The Planning Inspectorate

Appeal Decision

Inquiry held on 6, 7, 13, 14, 15 and 16 June 2017
Site visit made on 16 June 2017

by Kevin Gleeson BA MCD MRTPI

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

Decision date: 18 August 2017

Appeal Ref: APP/L3815/W/16/3165228
Land at the corner of Oving Road and A27, Chichester PO20 2AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an outline application for planning permission.
- The appeal is made by Welbeck Strategic Land II LLP and DC Heaver and Eurequity IC Ltd against Chichester District Council.
- The application Ref 16/02254/OUT, is dated 27 June 2016.
- The development proposed is described as development of the site to provide 100 dwellings (Use Class C3), with associated access, parking, outdoor space, landscaping and infrastructure.

Decision

1. The appeal is allowed and outline planning permission is granted for development of the site to provide 100 dwellings (Use Class C3), with associated access, parking, outdoor space, landscaping and infrastructure at Land at the corner of Oving Road and A27, Chichester PO20 2AG in accordance with the terms of the application Ref 16/02254/OUT, dated 27 June 2016, subject to the conditions in the schedule at the end of the decision.

Preliminary Matters

2. The appeal was made on the basis of the Council's failure to determine the application within the prescribed period. Following the lodging of the appeal the Council indicated that they would have refused the scheme had they been in a position to determine the application, firstly on the basis that the proposal was contrary to the Council's development strategy, secondly that it would have an adverse landscape and visual impact and thirdly that it would fail to secure the provision of necessary infrastructure.

3. The application was submitted in outline, with only access for determination at this stage. All other matters are reserved for future consideration. I have therefore treated any submitted details concerning layout, appearance, scale and landscaping as being illustrative only.

4. A draft agreement under Section 106 of the Town and Country Planning Act, 1990 was discussed at the inquiry and a signed and dated agreement was provided following the inquiry. This contains obligations in respect of affordable housing, recreational disturbance, highway improvements and open space land and play areas. As such the agreement addresses the Council's

third putative reason for refusal. I shall return to these matters later in my decision.

Main Issues

5. The main issues are:

- whether the appeal site would be suitable for housing;
- the effect of the proposed development on the character and appearance of the surrounding area; and
- whether there are any other material considerations which would justify a determination other than in accordance with the development plan.

Reasons

Suitability of the Site for Housing

6. The Development Plan comprises the Chichester Local Plan: Key Policies 2014-2029, (the Local Plan) adopted in 2015. An emerging Site Allocations Development Plan Document (the emerging DPD) was submitted to the Secretary of State for Examination in March 2017. In addition, since the inquiry closed, the Council has undertaken consultation in respect of Issues and Options for its Local Plan Review.

7. Policy 2 of the Local Plan sets out the Council's Development Strategy and Settlement Hierarchy, identifying locations for sustainable development. It identifies Chichester as a sub-regional centre and the focus for major development.

8. Policy 2 identifies a presumption in favour of sustainable development within the settlement boundaries. The appeal site lies outside of but adjacent to the settlement boundary for Chichester city which is bounded by the A27 to the west. Being within the parish of Oving, it is therefore within the defined Rest of the Plan Area where development is restricted to that which requires a countryside location, meets an essential rural need or supports rural diversification.

9. Policy 5 of the Local Plan establishes indicative parish housing numbers including 235 for Chichester city and 0 for Oving. These figures exclude strategic housing allocations whilst for Chichester city the policy recognises that suitable sites will be allocated through the emerging DPD. This may include sites adjoining the Chichester city settlement boundary in neighbouring parishes including sites separated from the settlement boundary by the A27.

10. The parish housing numbers in Policy 5 are indicative and the Council accepts that they are not a ceiling. Nevertheless, the numbers provide a broad indication of the potential scale of housing which would be acceptable.

11. Policy 45 of the Local Plan states that within the countryside, outside of settlement boundaries, development will be granted where it requires a countryside location and meets an essential, small scale and local need which cannot be met within or immediately adjacent to existing settlements.

12. The emerging DPD considered the appeal site as an option for the Chichester city parish but it was not proposed for allocation because there were sufficient

available brownfield sites within the existing settlement boundary to meet the requirement for 235 dwellings. As 324 net dwellings have been permitted on sites of six or more dwellings within Chichester city since 2012 the parish figure set in the Local Plan has already been exceeded.

13. The weight to be given to the emerging DPD is guided by paragraph 216 of the National Planning Policy Framework (the Framework). It is at a relatively advanced stage and has been prepared in the context of the Local Plan which itself was adopted after the publication of the Framework. However, there are still unresolved objections to relevant policies including the decision not to include the appeal site as an allocation. Consequently I give moderate weight to the emerging DPD.

14. Accordingly I find that the proposed development would be contrary to Policy 45 of the Local Plan, being outside of the settlement boundary for Chichester. It would be contrary to Policy 2, being within the Rest of Plan Area as defined by that policy and the scale of development would not be consistent with the indicative housing numbers for Chichester and Oving parishes as set out in Policy 5.

Character and Appearance

15. Approximately half of the northern boundary of the appeal site is formed by the rear gardens of dwellings fronting onto Oving Road and the Kingdom Hall of Jehovah's Witnesses at the eastern end of these properties. There are two mature trees elsewhere on the northern boundary with interspersed limited planting. Both the western and southern boundaries are marked by continuous planting whilst the eastern boundary of the site is open. The western boundary abuts the A27 whilst to the east is agricultural land with scrub land to the south. The site is currently in agricultural use having previously been used for gravel extraction. Land to the south of the appeal site, owned by Suez, is a former landfill site. The appeal site is not subject to any particular landscape designation.

16. Beyond the site boundaries the northern side of Oving Road is fronted by residential and employment uses. To the east of this frontage, extending northwards, the area is currently being developed as the Shopwyke Lakes urban extension. The A27 provides the current development boundary to the city of Chichester with a range of residential and commercial developments extending up to this boundary.

17. The proposal is in outline form with all matters reserved apart from access. Illustrative plans have been submitted showing land use and green infrastructure, building heights zones, movement and access and a masterplan layout.

18. The appeal site is located within Landscape Character Area SC9: Chichester to Yapton Coastal Plain in the *West Sussex Landscape Character Assessment*, 2003. Characteristics of this extensive character area include the low lying flat open landscape with large scale arable farming. The loss of distinction between different settlements due to urban expansion is recognised as a key sensitivity for the character area.

19. The Land Use Consultants Report, *The Future Growth of Chichester: Landscape and Visual Amenity Considerations,* 2005, (the LUC Report) also identified the

site as within Landscape Character Area 4A: Chichester Coastal Plain. This is characterised by features including a flat landform, large productive arable farmland and gravel workings and valued locally for its rural character with the open nature of the landscape described as being visually sensitive.

20. Within Character Area 4A the appeal site formed part of Landscape Character Parcel 39: Sherwood Worked Ground. This described the landscape quality/condition as poor given that landscape structures and features had been lost through gravel extraction with a low sensitivity to change. It was also described as providing a neutral contribution to the landscape setting of Chichester and the wider landscape. Whilst the assessment was published in 2005 and the site has now recovered to some extent I find that the conclusions still generally apply.

21. With regard to the effect on settlement pattern the LUC report acknowledged that although the land parcel adjoins the existing urban edge of Chichester, the size of the parcel means that development in this location would extend the influence of Chichester substantially eastwards.

22. The appeal site has limited landscape value and only contributes in a small way to the setting of the city. Consequently I find that by virtue of the relationship of the appeal site to the existing development of the city of Chichester as a whole and the Shopwyke Lakes development in particular the impact of the proposed development on the character of the surrounding area would be limited. Nevertheless, the character of the appeal site would change from fringe farmland to residential development and associated open space, giving it and the immediate locality an urban character.

23. I also find minimal conflict with the requirement within *A Strategy for the West Sussex Landscape* which aims to secure development which contributes to and reinforces landscape character. However, because of its proximity to neighbouring development to the north, I do not regard the proposal as piecemeal development. Furthermore I see no reason why a strong landscape framework as an identified environmental opportunity for National Character Area 126: South Coast Plain, within the *National Landscape Character Assessment* could not be achieved at detailed design stage.

24. In visual terms, the appeal site is screened from all but immediate roads and dwellings by virtue of boundary hedgerow and woodland belts. It can be seen from the South Downs but is not highly visible in panoramic views. When viewed from Shopwyke Road the impression is of an open rural landscape although taller vehicles on the A27 intrude into views as an indication of the site's local context. Views from the A27 / Oving Road junction place such traffic in the foreground although the impression of the site is that it forms an area of openness. With development there would be a loss of visual amenity and sense of countryside for adjoining residents, users of Shopwyke Road and the A27 and pedestrians and cyclists at the crossing of the A27. New houses would be visible from Oving Road and the A27 but with the limited visibility and low visual sensitivity there would be limited visual harm.

25. As Policy 7 relates to the masterplanning of strategic development sites I do not find it relevant in this case although the objectives which it seeks to achieve, including the creation of a sense of place, the incorporation of a green infrastructure strategy and demonstrating respect for the natural environment, could be achievable in masterplanning of the appeal site.

26. I find that the criteria which new development must meet in terms of detailed design which are set out in Policy 33 of the Local Plan could be addressed at the reserved matters stage. However, there would be conflict with the requirement of this policy to respect the character of the site by virtue of the proposed change to residential development.

27. Policy 40 which seeks to secure sustainable design and construction can be addressed at detailed design stage. Moreover, as I have found that the proposal would not represent piecemeal development, there would be no conflict with paragraph 58 of the Framework which requires the optimisation of the development of a site including the incorporation of green and other public spaces.

28. The clear focus of Policy 47 of the Local Plan is heritage and the Council alleges no harm in respect of such matters. Furthermore, those aspects of Policy 47 concerned with design including respecting distinctive local character can be addressed at reserved matters stage. However, the proposed development would harm the predominantly open and undeveloped character of the immediate area and the openness of views by virtue of the introduction of new development.

29. Policy 48 of the Local Plan requires development to avoid harm to the openness of views of particular features none of which apply in this case. In respect of the South Downs National Park I do not find the appeal site as falling within its setting, not least because of the development of Shopwyke Lakes between the appeal site and the National Park. Whilst the proposed development would bring increased activity and traffic movements there would be no loss of tranquillity as the site is located adjacent to the busy A27. The Council's own sustainability appraisal as part of the Local Plan Review recognises that of the strategic options being considered the appeal site is one of the less sensitive options in landscape terms.

30. I do not accept that the site is isolated from Chichester notwithstanding the barrier which the A27 provides because the Shopwyke Lakes development is also located beyond the A27. As identified in the Chichester City Impacts Study the relationship between the city and the countryside would change as a result of development to the east of the A27 and would displace countryside further away from the city centre core. However, the proposals would not be physically or spatially separated from the city or lead to a loss of distinction between different settlements or their identity. In addition the proposal would not result in a loss of the sense of connection to the countryside which could be achieved through the provision of open space and green links to the countryside secured through detailed design. However, for reasons already given I consider that the proposal would be contrary to Policy 48 by virtue of its impact on landscape character.

31. The scale and nature of the proposed development would result in the sense of openness being reduced and some very local views into open countryside would be lost. I therefore find that the proposal would result in modest harm to the rural character and appearance of the area due to the introduction of built development. However, with screening and landscape enhancements these effects would be largely confined to the immediate vicinity of the site with no significant intrusion into the open countryside. Nevertheless, the proposal would conflict with Policies 33, 47 and 48 of the Local Plan.

Other Material Considerations

32. The Report of the Inspector on the Examination into the Local Plan identified an OAN for the Local Plan area, excluding the South Downs National Park, of 505 dwellings per annum (dpa). A lower housing requirement of 435 dpa was set for the period 2012-2029 recognising constraints within the District. Nevertheless, the Inspector found that the Council could demonstrate a five year housing land supply.

33. Paragraph 47 of the Framework states that to boost significantly the supply of housing, local planning authorities should identify and update annually a supply of specific deliverable sites, sufficient to provide five years' worth of housing against their housing requirements. An additional 5% buffer should be provided to ensure choice and competition in the market and where there has been a record of persistent under delivery the buffer should be increased to 20%. The Council accepts that its record of previous housing under delivery justifies a 20% buffer. It is also common ground that the Sedgefield approach should be used to address the identified under delivery.

34. Footnote 11 of the Framework states that for a site to be deliverable it should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that the housing will be delivered on the site within five years. It should also be viable. Moreover, sites with planning permission should be considered deliverable until permission expires unless there is clear evidence that the schemes will not be implemented within five years.

35. The Council's assessment of five year housing land supply for the Local Plan area, dated 1 November 2016 identified a potential housing supply of 3,503 dwellings over the period 2017-2022 compared with an identified housing requirement of 3,023 net dwellings, giving a surplus of 480 net dwellings, equivalent to 5.8 years of housing supply.

36. The Council's position, based on the most recent data available on 30 April 2017 is that it can demonstrate a 6.0 year supply in respect of the period 2017-2022 with a potential supply of 3,636 dwellings and showing a surplus of 613 new dwellings. This is based on predicted completions for the 2016/17 monitoring period.

37. The Council's assessment of five year housing land supply is for the period 2017-2022 thereby looking forward from the monitoring date of 1 April 2017. The appellants' position was that five year supply should be tested against the five year period running from when actual verified completions data is available, thereby assessing delivery over the 2016-21 period.

38. The Council points to Planning Practice Guidance (PPG) which indicates that local planning authorities should have an identified five year supply at all points during the Plan period. On this basis the Council justifies looking forward to the next five year period particularly since the period until 31 March 2021 is already well under five years.

39. There is no single correct approach to this question or prescriptive guidance either way as recent decisions of Inspectors and the Secretary of State confirm and neither the Framework nor PPG are definitive.

40. Whilst there is evidence that the Council has continually over-predicted housing delivery compared to actual completions the Council's estimate for net completions in the year 2016/17 of 465 net dwellings which exceeds the Local Plan requirement demonstrates an improving position. On this basis I consider that the five year period should extend from 2017/18 to 2021/22.

41. In terms of delivery rates the Council's assumption is that sites will deliver 65 to 75 homes per annum based on no more than four house sales per month achieved by a single housebuilder on each site with higher numbers where two or more developers are involved. In line with PPG advice the appellants have considered average annual delivery rates of national housebuilders active within the District providing a figure of 43 completions per annum and an analysis of local data which indicates average delivery rates of 31 dpa on sites over 50 units and 36 dpa on sites over 100 units. On the basis of more extensive evidence provided by the appellants I find the Council's delivery rates to be over-optimistic and I have therefore assumed a rate of 40 dpa on sites with a single developer.

42. With respect to the elements of supply the latest position is as set out in *Chichester Local Plan Area – Five Year Housing Land Supply 2017-2022 Updated Position at 1 November 2016*. My findings on those sites which were in dispute between the Council and the appellants are as follows.

43. *Site 1, Field North West of the Saltings, Birdham.* The site has an extant detailed planning permission with pre-commencement conditions discharged and a developer identified. There is a question over deliverability related to access issues. The developer has sought support from the Council to bring forward a compulsory purchase order (CPO) to resolve outstanding matters. The Council's solicitors have indicated that this could be completed within three years which would allow two years for the delivery of 15 houses which would not be an unrealistic delivery timetable. Whilst no decision has been taken on whether or not to progress with a CPO the fact that the developer has identified the potential need for one calls into question the timescale for delivery. On this basis the site would fail the test of deliverability as it is not available now. As a result I reduce the supply by 15 units.

44. S*ites 5 and 6, Bartholomews Ltd. Bognor Road, Chichester.* The appellants argued that there should be a reduction of 88 units. Both sites benefit from detailed planning permission although delivery is dependent upon the relocation of uses which would not release these sites until late 2018 or early 2019. No developer is yet identified although there appears to be sufficient time for the site to be marketed and sold in order for delivery to commence in 2019 or 2020. This would allow two to three years for the delivery of housing up to 31 March 2022. On this basis I consider that that the sites would be likely to deliver the 108 dwellings indicated in the Five Year Housing Land Position.

45. *Site 7, Portfield Football Ground, Chichester.* This site has planning permission which was renewed in January 2016 and allows five years for the approval of reserved matters. Development appears to be dependent upon the delivery of the Westhampnett Road roundabout which is likely to be delivered through a major retail scheme at Barnfield Drive. The Portfield site alone is not looking to deliver the highway improvements and therefore the delivery of housing is dependent upon delivery by others. Although the retail scheme has outline

planning permission it is not clear when a reserved matters application will be submitted or when the highway works will be implemented. Evidence of site clearance in preparation for groundworks offers little certainty in my view. As the site will only be marketed again once the roundabout has been constructed and the planning permission proposed a 50% affordable housing contribution a revised application may be required. This uncertainty suggests that delivery is not a realistic prospect and therefore I have removed the 80 units on this site from my assessment.

46. *Site 8, Graylingwell Park, Chichester.* The dispute in relation to this site concerns delivery rates with the Council indicating delivery of 75 dpa whilst the appellants suggest 60 dpa. The Council's rate is significantly above the average annual delivery rates for the district and the site specific rates achieved since 2011 with the delivery rate of 75 achieved only once in the past seven years. In addition, average delivery rates for the larger Graylingwell Park site indicate 60 dpa being completed since 2011 and this appears to be a reasonable rate of delivery in this case. Consequently I consider that the appellants' suggested reduction in delivery of 61 units for the period 2017-22 to be appropriate.

47. *Site 15, Land adjacent to Tesco Petrol Filling Station, Fishbourne Road East, Chichester.* Whilst acknowledging that this site has planning permission and has the potential to deliver student housing within the next five years, the appellants argued that the site should be excluded from the supply as the Council had not provided evidence that student accommodation should contribute to the five year supply. The Council included this site and others at Bishop Otter Campus, College Lane, Chichester and Portfield Quarry and UMA House, Shopwyke within their five year supply. It considered that together these schemes would provide 718 student units which would be the equivalent of releasing 206 dwellings to the market. PPG advises that all student accommodation can be included towards the housing requirement based on the amount of accommodation it releases in the housing market.

48. There has been significant growth in student numbers at the University of Chichester (and Chichester College of Further Education) with an increase of 26% from 2009/10 to 2014/15 with non-local students increasing by 46% over that period. This appears to have led to an increase in the number of students taking up accommodation in the private rented sector resulting in less private housing available to first time buyers. Nevertheless, there is no up–to-date evidence that the need for student housing has been included as part of the adopted housing requirement.

49. The Council's case is that the appropriate test is whether there is a realistic prospect that, with the development of new purpose built student accommodation students could move from the private rented sector releasing space for others thereby freeing up general market housing. I have doubts about the evidence regarding the release of sites because it is based on census data from 2011 and the Council acknowledged that there is no quantified information on how the increase in student numbers may have affected student household sizes.

50. There is little evidence before me from either the appellants or the Council that general market dwellings has been occupied by students or that the proposed provision of student housing would release housing into the general market.

Moreover, I have nothing to show whether student numbers are continuing to grow or whether this additional accommodation is part of some future expansion programme at the University. Consequently I find that it has not been demonstrated that the provision of new student accommodation would address, let alone exceed the increase in student numbers and therefore justify inclusion in the five year supply. Accordingly 206 units should be removed from the Council's five year housing land supply.

51. *Site 24, St Wilfrid's Hospice, Grosvenor Road, Donnington.* This site has outline planning permission for the demolition of the existing hospice and the construction of 21 dwellings. Delivery is dependent upon a new hospice being built and for occupants to be transferred before development can commence on the housing. With delivery of the replacement hospice by 2019 followed by the sale and redevelopment of the existing site there is a realistic prospect that development of the site should be able to deliver 21 units within the five year period.

52. *Site 25, Land South of Clappers Lane, Bracklesham, East Wittering and Bracklesham.* The dispute between the appellants and the Council about this site concerns the delivery timescale. As a reserved matters application has now been approved for the site a full year of completions in 2018/19 is a realistic prospect. Consequently I do not consider the Council's delivery of 110 units within the five year period to be unachievable.

53. *Site 32, Land on the north side of Shopwyke, Oving.* For the period 2017/18-2021/22 the appellants indicated that delivery would exceed the figure indicated by the Council because of the later completion of houses originally expected in 2016/17. Consequently this provides a surplus of 14 dwellings over the Council's assessment.

54. *Site 36, Park Farm, Park Lane, Selsey.* Outline planning permission exists for residential development on this site. The Council's assumption that the site will deliver housing in the 2018/19 monitoring period is dependent upon the submission and approval of reserved matters prior to construction commencing. There is no evidence of when a reserved matters application will be submitted and no evidence of developer interest. On this basis with no evidence of housebuilder interest, or track record, the delivery is unlikely to occur until 2019/20 and delivery rates of 50 dpa are optimistic. Based on the general delivery rate of 40 dpa which I have adopted I consider that for the 2017-2022 period the delivery should be reduced by 39.

55. *Site 39, Land west of Garsons Road, Southbourne.* This site has outline planning permission and an application for a discharge of a condition has been submitted by a housebuilder although no reserved matters application has been submitted. Consequently I consider that there is a realistic prospect of development commencing in 2018/19 although the prospect of completing 30 units appears ambitious. Nevertheless, there is no reason to conclude that the site cannot be developed in full within the five year period.

56. *Site 47, Land north of Stane Street, Madgwick Lane, Westhampnett.* With a housebuilder involved in this site there is progress towards delivery although no reserved matters application has yet been submitted. On that basis the delivery of 40 units in 2018/19 appears optimistic and I therefore reduce that figure to 20 assuming that delivery does not occur until the third quarter of 2019/20. The Council assumes the delivery of 65 which is considerably higher

than the 40 dpa suggested by the appellants and which is based on the evidence outlined above. Nevertheless, taking account of the site's greenfield nature, lack of significant constraints and marketable location I have assumed a delivery rate of 50 dpa. However, this would still result in the delivery within the five year period being reduced by 65 units.

57. *Site 51, West of Chichester, Whitehouse Farm, Chichester.* Although there has been a delay to the completion of the Section 106 agreement for this site it appears that any slippage can be recovered through accelerating the preparation of the reserved matters application before the outline permission is issued. The Council's delivery timescales appear realistic although the delivery rates appear optimistic based on the rates which I have assumed. With two developers on site in 2019/20-2020/21 and a third in 2021/22 delivering 40 dpa each I have assumed delivery to be 280 dwellings compared with the Council's indicative delivery of 315 units resulting in a reduction of 35 units from the supply for 2017-22.

58. *Site 52, Tangmere Strategic Development Location, Tangmere.* This site is allocated for 1000 homes to be delivered by 2029. Policy 18 of the Local Plan requires that a masterplan will be approved by the Council prior to the approval of any planning applications. In order to secure delivery on this site the Council is looking to use CPO powers because of a lack of progress involving landowners and developers about the preparation of a masterplan. The Council suggests that the CPO process would not delay the process by more than a few months. Whilst it is not certain that the Council would have to use CPO powers to bring forward this site it does indicate that the site would currently fail the test of deliverability. On this basis there does not appear to be a realistic prospect of delivery of 160 units identified by the Council for 2020/21 and 2021/22 and therefore I have removed them from the supply of deliverable sites.

59. *Site 55, Clarke's Yard, Billingshurst Road, Wisborough Green.* The Council accepts that the likelihood of this site being developed within five years is limited and therefore should be taken out of the supply figure, thereby reducing it by a further 11.

60. The appellants' case was that an overall reduction of 842 units should be made to the Council's supply equating to a shortfall of 384 units when compared against the Council's claimed surplus of 458 for the period 2016-2021. For the period 2017-2022 the Council's surplus was assessed as 613 dwellings. My own assessment for the period 2017-2022 indicates a reduction in supply of 658 dwellings equating to a shortfall of 45 dwellings when measured against the plan requirement. On this basis I find that the Council cannot demonstrate five years' supply of housing land based upon the five year housing requirement of 3,023 dwellings reflecting the updated housing land supply position at 30 April 2017.

61. Policies 2 and 45 of the Local Plan seek to restrict development in the countryside and set out the Council's approach to the distribution and location of housing. They are therefore relevant policies for the supply of housing which, according to paragraph 49 of the Framework, should not be considered to be up-to-date if the local planning authority cannot demonstrate five year supply of deliverable housing sites. Accordingly, paragraph 14 of the Framework is engaged which states that the presumption in favour of

sustainable development means that planning permission should be granted, unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole or unless specific Framework policies indicate that development should be restricted, none of which apply in this case.

62. The provision of up to 100 dwellings would make a significant contribution to the supply of housing when considered against the Council's failure to meet its housing requirement. This contribution should be seen in terms of addressing the undersupply of 45 dwellings by a considerable margin and also in terms of the housing requirement and the Framework advice to boost significantly the supply of housing.

63. Moreover, the provision of 30% policy compliant affordable houses carries weight where the Council acknowledges that affordable housing delivery has fallen short of meeting the total assessed affordable housing need, notwithstanding a recent increase in delivery. With some 1,910 households on the Housing Register in need of affordable housing, in spite of stricter eligibility criteria being introduced in 2013 there is a considerable degree of unmet need for affordable housing in the District. Consequently I attach substantial weight to this element of the proposal.

Other Matters

64. A number of other matters were raised by interested parties. The traffic impact of the proposed development can be addressed through the provisions of the Section 106 agreement and I consider this further below.

65. Concerns were also raised about the loss of productive agricultural land and that the absence of any community facilities or supporting infrastructure within the proposed development would in itself be unacceptable and would also place unacceptable burden on the facilities provided at Shopwyke Lakes. The land is of low agricultural grade (Grade 4) as a result of the earlier gravel extraction. Neither of these matters would provide reasons to dismiss the appeal.

Planning Obligations

66. In their Section 106 agreement the appellants have undertaken to provide 30% of the homes as affordable housing which is in accordance with Policy 34 of the Local Plan and the Planning Obligations and Affordable Housing SPD. A contribution of £181 per dwelling, in line with Policy 50 of the Local Plan, would be provided in order to mitigate recreational disturbance pressures on Chichester Harbour Special Protection Area through the provision of appropriate measures.

67. The proposed housing would generate additional traffic impacts on the A27. In order to mitigate those impacts a contribution of £261,500 would be provided for a range of improvements to the A27 to increase road capacity, reduce traffic congestion, improve road safety and improve access to the city in accordance with Local Plan Policy 8. In order to create an appropriate environment for residents of the proposed development a new open space and play area would be provided within the site in accordance with Policies 33, 52 and 54 of the Local Plan.

68. I am satisfied that these provisions are necessary to make the development acceptable in planning terms, directly related to the development and fairly and

reasonably related to the development. Accordingly they are consistent with Regulation 122 of the Community Infrastructure Regulations, 2010. I have therefore taken account of them in reaching my decision.

Planning Balance

69. I have found that the appeal site is outside of the settlement boundary for Chichester city, in breach of Policy 45 of the Local Plan and is not allocated for development in the emerging DPD. The proposed development plan would also be contrary to Policies 2, 5, 33, 47 and 48 of the Local Plan and would result in modest harm to the rural character and openness of the area.

70. I have also found that the Council cannot currently demonstrate a five year supply of deliverable housing sites. Paragraph 49 of the Framework states that in the absence of a five year supply relevant policies for the supply of housing should not be considered up-to-date and that housing applications should be considered in the context of the presumption in favour of sustainable development.

71. In these circumstances paragraph 14 states that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole, or specific policies in the Framework indicate that development should be restricted.

72. The appellants argued that Policies 2 and 45 of the Local Plan, with which the proposals conflict, were also out of date for other reasons. These were that the Council's housing requirements in the Local Plan do not meet the requirements of paragraph 47 of the Framework and was based on old data. In addition the appellants argued that significant new evidence had come to light about housing need and that the existing Local Plan in failing to allocate sites was not comprehensive. However, as I have concluded that paragraph 14 is engaged because of a lack of five year housing land supply it is not necessary to consider these matters further.

73. Balanced against the conflict with the development plan is the contribution to the supply of housing which up to 100 dwellings would make, including 30 affordable homes. In the context of the settlement size, a development of 100 units is of an appropriate scale. In addition, the proposed development would make a significant contribution to current housing shortfall of new homes in the context of the housing requirement in the Local Plan of 435. I have given significant weight to these benefits.

74. The Council and interested parties raised concerns about the proposal undermining the development plan. The Framework places a clear and bold emphasis on the primacy of the development plan and the opportunities communities have to shape the scale, location and timing of development. The Localism Act has put the power to plan back in the hands of communities, but with this power comes a responsibility: a responsibility to meet their needs for development and growth, and to deal quickly and effectively with proposals that will deliver homes, jobs and other facilities. This greater involvement will consequently depend upon the expeditious preparation of local plans that make provision for the future needs of those areas. The approach set out in paragraphs 49 and 14 of the Framework therefore does not undermine the development plan process or the role of local involvement. Rather, it only

becomes applicable when that process has not achieved one of its fundamental tasks, namely the provision of an adequate supply of housing land.

75. Taking all of this into account, including all other material considerations, I find that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposed development when assessed against the policies in the Framework as a whole. On this basis a decision other than in accordance with the development plan is justified.

Conditions

76. Planning conditions were discussed with the Council, appellants and the Rule 6 Party at the inquiry. In considering conditions I have had regard to both the Framework and PPG in respect of the need for individual conditions and their precise wording.

77. Conditions relating to the submission of reserved matters and the timing of commencement are needed due to the outline nature of the application (Conditions 1 and 2). A condition specifying the relevant drawings is required as this provides certainty (3). It is necessary to impose a condition in relation to vehicular access in the interests of highway safety (4) whilst conditions are also necessary to address the potential archaeological significance of the site (5 and 6). In order to protect the interests of nearby residents and in the interests of highway safety a condition requiring the submission and approval of a Construction and Environmental Management Plan is imposed (7). I have amended this condition because in its original form it was too prescriptive.

78. To protect and enhance the wildlife and ecological potential of the site a condition requiring the provision of nesting boxes for birds and bat roosting structures is imposed (8) whilst conditions are also required in order to address the possible effects of land contamination and thereby protect the health of future occupiers (9 and 10). As the site is located in an area with the potential to be affected by ground gases and vapours a condition is required to ensure compliance with local and national policy (11). Conditions are required to ensure that the development is satisfactorily drained (12) and to ensure the satisfactory alleviation of flood risk including the efficient maintenance and ongoing operation of the Sustainable Urban Drainage System (13 and 14).

79. I have amended condition 15 to ensure that it is more precise in ensuring that the principles of sustainable development and construction required by Policy 40 of the Local Plan and the Framework are achieved (15). In addition, I have removed the mechanism for the alteration of the condition as it was not necessary.

80. I have imposed a condition to protect occupiers of the proposed development from unreasonable noise nuisance (16) and a condition to ensure the provision of fire hydrants on site to protect the living conditions of future residents (17). A condition requiring the preparation and implementation of a Travel Plan is necessary in order to encourage and promote sustainable transport (18). Finally, I have imposed conditions to ensure that the development is adequately served by the necessary infrastructure networks (19) and to ensure that the development is constructed reflecting the topography of the site (20). A separate condition limiting the hours of construction is not necessary as this matter can be addressed as part of the CEMP under condition 7.

81. PPG advises that care should be taken when using conditions which prevent any development authorised by the planning permission from beginning until the condition has been complied with. In this respect it is necessary for conditions 5, 7, 9, 10, 11, 12, 13, 14, 16, 20 and 21 to be pre-commencement conditions.

Conclusion

82. For the reasons set out above, and taking into account all matters presented in written submissions and raised at the inquiry, I conclude that the appeal should be allowed.

Kevin Gleeson

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY

Gwion Lewis, of Counsel	Landmark Chambers, instructed by Nicola Golding, Principal Solicitor Chichester District Council
He called:	
Robert Davidson,	Principal Planning Officer (Policy), Chichester District Council
Deb McManus,	Chartered Landscape Architect, West Sussex County Council
Jeremy Bushell,	Principal Planning Officer (DM), Chichester District Council

FOR THE APPELLANT

Christopher Young, of Counsel,	No. 5 Chambers, instructed by Dominic Lawson, Dominic Lawson Bespoke Planning
He called:	
Richard Pestell,	Director, Peter Brett Associates
Jeffrey Richards,	Office Director, Turley
James Stacey,	Director, Tetlow King Planning
Julian Cooper,	Director, SLR Consulting
Dominic Lawson,	Director, Dominic Lawson Bespoke Planning
John Baird	Osborne Clarke*

RULE 6 PARTY

Paul G Tucker, of Queens Counsel	Kings Chambers, instructed by Richard Shaw, Savills
Richard Shaw	Director, Savills*

*Mr Baird and Mr Shaw only contributed to the discussion on planning conditions and the S106 agreement

INTERESTED PERSONS

Simon Oakley	West Sussex, Chichester and Tangmere Councillor. Speaking in a personal capacity.
Sjoerd Schulyeman	Chairman, Oving Parish Council
Jeremy Matcham	Local Resident

DOCUMENTS

ID1. Housing Supply: Net Additional Dwellings, England: 2015-16, DCLG, submitted by the Council.

ID2. Extract of Letter from Inspector re Mid Sussex District Plan Housing Requirement, dated 20 February 2017, submitted by the Council.

ID3. Extract from Defining the HMA and FEMA, Greater Brighton and Coastal West Sussex Strategic Planning Board, prepared by GL Hearn, February 2017, submitted by the Council.

ID4. Opening Statement on behalf of the Appellants.

ID5. Opening Submission of the Council.

ID6. Email regarding Bartholomews Phase 1 dated 26 May 2017, submitted by the Council.

ID7. Draft Section 106 Agreement, submitted by the Appellants.

ID8. Extract form Market Demand Report: Chichester, April 2016 prepared by Cushman & Wakefield, submitted by the Appellants.

ID9. Extract from Planning Practice Guidance: Housing and Economic Development Needs Assessments, submitted by the Council.

ID10. Statement on behalf of Suez Recycling and Recovery UK Ltd.

ID11. Report to Chichester District Council Cabinet: Chichester Local Plan Review: Timetable and Issues and Options Consultation, 19 June 2017, submitted by the Council.

ID12. Report to Chichester District Council Cabinet: Chichester Local Plan Review: Timetable and Issues and Options Consultation, 19 June 2017, extract from Appendix 1, submitted by the Council.

ID13. Extract from Chichester Local Plan Review, Sustainability Appraisal of the Issues and Options Consultation Document, May 2017, submitted by the Council.

ID14. Letter from the Secretary of State for Transport to the Chief Executive of Highways England, re A27 Chichester Improvement Scheme, dated 28 February 2017, submitted by the Appellants.

ID15. Letter from the Leader of West Sussex County Council to the Secretary of State for Transport re A27 Chichester Improvement Scheme, dated 3 March 2017, submitted by the Appellants.

ID16. Letter from the Chief Executive of Highways England to the Leader of West Sussex County Council, re A27 Chichester Improvement Scheme, dated 11 April 2017, submitted by the Appellants.

ID17. Letter from the Leader of West Sussex County Council to the Chief Executive of Highways England re A27 Chichester Improvement Scheme, dated 20 April 2017, submitted by the Appellants.

ID18. Letter from the Leader of West Sussex County Council to the Secretary of State for Transport re A27 Chichester Improvement Scheme, dated 21 April 2017, submitted by the Appellants.

ID19. Press Release re A27 Chichester Improvement, dated 1 March 2017 submitted by the Appellants.

ID20. A27 Chichester Bypass Scheme Assessment Report; Executive Summary, submitted by the Appellants.

ID21. Appeal Decision: Land to the south and west of Whitworth Way, Wilstead, Bedfordshire MK45 3EF. APP/K0235/W/16/3147287, submitted by the Appellants.

ID22. Appeal Decision: Land Adjacent and to the rear of 13 Holly Tree Drive, Nether Peover, Cheshire. APP/A0665/A/14/2224763, submitted by the Appellants.

ID23. Home Truths 2017. Average Ratio of House Prices to Incomes by Local Authority Area, submitted by the Appellants.

ID24. Updated Assessment of Historic delivery Rates in Chichester District since 2006/07 on sites over 50 dwellings, submitted by the Appellants.

ID25. Summary of Appellant's Reductions in Delivery to Contested Sites, submitted by the Appellants.

ID26. Statement by Simon Oakley.

ID27. Updated Summary of Appellant's Reductions in Delivery to Contested Sites, submitted by the Appellants.

ID28. Extract of Letter from Inspector re Warwick District Local Plan, dated 1 June 2015, submitted by the Appellants.

ID29. Application Form for Outline Planning Permission re Land north of Shopwyke Road, Chichester (Shopwyke Lakes), dated 9 December 2011, submitted by the Appellants.

ID30. Extract from Shopwyke Lakes Design and Access Statement, December 2011, submitted by the Appellants.

ID31. Chichester Local Plan Review, Sustainability Appraisal of the Issues and Options Consultation Document: Other Strategic Locations, May 2017, submitted by the Appellants.

ID32. Revised list of Suggested Planning Conditions, submitted by the Council.

ID33. Solihull Metropolitan Borough Council v Gallagher Estates Limited and Lioncourt Homes [2014] EWCA Civ 1610, submitted by the Appellants.

ID34. Gladman v Daventry District Council and the Secretary of State for Communities and Local Government [2016] EWCA Civ 1146, submitted by the Appellants.

ID35. Oadby and Wigston Borough Council v Secretary of State for Communities and Local Government and Bloor Homes Ltd [2016] EWCA Civ 1040, submitted by the Appellants.

ID36. Bloor Homes East Midlands Ltd. V Secretary of State for Communities and Local Government and Hinckley and Bosworth Borough Council [2014] EWHC 754 (Admin), submitted by the Appellants.

ID37. Gladman Developments Limited v Wokingham Borough Council [2014] EWHC 2320 (Admin), submitted by the Appellants.

ID38. R. (On the Application of Redditch BC v First Secretary of State [2003] EWHC 650 Admin, submitted by the Appellants.

ID39. Report to Chichester District Council's Overview and Scrutiny Committee re Review of the Housing Allocation Scheme, dated 13 June 2017, submitted by the Appellants.

ID40. Closing Submissions of the Council.

ID41. Closing Submissions on Behalf of the Appellants.

SCHEDULE OF CONDITIONS

1. (i) Details of the layout, scale, appearance and landscaping (hereinafter called "reserved matters") shall be submitted to and be approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
   (ii) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

2. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

3. The development hereby permitted shall be carried out in accordance with the following approved drawing: Site Access Plan 10017-SK-002 Rev E.

4. No works on site in terms of construction of the buildings hereby permitted shall be carried out until such time as the vehicular access and associated visibility splays serving the development has been constructed in accordance with Site Access Plan 10017-SK-002 Rev E. Once provided the visibility splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level.

5. No development shall take place until a written scheme of investigation shall have been submitted to and approved in writing by the Local Planning Authority before the commencement of any building works. The specification shall include proposals for an initial trial investigation and for mitigation of damage through development to deposits of importance thus identified. The investigation shall be undertaken by an appropriately qualified archaeologist,

and shall include the recording of findings and subsequent publication of results.

6. No development shall take place other than in accordance with the written scheme of investigation approved under condition 5.

7. No development shall take place until a Construction and Environmental Management Plan (CEMP) comprising a schedule of works and accompanying plans has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved CEMP shall be implemented and adhered to throughout the entire construction period.

8. Prior to construction of any dwelling hereby permitted details shall be submitted to and be approved in writing by the Local Planning Authority showing the location of 10 no. nesting boxes for birds and 2 no. bat roosting structures across the site together with a timetable for their installation. The approved bird nesting boxes and bat roosting structures shall be installed in accordance with the approved timetable and shall be retained thereafter.

9. No development shall take place until a land contamination Phase 2 intrusive investigation report has been submitted to and approved in writing by the Local Planning Authority detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011+A1:2013 - Investigation of Potentially Contaminated Sites - Code of Practice. The findings shall include a risk assessment for any identified contaminants in line with relevant guidance.

10. No development shall take place until a land contamination Remediation Scheme has been submitted to and been approved in writing by the Local Planning Authority detailing how any necessary remediation will be undertaken, any ongoing monitoring, what methods will be used and what is to be achieved. A competent person shall be nominated by the developer to oversee the implementation of the Remediation Scheme. The report shall be undertaken in accordance with national guidance as set out in DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination CLR11. Thereafter the approved remediation scheme shall be fully implemented in accordance with the approved details.

11. No development shall take place until:
    i) an assessment of the risks posed by any ground gases and/or vapours has been submitted in writing to and approved in writing by the Local Planning Authority; and

    ii) where the approved risk assessment identifies ground gases or vapours posing unacceptable risks, no development shall begin until a detailed scheme to protect the development from the effects of such contamination has been submitted to and approved in writing by the Local Planning Authority.

    A verification report shall be submitted to and approved in writing by the local planning authority before the development is first occupied/brought into use. The approved scheme shall be implemented and maintained thereafter.

12. No development shall take place until full details of the proposed means of foul water sewerage disposal and timetable for implementation have been submitted to and approved in writing by the Local Planning Authority as part of the application for the approval of reserved matters. The details shall include both on-site and off-site works and shall be implemented as approved in accordance with the agreed timetable.

13. No development shall take place until a detailed surface water drainage strategy based on the principles of Sustainable Urban Drainage System (SuDS) shall be submitted to and approved in writing by the Local Planning Authority which shall demonstrate that the site is capable of containing the 1 in 100 year storm event plus 30%, with discharge to a functioning ditch system restricted to greenfield runoff rates.

14. No development shall take place on the SuDS until full details of the maintenance and management of the SuDS system, has been submitted to and approved in writing by the Local Planning Authority.

15. The development hereby permitted shall be designed and constructed to achieve the sustainable design and construction objectives of Policy 40 of the Chichester Local Plan: Key Policies 2014-2029.

16. No development shall commence until a scheme for protecting the proposed development from external noise including road traffic, has been submitted to and approved in writing by the Local Planning Authority as part of the application for the approval of reserved matters. The scheme shall include:

    (i) An assessment of existing sound levels in the area including the background sound level (LA90), road traffic (LA10), ambient for both day and night periods (LAeq). All measurements shall be made according to British Standard 7445-1:2003 and British Standard 7445-2:1991. The background sound levels (the LA90) shall be established in accordance with the procedure set out in BS 4142:2014. All sound levels shall be presented on an hourly basis for day and 15 minute basis for night, and on the respective averaging period for the sound indices in (iv) below.

    (ii) Prediction of noise levels at the proposed residential façades including predictions at each storey above ground floor for both day and night periods, and predictions of noise within the proposed buildings.

    (iii) Noise mitigation measures including consideration of building orientation, glazing types, inclusion of acoustic ventilation, bunding, fencing and any other measures to protect the future occupiers.

    (iv) A scheme of validation testing upon completion of the development to demonstrate that the following sound levels have been achieved:

    Living Room: Between 07:00 and 23:00, 35 LAeq, 16hour

    Dining Room: Between 07:00 and 23:00, 40 LAeq, 16hour

    Bedroom: Between 07:00 and 23:00, 35 LAeq, 16hour

    Between 23:00 and 07:00, 30 LAeq, 8hour and 45 LAfmax

The approved scheme shall be implemented as approved and no occupation of the approved buildings shall occur until testing has been completed that demonstrates compliance with the above figures. Once compliance has been demonstrated the scheme shall be maintained in perpetuity thereafter.

Garden and Amenity Areas: Garden and amenity areas shall not exceed 55 LAeq, 16hour.

Note: For the purpose of this condition day means the 16 hour period 07:00 to 23:00 and night means the 8 hour period 23:00 to 07:00.

17. No dwelling hereby permitted shall be occupied until details showing the approximate location of fire hydrants have been submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation of any dwelling, details showing the precise location, installation and ongoing maintenance of the fire hydrants to be supplied shall be submitted to and approved in writing by the Local Planning Authority. The fire hydrant(s) shall thereafter be maintained as in accordance with the approved details.

18. No part of the development hereby permitted shall be first occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan once approved shall thereafter be implemented as specified within the approved document and in accordance with the agreed timescales.

19. Development shall not commence until full details of how the site will be connected to all relevant utilities and services infrastructure networks (including fresh water, electricity, gas, telecommunications and broadband) have been submitted to and approved in writing by the Local Planning Authority. These details shall demonstrate the provision of suitable infrastructure to facilitate these connections and the protection of existing infrastructure on site during works. The development will thereafter proceed only in accordance with the approved details.

20. Development shall not commence until details of site levels and longitudinal and latitudinal sections through the site of the dwellings have been submitted to and be approved in writing by the Local Planning Authority as part of the application for the approval of reserved matters. The development thereafter shall be carried out in accordance with the approved details.