



## Appeal Decision

Inquiry held on 18, 19, 20 and 21 January 2022

Site visit made on 28 January 2022

**by Jonathan Manning BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 22 March 2022**

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### **Appeal Ref: APP/M2270/W/21/3282908**

### **Land to the East of Highgate Hill and South of Cophall Avenue, Hawkhurst, Kent, TR18 4LR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Hawkhurst Estates Ltd, Leander Hawkhurst Ltd, and N and C Kennison-Cook against the decision of Tunbridge Wells Borough Council.
  - The application Ref 20/02788/FULL, dated 23 September 2020, was refused by notice dated 19 May 2021.
  - The development proposed is development of the site to provide 71 dwellings, alongside car parking, cycle parking, sustainable drainage, internal road network, public open space and associated landscaping and including the demolition of existing agricultural barn and garage and alterations to the existing access from Highgate Hill.
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### **Decision**

1. The appeal is allowed and planning permission is granted for development of the site to provide 71 dwellings, alongside car parking, cycle parking, sustainable drainage, internal road network, public open space and associated landscaping and including the demolition of existing agricultural barn and garage and alterations to the existing access from Highgate Hill, at Land to the East of Highgate Hill and South of Cophall Avenue, Hawkhurst, TR18 4LR, in accordance with the terms of the application Ref 20/02788/FULL, dated 23 September 2020, subject to the planning conditions in the attached schedule.

### **Preliminary Matters**

2. The Inquiry was undertaken virtually due to the Covid-19 pandemic. I undertook an unaccompanied site visit following the close of the Inquiry, in accordance with an itinerary that was discussed and agreed at the Inquiry.
3. Following the close of the Inquiry a signed and dated Section 106 agreement was provided that makes provision for: financial contributions for adult and youth recreation, biodiversity net gain, the Cranbrook community hub, health care, education, travel plan monitoring, youth services and waste management; affordable housing; highway works; and provision of a landscape and ecological management plan.

4. In each case, I am content that the obligation meets the three tests in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations, which also reflect those in Paragraph 56 of the National Planning Policy Framework, 2021 (the NPPF). As a result, I have taken the S106 agreement into account and there is no need for me to consider such matters any further in my decision.

## **Main Issues**

5. Based on the evidence provided in writing and the discussions that took place at the Inquiry, I consider the main issues for the appeal are:
  - 1) the effect of the development on the character and appearance of the surrounding area, including the High Weald Area of Outstanding Natural Beauty (AONB);
  - 2) the effect of the proposal on heritage assets;
  - 3) whether the scheme would result in harm to highway safety;
  - 4) the extent of the Council's shortfall in respect of five-year housing land supply; and
  - 5) whether exceptional circumstances exist to warrant development in the AONB and whether it is in the public interest.

## **Reasons**

### ***Character and appearance, including AONB***

#### *The appeal site*

6. The appeal site is located on the southern edge of the main built up area of Hawkhurst and largely comprises of agricultural land. However, there are areas of woodland towards the centre of the northern boundary and within the south-eastern area of the site. It is around 6.6ha in size. The only built structures on the appeal site are the existing property known as Westfield and an agricultural storage barn that I observed is in poor condition.
7. Much of the site boundaries are defined by mature hedgerows. To the north is the existing residential dwellings within Copthall Avenue and Fieldways, with the main built-up area of Hawkhurst beyond. To the west is Highgate Hill, which is lined by mainly residential dwellings and is where vehicular access would be gained to the appeal site. There is open countryside to the east and to the south. Levels across the site generally slope downwards to the south and east where a small wooded brook dissects the valley. Public Rights of Way (PROW) run close to the southern and eastern boundaries of the site.

#### *Context and landscape character*

8. The appeal site is located within the High Wealds AONB. The NPPF sets out that great weight should be given to conserving and enhancing the

landscape and scenic beauty of the AONB, which have the highest status of protection in relation to these issues. The NPPF notes that the conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas. All public bodies have a statutory duty under the Countryside and Rights of Way Act (CROW Act) 2000, Section 85, to have regard to the purpose of conserving and enhancing natural beauty in the AONB.

9. The High Wealds AONB Management Plan, 2019-2024 sets out that there are five defining components of character that have made the High Weald a recognisably distinct and homogenous area for at least the last 700 years. These are: geology, landform and water systems; dispersed historic settlement including high densities of isolated farmsteads and late Medieval villages; a dense network of historic routeways; abundance of ancient woodland; and field and heath (small, irregular and productive fields, bounded by hedgerows and woods, and typically used for livestock grazing). All of these components are located within or close to the appeal site.
10. At the national level, the appeal site is located within Natural England's National Character Area (NCA) 122 High Weald, which encompasses the ridged and faulted sandstone core of the Kent and Sussex Weald. The landscape character at a county level is established by 'The Landscape Assessment of Kent, 2004', with the site falling within the 'Bodiam: Lower Rother Valley' character area. The characteristic features of this include: large scale landscape wide views; valley floodplain meets low wooded ridges; and high hedges, unmanaged shaws, some trees and scrub on valley floor.
11. The Borough Landscape Character Assessment, 2017 (the LCA) sets out the local context and the appeal site falls within the Hawkhurst Wooded Farmland LCA no. 11. The key characteristics of this LCA are: scenic rolling hills and wooded ghyll valleys; pattern of dispersed historic farmsteads and hamlets and locally distinctive buildings; ancient routeways that form a clear network of rural lanes, footpaths and tracks, lined by ditches, hedgerows or woodland; ancient woodlands, ghylls and shaws; and the relatively intact ancient landscape pattern of irregular medieval fields bounded by woodland, shaws and ghylls, closely related to the presence of historic farmsteads and the network of ancient routeways.
12. The Council has also assessed the appeal site in its 'Landscape and Visual Impact Assessment of Proposed Allocation Sites within the High Weald AONB, 2020'. It describes the landscape baseline in detail and identifies six key landscape features (small copses, stream and associated woodland, pond and ditches, intact hedgerows, mature individual trees and fields in pasture).

## *Assessment*

### Landscape and the AONB

13. The appeal site contains many features described in the High Weald AONB Management Plan and by the landscape character assessments. Whilst overall the appeal site has a largely rural feel, there are some urbanising features, namely the existing residential dwellings to the north and west of the appeal site. The site has some relationship with the wider landscape, however the strong vegetated boundaries are containing features and the appeal site is relatively enclosed. Whilst the wider area has a high sensitivity to change, the Landscape and Visual Impact Assessment of Proposed Allocation Sites within the High Weald AONB, 2020 notes that some land, including the appeal site, could have lower landscape sensitivity which could be moderate/high sensitivity. I agree with this assessment, given the urbanising features referred to above.
14. The development of 71 dwellings and associated infrastructure and hardstanding will have demonstrable adverse impacts on the landscape features set out above. The scheme would impact on the landscape pattern of fields and is contrary to the landscape strategy of the LCA that seeks to limit new large-scale development because it is rare in the area.
15. Turning to the AONB management objectives, the appellant's assessment notes that there is a range of adverse and beneficial effects. These will be examined in turn. In terms of geology, landform, water systems and climate, I agree that there would be a slight beneficial effect for objective G1 due to the introduction of a natural ditch and sustainable urban drainage systems. Further, there would be no effect on G2 and a slight adverse effect on G3 in relation to climate change.
16. In terms of settlements, the scheme would create direct new connections from Hawkhurst to the AONB and there would be a slight beneficial effect for Objective S1. Objective S2 seeks to protect the historic pattern and character of settlement. The rationale for the objective notes that this includes other relationships (including separation) between such settlements that contribute to local identity. As is discussed further below in relation to the Conservation Areas, I consider that there would be some minor impact on the physical and perceived separation of Highgate and The Moor which contributes to the historic settlement pattern of Hawkhurst. This is as a result of the presence of new built development in the gap between the two areas. Consequently, I agree with the Council that there would be adverse impact on this objective, although I consider it to be slight, due to the fact that the proposed development would not be overly visible from views between the two and the scheme would only be briefly evident

when travelling between the two areas, namely as a result of the site access.

17. In relation to Objective S3, there is no contention between the main parties that the scheme would not enhance architectural quality and I agree that there would be a slight beneficial effect in this regard.
18. For routeways there are two objectives. The restoration of the historic routeway and a continued link into the AONB would have a slight beneficial effect in relation to Objective R1. Whilst it would be urbanised as it passes through the appeal site, it nonetheless doesn't exist at the present time, hence there would be a positive effect. I consider there would be a neutral effect on Objective R2, as there would be some urbanisation, but this would be offset by on-site ecological enhancements.
19. I agree with the appellant's assessment of woodland objectives that there would be neutral effects for Objectives W1, W3 and W4. Further, there would be slight beneficial effects for Objective W2, as a result of the improved management of the on-site woodland.
20. In relation to Field and Heath, the main parties agree that there is a moderate adverse effect on Objective FH1 that relates to securing productive agricultural land and I agree with this position. The scheme would result in the loss of small-scale fields contrary to Objective FH2. However, efforts have been made to maintain the field pattern through the existing sub-divisions and hedgerow and woodland retention. Therefore, I consider there would be a slight adverse effect in this regard. There would be a slight beneficial effect on Objective FH3 through ecological enhancements on-site and a neutral effect on Objective FH4.
21. Objective LBE1 relates to land-based economy and related rural life and seeks to improve returns from, and thereby increase entry and retention in, farming, forestry, horticulture and other land management activities that conserve and enhance natural beauty. The scheme would result in the loss of agricultural land, although I accept the appellant's view that it is unlikely to have a meaningful use in this regard due to its nature and detachment from the wider agricultural land. As a result, there would be a slight adverse effect. The main parties agreed a neutral effect on Objective LBE2 and I agree with this view.
22. Turning finally to other qualities, Objectives OQ1, OQ2 and OQ3 aim to: increase opportunities for learning about and celebrating the character of the High Weald; increase the contribution of individuals and communities to the conservation and enhancement of the AONB; and develop and manage access to maximise opportunities for everyone to enjoy, appreciate and understand the character of the AONB while conserving its natural beauty. The scheme would provide increased access through the re-instatement of the historic pathway and include

the meadow area that would become public land and is expected to include information boards. As a result, I consider that there would be slight beneficial effects for Objective OQ1 and OQ2 and a moderate beneficial effect for OQ3.

23. Objective OQ4 relates to the protection and promotion of the perceptual qualities that people value. The rationale sets out that this seeks to ensure that the special qualities people value, such as tranquillity, dark skies, sense of naturalness and clean air, are recognised and taken account of in AONB management. The scheme will urbanise the appeal site and reduce tranquillity and increase noise and light levels. This would be a moderate adverse effect on this objective.
24. I have found that there would be 2 moderate adverse and 3 slight adverse effects on the AONB objectives. Conversely, there would be 1 moderate and 8 slight beneficial effects. For all other objectives, the effects are neutral. Whilst the beneficial effects are notably greater in number than the adverse effects, I consider the objectives where adverse effects would occur are clearly very important to the natural and scenic beauty of the AONB. Consequently, on balance, I am of the view that the scheme would have a neutral effect on the objectives in the AONB management plan.
25. It is clear to me that the appellant has gone to great lengths to try and moderate harm. This is evident from the amount of discussion that has taken place for this scheme and also the previously proposed scheme on a smaller part of the site. This has resulted in a scheme that the main parties agree is a well thought out landscape-led design rationale that provides a clear relationship between built development, retained features and new open spaces and landscape features that respect the site context and condition. It was also agreed that the design concept applied responds positively to the High Weald Colour Guide with the proposed materials palette being appropriate to the locality and each individual building style, and the boundary treatments being well-considered and appropriate to their interfaces.
26. The appeal scheme focuses built development to the north-western part of the appeal site and retains a large area of open space to the east (and partly to the south) as a wildflower meadow, creating a significant landscape buffer to the development, and an important transition to the open countryside. A lower density 'Farmstead Cluster' is promoted to the most southerly part of the proposed development, inspired by local farmstead clusters and informed by the 2008 High Weald Landscape Characterisation and Farmstead Study.
27. The design and layout of the scheme has also received praise from the High Weald AONB Unit, who despite their in-principle objection to the development of the site, recognised the positive design features the scheme contains.

28. I consider that the scheme represents good design, as encouraged by the NPPF. This along with the new landscaping proposed by the scheme, which can be secured by the S106 agreement and planning conditions, will make a substantial contribution to mitigating the harm to the character and appearance of the area and the AONB.
29. Overall, whilst there would clearly be landscape harm that would not conserve or enhance the scenic beauty of the AONB by virtue of the introduction of the large-scale residential development, this harm would be reduced notably by the quality of the design together with the landscape mitigation that can be secured. I also consider that the harm to the AONB is tempered by the relatively enclosed nature of the appeal site. I agree with the main parties that on completion of the scheme there would be a moderate adverse impact.
30. The appellant is of the view that after 15 years the impacts would be moderate neutral. Whereas the Council considers moderate adverse harm would remain. In my view, the harm will further reduce once the new planting establishes and the dwelling materials weather. However, the presence of 71 dwellings will still cause residual adverse harm that I consider would be moderate to low in the long term.
31. This also broadly correlates with the level of harm identified in the LVIA<sup>1</sup> that supports the emerging Local Plan, when development is aligned with its recommendations, which I consider is the case for the appeal scheme.
32. Hawkhurst Parish Council (HPC) are concerned about the impact on the character and appearance of the area from the proposed parking bays on Highgate Hill. Whilst noting Highgate Hill is a historic routeway, the Designers Response to Stage 1 Road Safety Audit, dated March 2021 at Appendix A shows the likely positioning of the bays. This shows that the parking bays would only cover a short section of the road opposite the appeal site. I consider that the minor loss of green verge and potential loss of trees would have a very minor effect on the character and appearance of Highgate Hill.
33. The impact of the scheme on the character of rural lanes in the area, through increased rat running has also raised concern. As set out later in the decision, a mitigation scheme is proposed at the Hawkhurst crossroads, which I consider will likely result in the scheme having only a negligible effect on congestion. Consequently, I am of the view that the scheme would not result in a significant level of increased rat running of rural lanes that would affect their character and appearance.

#### Visual effects

34. The LVIA that supported the application includes 12 viewpoints (representing eight different receptor groups) that were assessed for

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<sup>1</sup> CD.4.20

effects from the proposed development, with these views typically being of medium, medium-high or of high sensitivity to the type of change proposed.

35. I consider the appeal site is relatively well contained from public viewpoints and where there are views, they are in close proximity to the site. I observed that clear views of the appeal site are gained from a section of PROW to the south of the appeal site (Viewpoint 1) that runs through the designated green space called Little Switzerland. The replacement of largely open land with residential dwellings will be experienced at close quarters, which will have an adverse effect. The LVIA sets this out as being substantial during construction and reducing to moderate on completion and after 15 years. Whilst I am of the view that the effects would be greater on completion than suggested by the appellant, I nonetheless agree that after 15 years the effect would be moderate. This is on the basis that additional planting would have matured and softened the effects of the scheme on views from the PROW in this location.
36. In terms of viewpoints 2, 3 and 4 these are also along the PROW to the south, south-east and east of the appeal site and also fall within Little Switzerland. The visualisations provided by Mr Williams in support of his proof of evidence, illustrate that due to the significant woodland, even in winter conditions, there would not be a visual effect from these viewpoints.
37. Viewpoints 5 and 6 are views from Copthall Avenue and Fieldways respectively. Dealing firstly with Copthall Avenue, some views would be gained between dwellings over the appeal site and there would be some private views from the gardens and upper floors of the existing dwellings themselves. The appellant is of the view that there would be moderate adverse effects during construction, slight adverse on completion and no effect after 15 years. Whilst I am of the view that the topography of the site, existing vegetation and the proposed planting would go a large way to mitigating adverse effects around this location, it is inevitable that some views between dwellings and from the dwellings themselves would remain. On this basis, I consider a slight adverse effect would remain after 15 years.
38. Turning to, Fieldways this provides clear views over the eastern part of the appeal site. Construction activity would be particularly noticeable, and I agree that there would be a substantial adverse effect during this period. Views from this area would be principally over the proposed meadow area, which would not contain built development, but more oblique views of the new dwellings and associated hardstanding would still be experienced. Consequently, there would be moderate adverse effects on completion of the scheme. After 15 years the additional planting would have matured, and I accept that the meadow feature would bring some enhancement. However, considerable built



development would still be evident and overall, I consider that a slight adverse effect would remain long-term.

39. In terms of views from the PROW to the west (Viewpoints 7 and 8), The Moor (Viewpoint 9) and Four Throws to the east (Viewpoint 10), I agree with the findings of the LVIA that there would be no effect on these, as the appeal site is not largely visible.
40. Finally, in relation to Viewpoints 11 and 12, which are along Highgate Hill, the development would be noticeable as a result of the proposed new access. However, once construction works are complete, I consider the access would not appear out of place and would be similar to other existing accesses off of Highgate Hill. Consequently, there would be negligible long-term effects.
41. On a related matter, there are no views of the appeal scheme from viewpoints identified as being valued in the Hawkhurst Neighbourhood Plan.
42. Overall, I consider the level of visual impact to be relatively low, with one moderate and two slight adverse effects. Nonetheless, this does equate to harm that I have taken into account in reaching my overall conclusions.

### *Conclusion*

43. Overall and for the reasons set out above, I conclude that the scheme would cause a moderate level of adverse harm on completion, reducing to a moderate to low level in the long term, to the character and appearance of the area and to the landscape and scenic beauty of the AONB.
44. The scheme is therefore contrary to Policy EN25 of the Tunbridge Wells Borough Local Plan 2006 (the LP), Core Policies 4 and 14 of the Core Strategy 2010 (the CS), Policy LP2 of the Hawkhurst Neighbourhood Plan (the NP) and the NPPF.
45. As set out below, the Council cannot demonstrate a five-year housing land supply and therefore, in accordance with Paragraph 11 of the NPPF, the most important policies for determining the application are out-of-date. Despite this, I consider that Policy EN25 of the LP, Core Policy 4 of the CS and Policy LP2 of the NP are consistent with the NPPF and therefore, I afford them significant weight. Core Policy 14 of the CS seeks to restrict development outside of settlement boundaries and as a result of the Council not being able to demonstrate a five-year housing land supply, I afford the conflict with the policy very limited weight.

### ***Heritage assets***

46. There are several heritage assets within proximity to the appeal site. These include: two Grade II listed properties Rose Cottage and

Cockshott Farmhouse; the Grade II listed Church of All Saints located in the centre of Hawkhurst; and two Conservation Areas, Highgate Hill and The Moor, which the appeal site forms part of their settings.

*Rose Cottage and Cockshott Farmhouse*

47. It is common ground between the main parties that there would be less than substantial harm at the lower end of the scale to both of these heritage assets. This would be as a result of the erosion of their rural setting and the demolition of the open-sided barn and its replacement with a number of dwellings, permanently altering the setting to both buildings. Based on my own observations at the site visit, I agree with these conclusions.
48. Particular concern has been raised that the impact of construction works and increased traffic close to the buildings could affect their structural integrity, causing significant harm to the heritage assets. The appellant has provided a remote visual inspection of the exterior of both buildings and their surrounding grounds, undertaken by a Conservation Accredited Structural Engineer. This concluded that no notable degradation of either building was apparent. Whilst I am mindful that the inspection did not include the interior of the buildings and therefore any defects cannot be categorically ruled out, I have not been provided with any structural surveys to suggest that there are any significant defects associated with either building.
49. In terms of vehicles using the new access road, this would be a considerable distance away from the buildings at around 25 metres. Given the research provided by the appellant in the remote visual inspection and the absence of any other substantive evidence to the contrary, I consider that the proposed new access road would not have any adverse effects on the structural integrity of either building. Further, the appellant has set out that Highgate Hill is located approximately 18 metres to the west of the properties, which is closer than the proposed new access into the appeal site. The proposed new access would see far less traffic movements than Highgate Hill. Vibrations from Highgate Hill are therefore, in my view, far more likely to have the potential to impact on the buildings than the appeal scheme.
50. A planning condition can be imposed that would ensure any vibrations associated with construction works are monitored at these properties and any subsequent action taken if necessary.
51. Given all of the above and with the imposition of the identified planning condition, I consider that there would not be any more than less than substantial harm to these buildings, which would be at the lower end of the scale.

### *Church of All Saints*

52. The church is an important landmark in Hawkhurst. The heritage assessment that supported the planning application sets out that the site forms a small part of the extended setting of the church and permits limited views of the spire, set beyond a foreground of residential development. Further, it notes that as a remnant of the wider rural surrounds and by virtue of permitting these views, the site is considered to make a limited contribution to the overall significance of the Church of All Saints. I agree with this conclusion.
53. Notwithstanding this, the appeal site does make, although limited, a contribution to the extended setting of the church and its domestication would not preserve this. This would result in less than substantial harm. Given the distance from the appeal site to the church, only limited views would be affected and that there is existing residential development between the appeal site and the church, I consider that the harm would be at the very lowest end of the scale.

### *Conservation areas*

54. The Hawkhurst High Street and All Saints Conservation Area lies to the north of the appeal site, with The Moor Conservation Area lying to the south. The appeal site therefore falls within the gap between the boundaries of the two. I agree with the Council that the site carries a role as one of the pieces of open land contributing towards the rural setting of the village, which forms part of the significance of both Conservation Areas.
55. The erosion of this open land and the gap between the two areas would not preserve the settings of either Conservation Area. This would result in less than substantial harm.
56. However, it must be borne in mind that the proposed development would not be overly visible from views between the two and the scheme would only be briefly evident when travelling between the two areas, namely as a result of the site access. I have found above that the minor loss of green verge and potential loss of trees would have a very minor effect on the character and appearance of Highgate Hill. Overall, I consider that the harm would also be at the very lowest end of the scale.

### *Public benefits and conclusion*

57. The scheme would cause less than substantial harm to five heritage assets, all of which would be on the very lowest or low side of the sliding scale. I afford considerable importance and weight to such harm. The NPPF (Paragraph 202) sets out that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

58. The parties agree that the public benefits of the scheme outweigh the identified harm. The public benefits of the scheme are discussed in more detail later in this decision. However, I agree with the main parties that they, most notably helping to meet the housing shortfall, outweigh the identified harm to heritage assets. The scheme therefore complies with Paragraph 202 of the NPPF.

### **Highways**

59. When determining the planning application, the Council were of the view that the scheme would have a significant adverse effect on the capacity and congestion of the crossroads in the centre of Hawkhurst and the wider transport network. Since the application was refused, the appellant has undertaken further work and dialogue with the highway authority, Kent County Council (KCC). This has resulted in the appellant proposing a scheme of mitigation at the crossroads. A Statement of Common Ground has been signed by KCC that concludes following assessment work by them, the impacts of the proposed development are negligible on the improved junction layout. The proposed mitigation scheme also takes into account the proposed development at Turnden.
60. Following this, the Council has not defended its reason for refusal in this regard. There is clearly, however, a significant level of concern from HPC and local residents in relation to this matter.
61. During the roundtable discussion at the Inquiry, the appellant agreed to produce a note (Inquiry Document 9 (ID9)) containing additional modelling information in relation to the 'as existing' operation of Hawkhurst crossroads, to allow for a comparison with the proposed mitigation strategy to be made. This shows that the impacts on the crossroads from the proposed development alongside the Turnden development, should it come forward. It can be seen when comparing the '2021 Base, as existing' and the '2021 Base + Turnden Development + Highgate Hill Development (this scheme)' that the impacts on the crossroads would be negligible following the proposed scheme of mitigation.
62. Interested parties were allowed the opportunity to comment on the additional note (ID9) and HPC raised a number of concerns. ID9 sets out that the modelling information, incorporating the proposed mitigation scheme that was initially provided to the appellants by KCC and reported within Table 2.1 of the Proof of Evidence of Mr Jones, did not include an assessment of the baseline situation. Therefore, to provide an indication of the benefits of the mitigation scheme, against the existing arrangement of the junction, the most up-to-date traffic flows from KCC were used in ID9.
63. HPC has noted that it is not clear where the most up-to-date traffic flows have originated from and is of the view that the baseline assessment set out in Table 1 of ID9 differs materially, not just from

the figures in the appellant's own Transport Assessment (TA) that accompanied the proposal at the application stage, but also to TAs submitted in support on other recent major housing developments within the village and wider locality. In replying to the comments of HPC the appellant has confirmed that the baseline traffic flows come from June 2021 and the model outputs were provided by KCC, who, as local highway authority, considered them to be a valid representation of traffic flows on the local network at the current time.

64. I acknowledge that the Covid-19 pandemic is likely to have had an effect on traffic flows in June 2021, which could well explain the lower traffic flows recorded in the June 2021 surveys. However, there is no evidence before me to suggest that traffic has now returned to pre-pandemic levels or that it will in the future, particularly bearing in mind changes in home working practices.
65. In addition, the appellant has set out in its response to HPC's comments on ID9 that the purpose of the assessment was to demonstrate the relative benefit to be gained from the proposed mitigation scheme and that this allows for the relative difference between directly comparable 'baseline' and 'with mitigation' modelling results to be identified. The appellant is also of the view that should an alternative set of traffic survey information be used as the basis for the 'baseline' and 'with mitigation' the queuing and degree of saturation results would change, however it would be expected that the relative impact of introducing the mitigation would remain the same.
66. HPC further queried this matter in another representation (Document Submitted after the Inquiry No. 11) and in response the appellant has provided further modelling based upon the 2018 survey data from the Hawkhurst Golf Course planning application. This also shows that the impacts of the scheme would be negligible on the crossroads with the mitigation scheme in place, even at higher baseline traffic flows.
67. Other aspects of the mitigation scheme have also been challenged. HPC has expressed some doubts that the Puffin/MOVA scheme as part of the proposed mitigation would provide the extent of benefit claimed, due to the existing level of congestion and queue lengths at the junction. However, the appellant has set out that MOVA has two operational modes, congested and uncongested. MOVA monitors the rate of discharge of traffic and in the congested mode, detects any fall off in vehicle flow towards the end of the green period, which often occurs as queues discharge. When this happens the MOVA system terminates the green early so that additional capacity can be given to other arms of the junction where vehicles are waiting.
68. Further, I note that the Department for Transport's Traffic Advisory Leaflet 9/97 provides guidance on the application of MOVA technology and sets out that: 'In general, MOVA appears to give above average

benefits when applied at major, high flow junctions with speed assessment/speed detection, or at smaller heavily congested junctions’.

69. Given the above and that the crossroads, is in my view, a small heavily congested junction, I do not have any concerns in this regard. There is no evidence before me to demonstrate that the proposed works will not improve the operation of the junction during periods where queues extend beyond the detector positions. Further, the appellant’s reply to HPC concerns notes that the ‘with mitigation’ modelling assessments for the peak hours has been undertaken using fixed cycle and stage timings, and therefore do not take account of the benefits that MOVA would achieve in these periods. The modelling therefore appears to be conservative in this regard.
70. HPC has also raised concern about the assumed ‘cycle times’ in the baseline and mitigation scenarios. ID9 sets that a 120 second cycle time has been used as requested by KCC at the time, and this is also consistent with the cycle time used in the most recent KCC ‘with mitigation’ model (which was modelled as 240 seconds, reflecting two cycle times with one pedestrian stage).
71. The appellant has set out that the mitigation includes the use of Puffin Crossing Technology, which it notes includes: on-crossing detection that allows for the shortening of the pedestrian ‘all-red’ stage of the cycle time where crossings have been cleared early; and the cancelling of the pedestrian ‘all-red’ stage when a pedestrian has pressed the button, but has crossed without waiting for the ‘green man’. The appellant goes on to set out that *‘In the baseline scenario, the 120 second cycle time was used, simulating a pedestrian stage being called every cycle. To account for these capacity benefits within the ‘with mitigation’ modelling, KCC has utilised a 240 second cycle time with the pedestrian stage called once within that period and every other stage called twice. The modelling does represent an approximation of likely benefits from the mitigation proposals rather than an absolute quantification of the benefits. However, this is an approach that was proposed by KCC, who in their role as Local Highway Authority, consider it to be suitably robust for the purposes of assessing the residual impact of the development’.*
72. I accept that this does raise some uncertainty over the absolute benefits that would arise from the mitigation scheme. However, I am mindful that this approach was advocated by the highway authority, a view that I afford significant weight. Also, there has been no substantive alternative evidence put before me to demonstrate that such an approach is inappropriate or that the mitigation scheme would not deliver benefits and improvements to the crossroads. Overall, I am content that the modelling is sufficient to provide confidence that the mitigation scheme would provide improvements that would mitigate the impacts of the scheme to a negligible degree.

73. In terms of securing the proposed mitigation scheme the S106 agreement states that this must be implemented before the 51<sup>st</sup> dwelling in the scheme is occupied. However, there appears to be little basis or modelling for this figure even though it has been agreed in the SOCG by KCC. It would allow 50 dwellings to be delivered without any improvements made to the crossroads. When asked about this at the Inquiry, the appellant agreed to alter the S106 agreement to include the ability for another trigger to be set out in this decision.
74. I do not consider that there is sufficient evidence before me to demonstrate that the traffic movements associated with 50 dwellings on the appeal site could be delivered with no mitigation at the crossroads, without having a severe residual effect. Further, it is also not clear to me, how many dwellings could potentially be considered acceptable without any mitigation. On this basis, I consider that the mitigation scheme should be provided before any dwelling is occupied on the appeal site.
75. At the Inquiry the appellant confirmed that the implementation of the mitigation scheme could be viably delivered as part of this proposal even in the absence of the Turnden development. I see no reason to take a different view.
76. Drawing all of this together, it is worthy to note that the scheme is not required to address existing capacity issues on the surrounding highway network, nor does the mitigation need to achieve a betterment relative to the baseline situation. There will continue to be congestion at the crossroads as can be seen from the appellant's modelling. However, whilst there are some uncertainties about post pandemic traffic flows and the absolute benefit of the mitigation scheme, I consider that the modelling demonstrates to a sufficient degree that the residual cumulative impacts of the development on the crossroads would not be severe and there would not be any unacceptable impact to highway safety at the crossroads. This is a view shared by the highway authority. I consider the scheme therefore complies with Core Policy 3 of the CS, Policy AM1 of the NP and the NPPF.
77. On a related matter, numerous interested parties and HPC have referred to the findings of the Inspector in the Heartenoak Road appeal. However, in that case no mitigation of the crossroads was proposed and therefore it is not directly comparable to this scheme.
78. Concern has been raised about the suitability of the site access onto Highgate Hill and the introduction of the parking bays, where it is suggested the removal of on-street parked cars may increase vehicle speeds leading to safety concerns. The proposed site access arrangement, including the parking bays has been subject to a significant level of technical assessment including a Stage 1 Road Safety Audit. The Highways SOCG confirms that KCC are content with the proposed access arrangement. In addition, no substantive

evidence to the contrary has been provided. I consider that the proposed access arrangements are suitable. I also consider that the scheme makes suitable on-site parking provision.

### ***Housing land supply***

79. The parties agree that the overall housing requirement for the five-year period is 3,560 dwellings or 712 dwellings per annum (dpa). However, there is disagreement between the parties over numerous aspects of the supply. The Council's final position, based on its comments on the Hawkhurst Golf Course appeal decision<sup>2</sup> is that it has a supply of 3,378 dwellings or roughly a 4.75 year supply<sup>3</sup>, whilst the appellant is of the view that the Council has a 4.23 year supply (3,011 dwellings overall). The remaining differences between the parties are considered in turn below.

#### *Cornford Court*

80. There is disagreement between the parties as to whether the implementation of the planning permission has taken place. A Lawful Development Certificate (LDC) application<sup>4</sup> relating to the implementation of the permission has been submitted to the Council. Whilst noting the evidence provided by the Council in support of its view that the permission was implemented, I consider that until the LDC application has been determined there remains sufficient doubt to consider that the site does not meet the definition of deliverable in the NPPF. Therefore, 35 dwellings should be removed from the Council's supply.

#### *Land at Brick Kiln Farm, Cranbrook*

81. The appellant accepts that this is a deliverable site, but is of the view that the Council has been overly optimistic when considering completions will start occurring in 2023/24. I understand that a house builder has submitted a new reserved matters application and is seeking to discharge various conditions. General guidance provided in the Council's Housing Supply and Trajectory Topic Paper, that supports the emerging Local Plan, sets out that national evidence base studies suggest that sites of around 100-500 dwellings take approximately 18 months from full approval to completions starting on site. The Council therefore set out in the paper that it assumes after full permission is granted, completions will start after 18 to 24 months.

82. Between now and the end of the 2023/24 period there is approximately 24 months. Whilst I understand the reserved matters application has not yet been determined, based on the 18-24 month guide, I consider there is sufficient time to determine the reserve matters application

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<sup>2</sup> APP/M2270/W/21/3273022

<sup>3</sup> Namely due to the removal of 70 dwellings from the Former Gas Works, Sandhurst Road, Royal Tunbridge Wells and 6 dwellings from Turners Pie Factory, Royal Tunbridge Wells.

<sup>4</sup> 21/04097/LDCEX



and deliver 70 homes on the site by the end of the 2023/2024 period. Consequently, 180 dwellings should remain in the supply.

83. It should be noted that the Inspector of the recent Hawkhurst Golf Course appeal decision removed all 180 dwellings from the Council's supply. However, this was based on a position before a new reserved matters application for the site had been submitted to the Council.

*Former Site of Springfield Nurseries, Cranbrook Road, Hawkhurst*

84. The site was granted outline planning permission in November 2020. However, there is no evidence of any planning related activity in terms of reserved matters or the discharge of any planning conditions since this time. This may be explained by the fact that it formed part of the wider Hawkhurst Golf Course proposal, which was refused by appeal recently.
85. The NPPF definition of deliverable at part b) sets out that '*where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years*'.
86. The Hawkhurst Golf Course scheme was refused at appeal<sup>5</sup> and the site promoters set out in June 2021 that the site can be delivered independently from the golf course scheme. However, in the absence of planning activity (such as preparation of a reserved matters application or discharge of conditions) to progress the site independently from the golf course scheme, and that I consider its future is somewhat unclear, there is not clear evidence of delivery within the next five years and it cannot therefore be considered deliverable. 24 dwellings should be removed from the Council's supply.
87. I note the Inspector of the Hawkhurst Golf Course appeal took a contrary view, but I have based my decision on the evidence placed before me at this Inquiry.

*Land at Triggs Farm, Cranbrook Road, Cranbrook*

88. The site received outline planning permission in January 2019 for 11 homes. A reserved matters application has now been made to the Council. The appellant has referred to land ownership and access related issues. The Council has set out that a variation of condition application to vary the access and internal road configuration was permitted on 7 October 2021<sup>6</sup>. Given this and the planning activity being undertaken by the site promotor, I am content that these issues have or will be suitably addressed, and that there is clear evidence of

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<sup>5</sup> APP/M2270/W/21/3273022

<sup>6</sup> 21/02855/FULL

delivery within five years. 11 dwellings should therefore be retained in the Council's supply.

*Turners Pie Factory, Royal Tunbridge Wells*

89. The site is allocated as part of a wider site for around 170 homes. A planning application has been submitted for 94 dwellings at Turners Pie Factory. This shows that firm progress is being made and the site is deliverable. Further, I consider the delivery of roughly 70 dwellings in 2024/25 and 30 dwellings in 2025/26 to be realistic and in accordance with the Council's Housing Supply and Trajectory Topic Paper for small sites (0-99). 94 dwellings should therefore be included in the supply.

*St Michaels, Burrswood, Groombridge, Tunbridge Wells*

90. The site benefits from a Certificate of Lawful Development. However, the site still requires Listed Building Consent. The Council has provided correspondence with the site promoters agent that states that a planning application is being prepared and that this will include an application for listed building consent. Whilst there is clearly progress being made towards an application, I acknowledge the appellant's concerns that there is a risk that listed building consent may not be granted. Consequently, I am of the view that the site cannot be considered deliverable at this stage and 37 dwellings should be removed from the Council's supply.

*Small sites non-implementation rate reduction*

91. The NPPF is clear that sites that are not major developments (small sites) should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years. Whilst the appellant is of the view that a general lapse rate of 10% should be applied to small site permissions, it has not provided any clear evidence that any specific site will not be delivered. On this basis, no discount to the Council's supply should be made.

*Windfall allowance*

92. The appellant is of the view that a windfall allowance for large sites should not be applied on the basis that the Council, in support of its emerging local plan, has undertaken what it considers to be a thorough site identification exercise through its Strategic Housing and Economic Land Availability Assessment (SHELAA) to consider available land. However, I accept the Council's view that this is an assessment at a point in time. Further, the Council confirmed at the Inquiry that in considering the availability of sites, it has considered whether sites have been actively promoted and therefore likely to come forward for development. Consequently, there is likely to be changes in landownership or future plans that may result in new sites coming forward. The Council has also set out that changes to Permitted Development Rights and the Use Classes Order could also be expected

to contribute and although the extend of which is somewhat uncertain, I accept this point.

93. Historic evidence has shown that windfalls, including that for large sites, represents a reliable source of supply and given all of the above, I consider the Council's allowance is appropriate. No dwellings should therefore be removed from the Council's supply in this regard.

### *Conclusion*

94. Drawing all of this together, I consider that a further 96 dwellings should be removed from the Council's supply. This results in an overall supply of approximately 3,282 dwellings and a housing land supply of around 4.61 years.

### **Other Matters**

95. It is common ground between the main parties that Hawkhurst is a sustainable location for growth as it contains a variety of retail, social and community facilities, including a primary school, supermarkets, mobile bank, post office, pharmacy, petrol station, cafes, pubs, restaurants, medical practice, dental practice, churches, independent cinema, library and community centre, and an employment area in Gills Green. I agree with this view.
96. Further, I consider the appeal site is relatively well located to such facilities. The scheme also includes the provision of a new pedestrian and cycle link and measures to encourage walking, cycling and public transport use. On my site visit, I walked both the potential routes into the village centre from the appeal site. Firstly, along Highgate Hill and secondly, from the proposed new footpath and then along All Saints Road. Whilst the gradient of both routes are relatively steep, I am not of the view that this would deter people from walking either route or possibly cycling along the All Saints Road route into the village centre, given the relatively short distance involved.
97. In terms of public transport, the adequacy of the available bus services was debated at the Inquiry. I consider that the available services offer a reasonable level of provision for future residents to utilise if they wish. Further, I am mindful that this is a largely rural area and the NPPF notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision making. A Travel Plan can also be secured by condition, to ensure that sustainable transport modes are promoted.
98. Overall, I am content that bearing in mind the largely rural nature of the area, the scheme promotes the use of sustainable transport, as far as is reasonably possible in line with the NPPF.
99. The scheme makes provision for financial contributions in relation to adult and youth recreation, the Cranbrook community hub, health care

and education. Consequently, I am not of the view that there would be any unacceptable impacts on the local infrastructure of Hawkhurst.

100. There are some impacts associated with the removal of a small number of trees within the site. However, the vast majority of the existing trees on the appeal site would be retained and the protected pocket of woodland and oaks to its southwestern corner would be retained. I consider that the proposed new planting would suitably mitigate the loss of the existing trees to the extent that there would be no adverse impact.
101. The appeal site is located in a newly declared Air Quality Management Area (AQMA) due to exceedances in the annual mean objective of NO<sub>2</sub> on Cranbrook Road to the north of Hawkhurst crossroads. The appellant has undertaken an air quality assessment, which concluded that the air quality objective for NO<sub>2</sub> would be below the relevant air quality objectives in 2023 with and without the proposed development and that there would be a slight adverse impact at one receptor and negligible impacts at 51 receptors.
102. Whilst there is a single slight adverse impact, further mitigation is proposed in the form of the implementation of the Travel Plan to encourage sustainable travel, use of EV charging points at all properties, cycle storage provision and the use of low NO<sub>x</sub> boilers. Further to this, conditions can be imposed that also require an air quality emissions off-setting and mitigation calculation to be submitted and the approval of a Construction and Demolition Environmental Management Plan. Given all of this, I consider that the scheme will not have any unacceptable impacts on air quality.
103. Having careful regard to the layout of the proposed scheme, I consider that there would be no unacceptable impacts on the living conditions of the occupants of existing neighbouring properties, including from overlooking, loss of sunlight or daylight and noise. There is no evidence before me to suggest that the proposed new foot/cycle path would result in antisocial behaviour.
104. There has been some suggestion that the proposal could lead to flood risk and that the stream that abuts the site regularly floods with sewage. I am content that planning conditions can be imposed to ensure that there would be no adverse impact on the water environment and to secure suitable foul and surface water drainage.
105. There is no evidence before me to suggest the provisions that have been made for waste/recycling are insufficient.
106. The scheme is not of such a scale that it would cause any prematurity issues to the emerging Local Plan. In any event, the emerging Local Plan allocates the site for development.

107. It is important to note that I have been referred to numerous other schemes and appeal decisions<sup>7</sup>. Whilst these are noted and I have referred to them where I have considered it particularly important to do so, there are inevitably different circumstances surrounding those cases and I have determined this scheme on its merits, as I am required to do. Unless otherwise discussed, they have not persuaded me to make any different findings.

### **AONB Exceptional Circumstances and Whether in the Public Interest**

108. The NPPF sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in AONB which has, along with National Parks and the Broads, have the highest status of protection in relation to these issues. Further, it notes the conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas and the scale and extent of development within all these designated areas should be limited.

109. The NPPF at Paragraph 177 identifies that when considering applications for development within AONB, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of: a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy; b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

*The need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy*

110. It is well known that there is a national housing crisis. As identified above, the Council is unable to demonstrate a five-year housing land supply. As a result, there is a shortfall in the delivery of new housing over the next five years. I have found that the Council's housing land supply stands at around 4.61 years and I consider such a shortfall to not be insignificant. The Council agreed at the Inquiry that meeting housing need is in the public interest.

111. It is clear that the Council is seeking to boost the supply of market housing to meet identified needs. At the Inquiry, the Council outlined the progress of the emerging Local Plan that has been submitted for examination. However, it is clear that the borough is constrained and the Council accepted at the Inquiry that greenfield development in the

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<sup>7</sup> Most notably, the Turnden proposal, the Hartley appeal decision (APP/M2270/W/20/3247977) and the Old Crawley Road, Horsham appeal decision (Appeal Ref: APP/Z3825/W/21/3266503).

AONB will be needed to meet future housing needs. Indeed, the emerging Local Plan allocates the appeal site, as well as other sites in the AONB. The Council confirmed its position is that the site allocation for the appeal site is sound, despite the refusal to grant planning permission for the scheme subject to this appeal. Whilst the emerging Local Plan can only attract limited weight as it is going through the examination process and could be subject to change, it nonetheless provides an indication of the likely approach needed to meet identified housing needs in the borough. Given all of this, there is a clear need for market housing to address the current shortfall and to meet longer term needs.

112. Turning to the provision of affordable housing, the appellant has shown that there is a significant need in the borough. The most recent calculation of need is in the Council's '2021 Review of Affordable Housing Needs' at 323 dpa. The appellant has shown that the average annual delivery over the last 14 years is considerably less than this figure at some 84 dpa. In addition, the Council's note (Inquiry Document 7) confirms that the emerging Local Plan is unlikely to meet the identified affordable housing need in full.
113. The scheme would make provision for 28 affordable housing units. Core Policy 6 of the CS, although not containing a separate affordable housing target figure, sets out that development proposals delivering affordable housing should generally provide 35%. The scheme would therefore make a modest overprovision of 3 dwellings against the current development plan requirement in this regard. It is also common ground that the scheme would meet the affordable housing target in the emerging Local Plan that has been increased to 40%.
114. The Council has noted that the tenure offered by the scheme is not that which emerging policy supports and also sets out that there needs to be a focus on social rented housing, so that they will be affordable to a greater number of local people than affordable rents. However, the Council has not sought to demonstrate that there is no need for affordable rent in the borough and there is nothing in adopted local policy or national policy or guidance that justifies ranking one form of affordable housing need over another. The Government's Planning Practice Guidance is clear that all households whose needs are not being met by market housing and who are eligible for one or more of the types of affordable housing specified in the Glossary to the Framework are in affordable housing need.
115. Further, there was some discussion about the housing register and the potential for double counting and that there is no breakdown as to whether those listed are transfers and therefore already in affordable housing. Notwithstanding this, there is no evidence to suggest that there isn't a need for affordable homes in Hawkhurst or indeed the wider borough.

116. In a similar manner, it has been suggested that the housing mix for the scheme contains too many large family homes and is contrary to Policy HD2 of the NP. The policy sets out that a mix of housing types, sizes and tenures shall be provided on housing developments to support the delivery of housing that meets the local needs and demands demonstrated in the most recent housing market assessment and housing needs analysis for the Plan Area. Whilst the supporting text at Paragraph 7.23 notes that *'An adequate amount of small-sized houses should be built to allow those wishing to downsize to release larger, family-sized properties back into the market'*, I do not consider this to be an express requirement to prioritise small units over larger ones and it is unclear what an adequate amount might mean.
117. Even if the scheme does depart from the preferred housing mix of the latest Strategic Housing Market Assessment (SHMA), there is no evidence to suggest that there is no need for larger family sized dwellings across the borough. The scheme will therefore still meet an identified need. Further, Policy HD3 of the NP sets out that accessible homes suitable for the elderly and disabled, including bungalows will be encouraged. This does not, to my mind, place an express requirement for the scheme to include them.
118. The Council are of the view that the housing benefits of the scheme are 'generic' and would apply to all similar schemes. However, in my view, this underplays the clear need in the NPPF to meet housing needs and the Council's acceptance that greenfield sites in the AONB are likely to be needed to meet such needs. Further, I agree with the appellant that a lack of affordable housing impacts on the most vulnerable people in the borough, who are unlikely to describe their needs as generic.
119. I appreciate that Hawkhurst has been subject to a significant level of new housing in recent times and that this has exceeded the required delivery of 240 dwellings over the plan period of the CS (2006–2026). However, there is no suggestion that this was seen as a maximum and nonetheless, the Council cannot demonstrate a five-year housing land supply and therefore this requirement is clearly out-of-date.
120. Given all of the above, I consider that there is a clear need for the development and that the provision of both market and affordable housing carry significant weight in favour of the scheme.
121. I acknowledge that the Inspector of the Hartley appeal decision<sup>8</sup> afforded moderate weight to the benefits of both market and affordable housing in the borough. However, this was in the context of a much smaller development and a smaller shortfall in housing land supply.
122. There would be some economic benefits of the scheme associated with its construction. Although, these would likely be relatively short term and it is difficult to establish the extent to which it would benefit the

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<sup>8</sup> CD5.3 / APP/M2270/W/20/3247977

local economy, given the scheme does not make any express commitment to local employment. There would also be benefits to the local economy from the spending of future residents of the proposed dwellings.

123. The site comprises grade 3 classified agricultural land, and therefore is considered good to moderate quality. However, I agree with the appellant that the land is separated from other areas of agricultural land, borders a woodland, and has a sloping topography. Consequently, I consider that the appeal site has limited productive potential. As a result, there is no notable existing economic activity arising from the site that would be lost should the scheme be delivered.

124. Overall, there would be positive benefits to the local economy, as a result of the scheme. Although, I consider these to be relatively modest and afford them a minor level of weight.

*The cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way*

125. As already mentioned, the Council accepted at the Inquiry that there isn't scope for meeting all the identified housing needs without some reliance on greenfield development in the AONB, as is the position of the emerging Local Plan.

126. The Appellant has not undertaken an alternative site assessment for the purpose of this appeal either for Hawkhurst or a wider area. Notwithstanding this, the Council has undertaken a recent review of potential development sites in support of the emerging Local Plan through its SHELAA, January 2021. The Council did not seek to suggest that this piece of work was not thorough or did not include all available sites at the time.

127. The Council has noted that the emerging Local Plan makes a healthy over provision of supply against its identified housing needs and therefore should this site not come forward it would still meet its own needs. However, it is common for local plans to make an overprovision. In this case, it is to safeguard against some slippage on the large strategic sites including the proposed new settlement at Tudeley.

128. Based on the evidence before me, I consider that there is no clear scope for developing outside the designated area or meeting the Council's housing needs in some other way.

*Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated*

129. I have found above that the scheme would result in moderate harm on completion, reducing to moderate to low harm in the long-term to the character and appearance of the area, including on the AONB, following attempts to moderate the harm through good design and landscaping.



130. The Ecological Appraisal provided in support of the planning application assessed the potential impact of the proposed development on ecology and biodiversity. I am content that there would not be any unacceptable impacts on any protected fauna or flora. In relation to biodiversity net gain, the Council has accepted that it meets current development plan policy and is therefore 'technically' adequate. Further, it accepts that there is currently no set amount required by the NPPF.
131. However, the Council has raised concerns that it does not accord with the direction of travel of the emerging Local Plan, namely Policy EN9. This is on the basis, that a 10% minimum net gain should be provided on-site. As currently drafted in the Regulation 19 version of the emerging Plan, the supporting text to Policy EN9 sets out that off-site provision would only be considered in exceptional circumstances. Although, the Council has put forward a modification to the supporting text to set out that off-site provision will be considered where it offers the best outcome for biodiversity, is in reasonably close proximity to the application site, and follows the mitigation hierarchy.
132. The appellant has set out that the scheme would realise in excess of 10% biodiversity net gain through on-site provision (areas +4.5% and linear habitats +16%) and a financial contribution (via the Section 106 Agreement) to deliver 3 habitat credits. Whilst there is some reliance on off-site provision, which is contrary to Policy EN9 as currently drafted, I am particularly mindful that the policy, its current supporting text and the proposed modification in this regard, have not yet been examined and could feasibly be subject to change. Overall, there will not be any adverse impacts in relation to biodiversity that cannot be suitably mitigated and there would be a meaningful net gain in biodiversity, in the AONB, in accordance with the current development plan and the NPPF. I consider this to be a minor benefit of the scheme.
133. The Council is of the view that the scheme will add to carbon emissions. I am mindful that the scheme makes provision for electric charging points for all dwellings, will promote sustainable transport through the provision of a travel plan and a new foot/cycle path, and lastly, it is proposed to reduce emissions by 7.3% and then off-set 10% of the site wide carbon emissions through the use of renewable energy generating technology. In my view, the scheme is seeking to reduce carbon emissions through these measures and accords with current development plan requirements and those of the NPPF.
134. I acknowledge that emerging policy would be seeking fabric first 10% reduction and 15% reduction of emissions by using renewable energy generating technology, to be calculated after the 10% fabric first. However, I am again mindful that such requirements have not yet been examined and could feasibly be subject to change. Consequently, I afford any conflict with such requirements little weight.

135. In terms of heritage, I have found above that there would be harm to five heritage assets, although this would be on the very lowest or low side of the scale in each case. The public benefits of the scheme outweigh the identified harm to heritage assets. The scheme therefore complies with Paragraph 202 of the NPPF.
136. In terms of recreational opportunities, there would not be any detrimental impacts. Conversely, the scheme would include new footpath connections, the conversion of private land to largely public land and the new meadow area. I consider that these are meaningful recreational and community benefits and enhancements that weigh in favour of the scheme.

*Exceptional circumstances and in the public interest?*

137. Paragraph 177 of the NPPF does not suggest that any of the three limbs contained within it should be afforded more weight than any other and therefore it is clear that a judgement must be struck having regard to them all.
138. The scheme would result in demonstrable harm to the character and appearance of the area and the AONB. However, it is clear that much consideration has been given by the appellant to the design and layout of the scheme and I am of the view that it represents 'good design' as described in the NPPF. I consider that this, along with the proposed landscaping that can be suitably secured and the relatively enclosed nature of the appeal site, would significantly moderate the impacts on the character and appearance of the area and the AONB.
139. The residual detrimental harm would be moderate on completion and moderate to low in the long term. The Council has accepted that in order to meet housing needs greenfield land in the AONB is likely to be required, indeed the appeal site is allocated in the emerging Local Plan that has been submitted for examination. The Council also accepted that as a consequence there will inevitably be some adverse impacts on the AONB in the borough, including loss of greenfields, on-site landscape resource, extension to settlement footprints and views from sensitive receptors close to the site.
140. Whilst the identified harm clearly weighs against the scheme, I am of the view that the fact that the harm has been moderated to a significant degree through good design and does not go, in my view, any or much further than what the Council accept is inevitable from the development of a greenfield site in the AONB, to be a very important consideration.
141. There would be some low level less than substantial harm to five heritage assets, but the scheme complies with the NPPF insofar that the public benefits of the scheme outweigh such harm. However, this harm does nonetheless weigh against the scheme. Further, any harm in relation to climate change would be minor.

142. In contrast, there is a substantial need for market and affordable housing, which the appeal scheme would help to meet, and this attracts significant weight in its favour. There would also be some minor economic benefits to the local economy.
143. In addition, there would be a meaningful net gain in biodiversity within the AONB and clear enhancement to recreational opportunities in the AONB through the reinstatement of the historic footpath and the conversion of private land to largely public land, namely for the new meadow area.
144. Overall and on balance, I conclude that exceptional circumstances exist and the scheme is in the public interest to meet housing needs. The scheme complies with Paragraph 177 of the NPPF. In coming to this view, I have had regard to my duties under the CROW Act, which the main parties agreed is also reflected within the considerations associated with Paragraphs 176 and 177 of the NPPF.
145. I note that Policy HD1(a) of the NP sets out a preference for small sites. However, Policy HD1(b) does allow sites for 10 or more dwellings where exceptional circumstances exist, as prescribed in the NPPF and if it can be demonstrated that its impact on the sensitive AONB landscape setting and the environmental constraints of Hawkhurst can be effectively mitigated.
146. The supporting text notes that mitigation needs to use good design in terms of an appropriate response to topography, retention of existing landscape features (where appropriate), layout and establishing good connections. Further, it also needs to *'...demonstrate a clear understanding of the immediate context. This will be particularly important when housing proposals are adjacent to existing developed areas. Mitigation at this scale needs to be in the form of carefully-designed and responsive housing layouts that respect the conditions enjoyed by existing residents, high quality landscape design towards the edges of the sites and architectural detail that draws upon local traditions and materials'*. I have found that the scheme represents good design in relation to these matters.
147. In relation to other criteria within Policy HD1(b), I consider that the scheme: represents sustainable development consistent with the NPPF, particularly given its accord with Paragraph 177; was supported by a LVIA that included mitigation; and demonstrates effective physical integration with the existing settlement patterns found in and around Hawkhurst. Policy HD1(b) 2) iv) sets out that proposals will be required to demonstrate how they meet the objectives of the High Weald AONB Management Plan. Whilst I have found some adverse effects in relation to the objectives, there are also numerous examples of beneficial effects and I found that the overall effect would be neutral on the objectives. Having regard to the above, I consider that the proposal complies with Policy HD1(b) of the NP.

## **Conclusion**

148. I consider that the scheme complies with the development plan, when it is considered as a whole and the NPPF advises that such development should be permitted without delay.
149. Even if I am wrong in this regard, the Council cannot demonstrate a five-year housing land supply and therefore the policies which are most important for determining the application are out-of-date. Due to the scheme's compliance with Paragraphs 177 and 202 of the NPPF, the appeal site's location in the AONB and its impact on heritage assets do not provide clear reasons for refusing the proposal.
150. Therefore, the second limb of Paragraph 11 d) applies and the adverse impacts of the scheme do not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
151. Consequently, for all of the reasons given above and having regard to all other matters raised, I conclude that the appeal succeeds.

## **Planning Conditions**

152. As a result of allowing the appeal, there is a need to consider what planning conditions are necessary. I have considered the suggested conditions against the tests set out within the NPPF and the advice provided by the Government's Planning Practice Guidance and have amended them where required. As well as the standard time limit condition (1), a condition is necessary to ensure the development is undertaken in accordance with the approved plans to secure certainty (2).
153. Conditions (3), (4), (5) and (6) are needed to ensure the suitable appearance of the scheme. To ensure the suitable protection of trees and hedgerows, conditions (7), (8), (9) and (10) are imposed.
154. In the interests of highway safety and the promotion of sustainable transport, conditions (11), (12), (13), (14) and (15) are required. To safeguard the living conditions of neighbouring residents, condition (16) is necessary. To ensure that the development is sustainable, conditions (17), (18) and (19) are imposed.
155. To protect against flood risk and in the interests of the water environment, conditions (20), (21), (22) and (23) are required. To ensure that there is no potential risk associated with contaminated land, condition (24) is necessary.
156. In the interests of ecology, conditions (25), (26) and (27) are imposed. Condition (28) is necessary to ensure the proposal is acceptable in terms of air quality and condition (29) is imposed in the interests of the historic environment.

157. A number of the above imposed conditions relate to pre-commencement activities. In each case, I am satisfied that the condition is necessary to make the development acceptable in planning terms. Further, the Appellant has provided written confirmation that they accept the pre-commencement conditions.

*Jonathan Manning*

INSPECTOR

## **SCHEDULE OF PLANNING CONDITIONS**

### Timescale

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

### Plans

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - DE284A\_001A Location Plan
  - DE284A\_002B Existing Site Plan
  - DE284A\_003D Proposed Site Layout Plan
  - DE284A\_004D Tenure Plan
  - DE284A\_005D Refuse Strategy
  - DE284A\_006D Boundary Treatment Plan
  - DE284A\_007D Car Parking Strategy
  - DE284A\_105B Street Scenes 01-02
  - DE284A\_106B Street Scenes 03-06
  - DE284A\_107B Street Scenes 07-11
  - DE284A\_108B Street Scenes 12-17
  - DE284A\_109C Street Scenes 18-19 (as submitted to the Inspector)
  - DE284A\_L\_501E Landscape Masterplan
  - DE284A\_L\_502E Landscape Plan (Plan 1 of 2)
  - DE284A\_L\_503E Landscape Plan (Plan 2 of 2)
  - DE284A\_L\_504B Landscape Sections
  - DE284A\_L\_505C Illustrative Landscape Masterplan
  - 04609-TR-0001-P7 Preliminary Site Access Design (as submitted 19th February 2021)
  - LN36\_801.01 Rev P1 Proposed Drainage Layout

Plans and elevations as follows:

- LN36\_100.01 Rev P1 Plots 25-27 and 49-51
- LN36\_100.02 Rev P1 Plot 01
- LN36\_100.03 Rev P1 Plot 17
- LN36\_100.04 Rev P1 Plot 48
- LN36\_100.05 Rev P1 Plot 73
- LN36\_100.06 Rev P1 Plot 54
- LN36\_100.07 Rev P1 Plot 56
- LN36\_100.08 Rev P1 Plot 52
- LN36\_100.09 Rev P1 Plot 58

- LN36\_100.10 Rev P1 Plot 28
- LN36\_100.11 Rev P1 Plot 29
- LN36\_100.12 Rev P1 Plots 33, 53, 55, 57 and 74
- LN36\_100.13 Rev P1 Plot 40
- LN36\_100.14 Rev P1 Plot 31
- LN36\_100.15 Rev P1 Plot 32
- LN36\_100.16 Rev P1 Plot 22
- LN36\_100.17 Rev P1 Plot 18
- LN36\_100.18 Rev P1 Plot 21
- LN36\_100.19 Rev P1 Plot 23
- LN36\_100.20 Rev P1 Plot 24
- LN36\_100.21 Rev P1 Plot 30
- LN36\_100.22 Rev P1 Plots 19 and 20
- LN36\_100.23 Rev P1 Plots 36 and 37
- LN36\_100.24 Rev P1 Plots 41 and 42
- LN36\_100.25 Rev P3 Plots 34, 35, 38 & 39
- LN36\_100.26 Rev P1 Plot 02
- LN36\_100.27 Rev P1 Plot 03
- LN36\_100.28 Rev P1 Plots 04 and 05
- LN36\_100.29 Rev P1 Plot 16
- LN36\_100.30 Rev P2 Plots 46 and 47
- LN36\_100.31 Rev P1 Plot 43
- LN36\_100.32 Rev P1 Plot 44
- LN36\_100.33 Rev P2 Plot 06
- LN36\_100.34 Rev P1 Plot 46
- LN36\_100.35 Rev P1 Plots 07-08
- LN36\_100.36 Rev P1 Plots 59 and 60
- LN36\_100.37 Rev P1 Plots 69 and 70
- LN36\_100.38 Rev P1 Plots 61 and 62
- LN36\_100.39 Rev P1 Plots 71 and 72
- LN36\_100.40 Rev P1 Plots 10-15
- LN36\_100.41 Rev P1 Plots 63-68
- LN36\_100.42 Rev P1 Plot 09
- LN36\_100.43 Rev P1 Proposed Detached Garages
- LN36\_100.44 Rev P1 Detached Carports
- LN36\_100.45 Rev P1 Refuse and Cycle Stores
- LN36\_100.46 Rev P1 Substation

#### Character, Appearance and Trees

- 3) Prior to the commencement of development, written details including source/manufacturer of all external materials (including bricks, tiles, cladding materials and paving materials to be used externally) shall be

submitted to and approved in writing by the Local Planning Authority and the development shall be carried out using the approved external materials.

- 4) Notwithstanding the submitted drawings and all supporting documentation, prior to the commencement of development (excluding 'Initial Enabling Works') detailed plans and information regarding the following aspects of the proposed development shall be submitted to and approved in writing by the Local Planning Authority:
- a) details relating to window glazing and joinery (including recess depths dimensions) and dormer windows and location of utility boxes and meters (which shall not be positioned on principle elevations unless previously approved in writing);
  - b) written details including source/ manufacturer, and photographic samples of bricks, tiles, cladding materials and all other materials to be used externally;
  - c) the layout, position and widths of all proposed roads, footpaths, and parking areas (including the method of delineation between the road and the footpath) and the means of connecting to the existing highway, the materials to be used for final surfacing of the roads, footpaths and parking forecourts, provision of bollards to turning head to west of plot 38 to prevent through traffic and any street furniture, including seating;
  - d) the positions, design, materials and type of boundary treatment;
  - e) the storage and screening of refuse and recycling areas;
  - f) the alignment, height and materials to be used in the construction of all walls, fences or other means of enclosure, including parking forecourt gates;
  - g) details of highway design, including kerbs, dropped kerbs, gulleys, utility trenches, bollards, signs and lighting columns (if applicable);
  - h) details showing how dedicated and continuous footway routes will be demarked; and
  - i) details of the on-site play area.

The development shall be carried out in accordance with the approved details.

- 5) Notwithstanding the submitted drawings and all supporting documentation, no development (excluding 'Initial Enabling Works') shall take place until details of existing and proposed levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved



levels and shall not be varied without details being first submitted to and approved in writing by the Local Planning Authority.

- 6) Notwithstanding the submitted drawings and all supporting documentation, prior to the first occupation of any part of the development, full details of hard and soft landscaping and a programme for carrying out the works shall be submitted to the Local Planning Authority for approval. The submitted scheme shall include details of hard landscape works, including hard surfacing materials; and details of soft landscape works, including planting plans, written specifications (including cultivation and other operations associated with the plant and grass establishment) and schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.

The approved landscaping scheme shall be carried out fully in accordance with the approved programme. Any trees or other plants which, within a period of ten years from the completion of the development on that phase, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority give prior written consent to any variation.

#### Trees and Hedgerows

- 7) Prior to commencement of development, a schedule of all proposed tree works for the whole of the development site shall be submitted to and approved in writing by the Local Planning Authority.

All tree works, other than that which can be shown as necessary to address an imminent hazard, shall be carried out in accordance with the approved schedule of tree works, including its timetable.

Any tree which is removed or, in the opinion of the Authority, seriously damaged, contrary to the approved schedule of tree works shall, in the same location, be replaced during the next planting season by a tree(s) of suitable species and size, as agreed in writing with the Authority. The replacement tree(s) shall be planted in accordance with BS 8545:2014 and maintained until securely rooted and able to thrive with minimal intervention.

- 8) Notwithstanding the details submitted, no development shall take place until details of tree protection in accordance with British Standard BS

5837:2012 have been submitted to and approved in writing by the Local Planning Authority. These details shall be set out in a standalone Arboricultural Method Statement (AMS) and scaleable Tree Protection Plan (TPP) or, where appropriate, a combined AMS/TPP or set of statements and plans.

The approved AMS and TPP shall be provided to the site foreman prior to commencement of development, and all contractors on site shall be made aware of the specified tree protection measures.

The AMS and TPP shall cover all trees to be retained which could be impacted by the development, and shall include specific measures to protect these trees through all phases of the development, including measures for:

- the location of site facilities and materials storage;
- demolition of existing structures/hard surfaces;
- changes in ground levels, including the location of construction spoil;
- excavation, including for drainage and other services;
- installation of new hard surfaces; and
- preparatory works for new landscaping where these may encroach into root protection areas and/or present canopy spreads.

All demolition and construction activities shall be carried out in accordance with the approved AMS and TPP.

- 9) Prior to commencement of development, a schedule of arboricultural supervision and monitoring shall be submitted to and approved in writing by the Local Planning Authority. This schedule shall include:

- the contact details of the arboriculturist to be appointed by the developer or their agents to oversee tree protection on the site;
- the frequency of visits; and
- the reporting of findings.

A pre-commencement meeting shall be arranged with the appointed arboriculturist and site foreman, and the Authority Tree Officer shall be invited to attend with reasonable notice.

All demolition and construction activities shall be carried out in accordance with the approved schedule.

- 10) All existing hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed. All hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site. Any parts of hedges or hedgerows

removed without the Local Planning Authority's prior written permission or which die or become, in the opinion of the Local Planning Authority, seriously diseased or otherwise damaged following contractual practical completion of the approved development shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions as may be agreed in writing with the Local Planning Authority.

### Highways

- 11) Prior to the commencement of the development, full details of the off-site works to the highway which include works to Highgate Hill in order to create suitable visibility splays shall be submitted to and approved in writing by the Local Planning Authority, following consultation with the highway authority. The approved works shall be implemented to highway authority standards and specification, prior to commencement of works on site.
- 12) Prior to the commencement of the development, full details of off-site works to the highway to include improvements to cycle parking along Rye Road, and the provision of a signalised crossing on Rye Road (close to the junction with All Saints Road) shall be submitted to and approved in writing by the Local Planning Authority, following consultation with the highway authority. The approved works shall be implemented to highway authority standards and specification, prior to commencement of works on site.
- 13) Prior to the commencement of the development, full details of the composition of the emergency vehicular access (including measures to prevent constant vehicle access and hard surfacing) shall be submitted to and approved in writing by the Local Planning Authority, following consultation with the highway authority. The approved works shall be implemented to highway authority standards and specification, prior to commencement of works on site.
- 14) The area shown on the approved plans as vehicle parking space, garages and turning shall be provided, surfaced and drained in accordance with details submitted to and approved in writing by the Local Planning Authority before the first occupation of the dwelling being served, and shall be retained for the use of the occupiers of, and visitors to, the development, and no permanent development, whether

or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking, garaging and turning space.

- 15) No part of the development hereby approved, shall be brought into beneficial use / no residential dwelling shall be occupied until a detailed Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The measures within the approved Travel Plan shall be implemented within three months of first occupation of any building hereby permitted and thereafter retained. The Travel Plan should include the following:
- a) Setting objectives and targets.
  - b) Measures to promote and facilitate public transport use, walking and cycling.
  - c) Promotion of practices/facilities that reduce the need for travel.
  - d) Monitoring and review mechanisms.
  - e) Travel Plan co-ordinators and associated support.
  - f) Provision of travel information.
  - g) Marketing.
  - h) Timetable for the implementation of each element.

#### Living Conditions

- 16) No works shall take place until a site specific Construction/Demolition Environmental Management Plan has been submitted to and been approved in writing by the Local Planning Authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan shall include, but not be limited to:
- All works and ancillary operations which are audible at the site boundary or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours: 07:30 hours and 18:00 hours on Mondays to Fridays, 08:30 and 13:00 hours on Saturdays and at no time on Sundays and Bank Holidays. Unless in association with an emergency or with the prior written approval of the Local Planning Authority.

- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- Mitigation measures as defined in BS 5228, Noise and Vibration Control on Construction and Open Sites shall be used to estimate LAeq levels and minimise noise disturbance from construction works.
- Measures to minimise the production of dust on the site(s).
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s).
- Design and provision of site hoardings.
- Management of traffic visiting the site(s) including temporary parking or holding areas.
- Provision of off-road parking for all site operatives. Measures to prevent the transfer of mud and extraneous material onto the public highway. Measures to manage the production of waste and to maximise the re-use of materials.
- Measures to minimise the potential for pollution of groundwater and surface water. The location and design of site office(s) and storage compounds. The location of temporary vehicle access points to the site(s) during the construction works.
- The arrangements for public consultation and liaison during the construction works.
- Measures for controlling the use of site lighting whether required for safe working or for security purposes.
- Measures to suitably monitor any vibrations from construction works (both physical works and construction traffic) on Rose Cottage and Cockshott Farmhouse. Should any unacceptable levels be experienced, a scheme to mitigate any potential impacts shall be submitted to and approved in writing by the local planning authority before any works continue.

The development shall be undertaken in accordance with the approved details.

#### Sustainable Development

- 17) Prior to the occupation of the development, details of EV charging including 'rapid charge' points (of 22kW or faster) for each dwelling within the development with on-plot parking as well as publicly accessible charging points elsewhere within the development, shall be provided to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved

details and subsequently maintained as such. No dwelling shall be occupied until the 'rapid charge' point for that dwelling has been installed.

- 18) Prior to above ground works, details for the installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of 1000mb) connections to multi point destinations and all buildings including residential, commercial and community, including its timing of implementation, shall be submitted to and approved in writing by the Local Planning Authority. The infrastructure shall be installed in accordance with the approved details and timings and maintained thereafter.
- 19) Notwithstanding the submitted Energy and Sustainability Statement, full details of the proposed sustainable energy measures within the development (including provision of PV panels and low NOx boilers) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

#### Water Environment

- 20) Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site, including a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment, prepared by Dandara Ltd dated 17<sup>th</sup> July 2020, and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site. The drainage scheme shall also demonstrate (with reference to published guidance):
  - That silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
  - Appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details and timetable and maintained thereafter.

21) No building hereby permitted shall be occupied until an operation and maintenance manual for the proposed sustainable drainage scheme is submitted to (and approved in writing) by the local planning authority. The manual at a minimum shall include the following details:

- A description of the drainage system and its key components.
- A general arrangement plan with the location of drainage measures and critical features clearly marked.
- An approximate timetable for the implementation of the drainage system.
- Details of the future maintenance requirements of each drainage or SuDS component (including watercourses), and the frequency of such inspections and maintenance activities.
- Details of who will undertake inspections and maintenance activities, including the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

The drainage scheme as approved shall subsequently be maintained in accordance with these details.

22) No building (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report for the building to which it relates, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

23) The development hereby permitted shall not commence until details of the proposed means of foul water sewerage have been submitted to and approved in writing by the Local Planning Authority. The

development shall be carried out in accordance with the approved details and maintained as such thereafter. No dwelling shall be occupied until the agreed foul water drainage has been provided to that dwelling.

### Contamination

24) The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site has been submitted to and approved, in writing, by the Local Planning Authority:

1. A preliminary risk assessment which has identified:
  - all previous uses;
  - potential contaminants associated with those uses;
  - a conceptual model of the site indicating sources, pathways and receptors; and
  - potentially unacceptable risks arising from contamination at the site.
2. A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken, including a timetable for the implementation of any works required. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The RMS shall be implemented in accordance with the approved details and timetable of implementation.
4. A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 3. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the



site. Any material brought onto the site shall be certified clean; Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

### Ecology

- 25) Notwithstanding the submitted drawings and all supporting documentation, prior to the installation of any external lighting (where applicable) full details shall be submitted to and approved in writing by the Local Planning Authority. Details shall include a lighting layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles). The submitted lighting scheme shall be informed by an ecologist to limit the impact upon protected species from artificial light sources. The approved scheme shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.
- 26) Prior to the commencement of the development hereby permitted, a scheme for the mitigation and enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall include avoidance and mitigation measures during construction to protect species and habitats on site, bird and bat boxes within the development site, and in addition shall have regard to the enhancement of biodiversity generally. It shall be implemented in accordance with the approved proposals within it.
- 27) Prior to the first occupation of the dwellings hereby permitted, details of a Landscape and Environmental Management Plan (LEMP) for the site in accordance with BS42020 Biodiversity to include details of the management for the development as well as the long-term management of the open space and boundary hedging/landscaping, shall be submitted to and approved in writing by the Local Planning Authority. This shall also include education boards to ensure the legibility of the proposed new routeway through the site. The site shall be maintained in accordance with the LEMP thereafter.

### Air Quality

- 28) Prior to the commencement of the development, details of an Air Quality Emissions Offsetting / Mitigation Calculation (including details for the delivery of the required measures and a timetable for

implementation), shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details and shall not be varied without details being first submitted to and approved in writing by the Local Planning Authority.

#### Historic Environment

- 29) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has previously been submitted to and approved in writing by the Local Planning Authority.

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Emmaline Lambert of Counsel          Instructed by Mid Kent Legal Services

She called:

Marie Bolton	Principal Planner, Tunbridge Wells Borough Council
Debbie Slater	Conservation and Urban Design Officer, Tunbridge Wells Borough Council
Nick Ireland	Director, Icen Projects Limited
Jo Smith	Planning Lawyer, Mid Kent Legal Services (Roundtable on Planning Obligations)
Cheryl Parks	Planning, Mid Kent Legal Services (Roundtable on Planning Obligations)

### FOR THE APPELLANT:

Charles Banner QC                      Instructed by Define

He called:

Andy Williams	Director, Define
Phillip Jones	Chairman, PJA
Thomas Copp	Director, RPS
Mark Rose	Director, Define

## **INTERESTED PARTIES**

Clare Escombe	Chair, Hawkhurst Parish Council
Claire Tester	Planning Advisor, High Weald AONB Unit

## **DOCUMENTS SUBMITTED AT THE INQUIRY (ID Documents)**

1. The Appellant's opening submissions.
2. The Council's opening submissions.
3. Claire Tester, High Weald AONB Unit Inquiry Statement.

4. Appellant's Landscape Architecture and Urban Design Evidence Presentation
5. Summary table of main parties' views on development plan policies and weight to be afforded.
6. Council's housing land supply note in response to Inspector queries.
7. Council's 'planning matters' note.
8. Updated housing land supply positions.
9. Appellant's Hawkhurst crossroads modelling note.
10. The Council's closing submissions.
11. The Appellant's closing submissions.

### **DOCUMENTS SUBMITTED AFTER THE INQUIRY**

1. Council's response to request for further detail regarding Youth Services Contributions within the S106 Agreement.
2. Appellant's reply to 'Council's housing land supply note in response to Inspector's queries' (ID6).
3. Hawkhurst Parish Council reply to 'Appellant's Hawkhurst crossroads modelling note' (ID9).
4. Council's further note/rebuttal to 'Appellant's reply to Council's housing land supply note, in response to Inspector's queries'.
5. Appellant's response to 'Hawkhurst Parish Council reply to 'Appellant's Hawkhurst crossroads modelling note'.
6. Appeal Decision: Hawkhurst Golf Club, High Street, Hawkhurst, Cranbrook TN18 4JS (APP/M2270/W/21/3273022).
7. Appellant's response to Council's further note/rebuttal on housing land supply.
8. Council's comments on Hawkhurst Golf Club appeal decision, including update on housing land supply position.
9. Appellant's comments on Hawkhurst Golf Club appeal decision.
10. Copy of signed and dated Section 106 Agreement.
11. Further comments from HPC on document 5 above.
12. Reply of the appellant to HPC further comments on document 5.