regard to the importance placed on this in national policy. [35-38,44,66-68,158,159,120-132]
247. Taking all of these matters into account, and having regard to the relevant approach to decision-taking set out in paragraph 14 of the NPPF, I assess that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal overall amounts to a sustainable development, and this warrants a decision other than in accordance with the development plan. [31a,57-59,126,131,158,165,168]

RECOMMENDATION

248. That the appeal be allowed and planning permission be granted subject to the conditions set out in the attached Annex.

T G Phillimore

INSPECTOR

ANNEX: RECOMMENDED CONDITIONS

Reserved Matters

- 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 begins and the development shall be carried out in accordance with the approved details.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.

Access and highways

- 4) Insofar as access is concerned, the development hereby permitted shall be carried out in accordance with the following approved plan: ITB8203-GA-012A.
- 5) Before any operations are commenced on site the proposed vehicular access to London Road (to include provision of a Toucan pedestrian crossing) shall be constructed and provided with visibility zones in accordance with the details of a scheme to be submitted to and approved in writing by the local planning authority. Thereafter the access shall be permanently maintained to a specification to be agreed with the local planning authority and the visibility zones shall be kept permanently clear of any obstruction above a height of 600mm.
- 6) None of the development hereby permitted shall be occupied before the proposed improvement to Stonepound Crossroads has been constructed in accordance with the details of a scheme to be submitted to and approved in writing by the local planning authority.
- 7) No dwelling hereby permitted shall be occupied until a detailed Travel Plan, including a timetable for its implementation, has been submitted to and approved in writing by the local planning authority. The Travel Plan shall be developed in accordance with the principles set out in the Framework Travel Plan dated 30 October 2013 and shall include investigating the option of installing electric charging infrastructure within the site. The Travel Plan shall be implemented and maintained in accordance with the approved details including the timetable for its implementation.

Boundary treatment and levels

- 8) No development shall take place until details indicating the position, design, materials, finish and type of all boundary treatments, and a timetable for implementation, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and timetable.
- 9) No development shall take place until details of the finished ground and floor levels have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Drainage

- 10) No development shall take place until details of surface water drainage works have been submitted to and approved in writing by the local planning authority. No dwelling within the development shall be occupied until surface water drainage works to serve that dwelling have been implemented in accordance with the approved details. The submitted details shall: i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; ii) include a timetable for implementation; and, iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker, or any other arrangements to secure the operation of the scheme throughout its lifetime.
- 11) No development shall take place until details have been submitted to and approved in writing by the local planning authority of works for the disposal of sewage. No dwelling within the development shall be occupied until works for the disposal of sewage have been provided to serve that dwelling in accordance with the approved details.

Archaeology

- 12) No development shall take place, including any works of ground clearance or site preparation, until a programme of archaeological work for has been implemented in accordance with a written scheme of investigation that has previously been submitted to and approved in writing by the local planning authority.

Trees/ecology/landscape

- 13) No development shall take place, including any works of ground clearance or site preparation, until all existing trees, shrubs and hedges to be retained, and any associated buffer zones, have been protected by fencing in accordance with a scheme that shall previously have been submitted to and approved in writing by the local planning authority. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written approval of the local planning authority. The protective fencing and exclusion zones shall not be removed other than in accordance with a timetable that shall previously have been submitted to and approved in writing by the local planning authority.
- 14) No dwelling in the development hereby permitted shall be occupied until a Landscape Ecological Management Plan, including long term objectives, habitat protection and enhancement measures, management responsibilities, arboricultural supervision and maintenance schedules for all associated landscaped, treed and open areas, other than privately owned domestic gardens, has been submitted to and approved in writing by the local planning authority. The Landscape Ecological Management Plan shall be carried out in accordance with the approved details.
- 15) No development shall take place, including any works of ground clearance or site preparation, until details of how the mitigation measures set out in Section 4 of the Ecological Impact Assessment undertaken by EAD Consultants

(October 2013) are to be implemented have been submitted to and approved in writing by the local planning authority. The details to be submitted shall include a timetable for implementation. Development shall be carried out in accordance with the approved details and timetable.

Lighting

- 16) No external lighting shall be installed within any part of the site (other than within private domestic curtilages) other than in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.

Contamination

- 17) Other than as may be required by an approved scheme of remediation, no development, including works of ground clearance and site preparation, shall take place until a full contaminated land assessment has been carried out, and a remediation strategy to deal with any contamination has been submitted to and approved in writing by the local planning authority. The contaminated land assessment shall identify the extent of any contamination and the measures to be taken to avoid risk to the environment, the general public and the proposed development. It shall include a timetable of works. Any necessary remediation strategy shall be implemented in accordance with the approved details and timetable. No part of the development shall be occupied until a Completion Report, confirming that the remediation has been carried out as approved, has been submitted to and approved in writing by the local planning authority.
- 18) If, during development, contamination not previously identified is found to be present, then no further development on that part of the site (unless otherwise agreed in writing by the local planning authority) shall be carried out until remediation works, in accordance with a Method Statement for remediation, including a timetable that has previously been submitted to and approved in writing by the local planning authority, have been completed and a verification report demonstrating completion of the works set out in the Method Statement has been submitted to and approved in writing by the local planning authority. The Method Statement shall detail how the unsuspected contamination shall be dealt with. The verification report demonstrating completion of the works set out in the Method Statement shall include results of any sampling and monitoring. It shall also include any plan for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the local planning authority.

Construction

- 19) No development shall take place, including any works of ground clearance or site preparation, until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall address, but is not restricted to the following matters: i) public safety, amenity and site security ii) operating hours, noise and vibration controls iii) air and dust management iv) storm water and sediment control v) waste and materials re-use vi) traffic management vii) on-site signage, public safety and site security. The approved CMP shall be adhered to throughout the construction period.
- 20) Works of demolition, site clearance, or construction, including the use of plant and machinery on the site, shall not take place on the development

hereby permitted outside 08.00-18.00 hours Monday to Friday and 09.00-13.00 hours on a Saturday, nor at any time on Sundays or bank/public holidays.

- 21) No burning of construction waste shall take place on the development hereby permitted.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Steven King BSc DipTP MRTPI Mid Sussex District Council (Case Officer)

FOR THE APPELLANT:

Christopher Boyle QC Instructed by Nexus Planning

He called:

Liz Simes BA(Hons) Senior Technical Director, fabrik Limited
DipLA DipUD CMLI

Mark Gimingham Partner, i-Transport LLP
BA(Hons) BTP CMILT
MCIHT

Adrian Ray BSc(Hons) Director, Alpha Acoustics Ltd
MIOA DipEP

Jacqueline Mulliner Director & National Head of Planning, Terence
BA(Hons) BTP(Dist) O'Rourke Ltd
MRTPI

FOR HASSECKS PARISH COUNCIL

Dale Mayhew BA(Hons) BTP Director of Dowsettmayhew Planning Partnership
MRTPI Ltd

FOR PROTECT HISTORIC HAMFIELDS:

Philip Weir Local resident
Robert Brewer CEng MIMechE Local resident and retired auto mechanic
engineer

CORE DOCUMENTS

National policy

- CD1 National Planning Policy Framework
- CD2 Planning Practice Guidance (extracts)
- CD3 Localism Act 2011 (Section 143 extract)
- CD4 Planning and Compulsory Purchase Act 2004 (Section 38(6) extract)
- CD5 Community Infrastructure Levy Regulations 2010
- CD6 Productivity Plan (extracts)
- CD7 Consultation on Proposed Changes to national planning policy 2015

Local policy

- CD8 Mid Sussex Local Plan 2004
- CD9 Mid Sussex Local Plan 2004 Saving Direction
- CD10 Letter from Mid Sussex District Council Leader dated 24 July 2013
- CD11 Mid Sussex District Plan 2014-2031 Pre-Submission Draft June 2015
- CD12 Mid Sussex District Plan 2014-2031 Focussed Amendments to the Pre-Submission Draft November 2015

- CD13 Mid Sussex Housing and Economic Needs Assessment (HEDNA) Update November 2015
- CD14 Capacity of Mid Sussex District to Accommodate Development Study 2014
- CD15 Hassocks Neighbourhood Plan Regulation 14 Pre-Submission Consultation January 2016
- CD16 Hassocks Parish Council Regulation 14 Pre-Consultation Paper on the Proposed Local Green Space Sites June 2016
- CD17 Hassocks Parish Landscape Character Assessment
- CD18 Hassocks Parish Strategic Views
- Judgements and Decisions**
- CD19 [2014] EWCA Civ 1610
- CD20 [2016] EWCA Civ 168
- CD21 [2013] EWHC 2678 (Admin)
- CD22 [2015] EWHC 1173 (Admin)
- CD23 [2016] EWHC 571 (Admin)
- CD24 [2015] EWHC 3459 (Admin)
- CD25 APP/N4720/A/13/2208551 Land at Grove Road, Boston Spa
- CD26 APP/J1915/A/2224660 Buntingford, Hertfordshire
- CD27 APP/R0660/A/14/2211721 Willaston, Cheshire
- CD28 APP/D3830/V/14/221499 College Lane, Hurstpierpoint
- CD29 APP/U4230/A/11/2157433 Worsley, Manchester
- CD30 APP/D0840/A/13/2209757 Upper Chapel, Launceston
- CD31 APP/G1630/A/12/2183317 Winchcombe, Gloucestershire
- CD32 APP/D3830/A/14/2218078 Penland Farm, Haywards Heath
- Transport**
- CD33 TRICS Good Practice Guide 2016
- Air Quality**
- CD34 Defra Improving Air Quality in the UK 2015
- CD35 Air Quality Standards Regulations 2010
- CD36 Stonepound Crossroads Air Quality Action Plan August 2013
- Landscape**
- CD37 Landscape Character Assessment Guidance for England and Scotland 2002
- Appeal Documents**
- CD38 Mid Sussex District Council Planning Committee Report 1 May 2014
- CD39 Updated Planning Statement of Common Ground and Appendices August 2016
- CD40 Addendum Transport Statement of Common Ground 14 July 2016
- Other**
- CD41 Letter from Nexus Planning to Mid Sussex District Council dated 29 July 2016 re: Hassocks Neighbourhood Plan
- CD42 APP/D3830/W/15/3137838 Land North of Birchen Lane, Haywards Heath
- CD43 Site plan and layout for College Lane proposal
- CD44 Site visit route
- CD45 Agreed Addendum Note on Supplemental s106 Agreement and 2015 Agreement
- CD46 Summary of key planning obligations
- CD47 Completed section 106 Supplemental Agreement & Deed of Variation dated 11 August 2016 and Agreement dated 31 March 2015

INQUIRY EVIDENCE AND SUBMISSIONS – LOCAL PLANNING AUTHORITY

- LPA1 Written Submission by Mid Sussex District Council (March 2015)
LPA2 Written Submission by West Sussex County Council

INQUIRY EVIDENCE AND SUBMISSIONS – APPELLANT

- APP1 Ms Simes's proof
APP2 Ms Simes's summary
APP3 Ms Simes's appendices
APP4 Ms Simes's Appendix L11 Figure 10
APP5 Mr Gimingham's proof
APP6 Mr Gimingham's summary
APP7 Mr Gimingham's appendices
APP8 Mr Gimingham's Traffic Signal Sequence drawings
APP9 Mr Ray's proof/appendices
APP10 Mr Ray's summary
APP11 Mr Ray's update note
APP12 Ms Mulliner's proof
APP13 Ms Mulliner's summary
APP14 Ms Mulliner's appendices
APP15 Letter from Terence O'Rourke to Hassocks Parish Council dated 16 February 2016
APP16 Closing submissions

INQUIRY EVIDENCE AND SUBMISSIONS – HAS SOCKS PARISH COUNCIL

- HPC1 Mr Mayhew's proof
HPC2 Mr Mayhew's appendices (vol 1)
HPC3 Mr Mayhew's appendices (vol 2)
HPC4 Hassocks Neighbourhood Plan Regulation 16 Submission Version June 2016
HPC5 Hassocks Neighbourhood Plan Basic Conditions Statement
HPC6 Hassocks Neighbourhood Plan Sustainability Appraisal
HPC7 Hassocks Neighbourhood Plan Consultation Statement
HPC8 Mr Mayhew's statement
HPC9 Closing submissions

INQUIRY EVIDENCE AND SUBMISSIONS – PROTECT HISTORIC HAMFIELDS

- PHH1 Statement of case and appendices
PHH2 Mr Brewer's presentation
PHH3 Mr Weir's statement
PHH4 Mr Weir's document schedule

INSPECTOR'S DOCUMENT

- INSP1 Folder of appeal representations



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.