



Department for  
Communities and  
Local Government

Mr Ian Ellis  
Southern Planning Practice  
Youngs Yard  
Churchfields, Twyford  
Winchester  
SO21 1NN

Our Ref: APP/L3815/W/15/3004052  
Your Ref:

25 April 2016

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY SUNLEY ESTATES LTD  
LAND EAST OF BROAD ROAD, HAMBROOK, CHICHESTER, WEST SUSSEX  
APPLICATION REF: CH/14/02138/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Michael J Hetherington BSc (Hons) MA MRTPI MCIEEM, who held a public local inquiry between 22-25 September 2015 into your client's appeal against the refusal by Chichester District Council ("the Council") to grant planning permission for residential development of 120 single and two storey dwellings comprising 48 affordable homes and 72 market price homes, garaging and parking together with retail unit(s), sports pavilion/community facility, new vehicular and pedestrian access to Broad Road, emergency and pedestrian access to Scant Road West, sports facilities – 2 tennis courts, football pitch and 4 cricket nets, children's play area, public open space and natural green space at Land East of Broad Road, Hambrook, Chichester, West Sussex, PO18 8UA, in accordance with application ref: CH/14/02138/OUT dated 25 June 2014.
2. The appeal was recovered for the Secretary of State's determination on 28 September 2015, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990 because the scheme involves a proposal for residential development of over 10 units in an area where a qualifying body has submitted a neighbourhood plan proposal to the local planning authority or where a neighbourhood plan has been made.

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

3. The Inspector recommended that the appeal be dismissed. For the reasons given below, the Secretary of State agrees with the Inspector's recommendation. He considers that the appeal should be dismissed and planning permission refused. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

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

4. Following the close of the Inquiry the Secretary of State wrote to you on behalf of your client and to the other parties to this appeal on 13 January 2016 inviting the submission of representations on any implications that the examiner's report on the Chidham and Hambrook Neighbourhood Plan (CHNP) and the introduction of the Community Infrastructure Levy charging regime may have for the planning balance in this case. Representations received were circulated on 4 February 2016 and parties given a further period for final comments to be made. The Secretary of State has carefully considered all the representations received and has taken account of them as appropriate. The representations are listed in the Annex to this letter; and copies can be made available upon written request to the address at the foot of the first page of this letter.

## **Policy considerations**

5. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan is the Chichester District Local Plan: Key Policies 2014-2029 (LP:KP), adopted in July 2015. This replaced all the policies in the Chichester District Local Plan First Review (1999) except the settlement boundaries, and the appeal site lies outside those defined for Hambrook in the Local Plan First Review. The Secretary of State agrees with the Inspector that the most relevant policies of these Plans are those identified at IR7-14.
6. The Secretary of State has also had regard to the emerging CHNP (IR15). As the Examination has now been held and the Examiner's Report submitted to the Council (see paragraph 4 above) the Secretary of State gives it greater weight than the Inspector was able to do (see paragraph 9 below).
7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (The Framework) and the subsequent planning guidance as well as the Community Infrastructure Levy (CIL) Regulations 2010 as amended.

## **Main issues**

8. The Secretary of State agrees with the Inspector that the main issues are those set out at IR120.

## **Settlement Hierarchy**

9. For the reasons given in IR121-130, the Secretary of State agrees with the Inspector that the proposal would conflict with the objectives of the LP:KP settlement hierarchy as set out in policies 2 and 5 of that document. He notes that, although the Inspector states at IR121 that the Settlement Boundary for Hambrook/Nutbourne was to be reviewed through the Neighbourhood Plan, he also states at IR16 that, in fact, the result of that review is that the appeal site remains outside the amended Settlement Boundary. The Inspector goes on to say at IR122 that, as the appeal site lies outside the present Settlement Boundary, it would conflict with the first paragraph of LP:KP policy 45; and he concludes at IR122-123 that the fact that the Settlement Boundary had not been reviewed at the time of writing the IR reduced the weight that could be afforded to this policy conflict. However, not only does the Secretary of State agree that the policy conflict still remains but, while recognising that the CHNP has not yet been made, he takes the view that, as it has now passed the examination stage, and having regard to

paragraph 216 of the Framework, he should give more weight to that Plan and less weight to the conflict with the settlement boundaries in the Local Plan First Review than the Inspector felt able to do.

10. The Secretary of State has then gone on to consider the Inspector's assessment of the conformity of the appeal proposal with the LP:KP at IR124-130. For the reasons given at IR125-129, he agrees with the Inspector's conclusions at IR129 and 130 that the appeal scheme would conflict with the objectives of the LP:KP settlement hierarchy as set out in policies 2 and 5 and that this is an important consideration (IR130).

#### Character and appearance

11. For the reasons given in IR131-141, the Secretary of State agrees with the Inspector's conclusion at IR142 that the proposal would adversely affect the character and appearance of the area contrary to LP:KP policy 33. For the reasons given in IR131-134, the Secretary of State agrees with the Inspector that the Council's assessment that there would be a 'high level of change' is more realistic than your client's LVIA assessment that the magnitude of landscape change would be "low". He therefore also agrees with the Inspector (IR134) that the Council's conclusion that the appeal scheme would result in a "major/moderate adverse" landscape effect can be more robustly justified. Furthermore, for the reasons given at IR135-141, the Secretary of State also agrees with the Inspector that the proposal's built envelope would extend beyond what is a well-defined settlement edge into an area that is characterised by agricultural uses and the lack of built development. These factors would combine to create a detrimental effect on the established rural character of the site and its surroundings. Like the Inspector the Secretary of State agrees with the Council that the visual effects of the scheme would range from 'moderate adverse' to 'major/moderate adverse' depending upon the season (IR141) and that it would thereby be contrary to LP:KP policy 33.

#### Emerging Neighbourhood Plan

12. Taking account of his comments at paragraph 6 above on the current status of the CHNP and noting that, in response to his letter of 4 February 2016 (see paragraph 4 above), the Parish Council stated that community facilities are already being built so that the facilities forming part of this development are not required, the Secretary of State agrees with the Inspector's conclusions at IR143 and 144 that the appeal scheme would conflict with the emerging CHNP when read as a whole and that the emerging plan should attract moderate weight.

#### Five year supply of housing land

13. For the reasons given in IR145-148, the Secretary of State agrees with the Inspector that the headline housing requirement figure upon which the five year land supply calculation should be based should be the LP:KP housing requirement of 435 dwellings per annum; and that the period starting in April 2015 should form the basis for calculating housing land supply in the present appeal. The Secretary of State has gone on to give careful consideration to the Inspector's analysis of the five year land supply and surplus (IR149-155). He agrees with the Inspector that the Council's stated surplus of 220 houses for the five year period 2015-2020 has been significantly over-stated and should be reduced by 215 dwellings (IR156). Nevertheless, like the Inspector, he concludes that the Council can demonstrate a five year supply of land for housing as required by paragraph 49 of the Framework although, notwithstanding that this supply includes a 20% buffer, the margin for error is small; and that the appeal site's potential to deliver housing and contribute to a more robust five year land supply would represent a planning benefit.

## The Inspector's assessment of the planning balance

14. For the reasons given at IR157, the Secretary of State agrees with the Inspector that the appeal scheme would not be in accordance with the development plan when considered as a whole, and he considers that the additional weight that he now feels able to give to the CHNP (see paragraphs 6 and 9 above) bears this out. Similarly, he is satisfied that the further progress on the CHNP has borne out the Inspector's conclusion at IR160 that there is no current local need for the level of new development proposed by the appeal scheme to be accommodated.
15. Nevertheless, the Secretary of State agrees with the Inspector at IR162 that it is necessary to consider the scheme in the context of the presumption in favour of sustainable development set out in the first part of paragraph 14 of the Framework. He has carefully considered the Inspector's assessment at IR162-166 and, for the reasons contained therein, he agrees that the site is in a sustainable location and would provide economic benefits. He also agrees that, while biodiversity improvements would be forthcoming, this environmental benefit would be outweighed by the adverse effect that would be caused to the area's character and appearance (IR162-163). The Secretary of State also concurs with the Inspector's assessment of the social role of sustainable development. The Secretary of State agrees with the Inspector (IR166) that granting permission would be at odds with the shared neighbourhood planning vision referred to in paragraph 183 of the Framework; and that it would fundamentally undermine confidence in the neighbourhood planning process that has taken place to date. Indeed, the Secretary of State gives even greater weight to this in view of the further progress which has been made on the CHNP since the close of the appeal inquiry (see paragraph 6 above).

### **Conditions**

16. The Secretary of State has considered the proposed conditions at Appendix 3 to the IR and the Inspector's comments on them at IR106-119. He is satisfied that the conditions recommended by the Inspector are reasonable and necessary and meet the tests of the Framework and the guidance. However, he does not consider that these overcome his reasons for refusing the appeal.

### **Obligation**

17. The Secretary of State has considered the Inspector's assessment of the two legal agreements tabled during the Inquiry (IR22 and IR103-105). However, as the Council's Community Infrastructure Levy (CIL) charging regime came into force on 1 February 2016, the terms of those obligations have now fallen away with all contributions now being subject to CIL.

### **Planning balance and conclusion**

18. Having regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, the Secretary of State concludes that, for the reasons outlined above, the appeal proposal is not in accordance with the Development Plan as a whole and would also conflict with the emerging CHNP when read as a whole. He has therefore gone on to consider whether there are any material considerations which might nevertheless justify allowing the appeal.
19. With regard to the benefits of the proposal, the Secretary of State considers that, while the Council can demonstrate a five year supply of land for housing, the margin for error in that calculation is very small. The appeal scheme would deliver housing and contribute to a more robust five year housing land supply and assist in meeting

affordable housing needs at the District level. He gives significant weight to these benefits. He also gives weight to the fact that the scheme provides economic benefits, would occupy a sustainable location and biodiversity improvements would be forthcoming.

20. However, against this, the Secretary of State concludes that the scheme would conflict with the objectives of the LP:KP settlement hierarchy as set out in policies 2 and 5 and would adversely affect the character and appearance of the area contrary to policy 33. While he considers the conflict with policy 45 would attract less weight, he concludes that the scheme would not be in accordance with the development plan when considered as a whole. He gives substantial weight to this conflict. He also considers that granting planning permission for the scheme would be at odds with the shared neighbourhood planning vision that is referred to in paragraph 183 of the Framework and would also fundamentally undermine confidence in the neighbourhood planning process that has taken place to date in Chidham and Hambrook. The Secretary of State gives moderate weight to this conflict given the current stage of the CHNP, and also considers that the adverse effect that would be caused to the area's character and appearance adds weight against the scheme.
21. Overall, the Secretary of State considers that, taking these matters together, the scheme would not amount to sustainable development and that there are no material considerations which would justify granting planning permission.

### **Formal Decision**

22. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation to dismiss the appeal and refuse planning permission. He hereby dismisses your clients' appeal and refuses planning permission for residential development of 120 single and two storey dwellings comprising 48 affordable homes and 72 market price homes, garaging and parking together with retail unit(s), sports pavilion/community facility, new vehicular and pedestrian access to Broad Road, emergency and pedestrian access to Scant Road West, sports facilities – 2 tennis courts, football pitch and 4 cricket nets, children's play area, public open space and natural green space on a site of 9.31 hectares in accordance with application No CH/14/02138/OUT dated 25 June 2014.

### **Right to challenge the decision**

23. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
24. A copy of this letter has been sent to Chichester District Council. Notification has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

*Jean Nowak*

**JEAN NOWAK**

Authorised by the Secretary of State to sign in that behalf

**Land East of Broad Road, Hambrook, Chichester, West Sussex PO18 8UA**

**Appeal by Sunley Estates Ltd**

**Responses to 'Reference back' letters/emails of 13 January 2016 and 4 February 2016**

<b>Name of Party</b>	<b>Date of response</b>
Chidham and Hambrook Parish Council	27 January 2016, 9 February 2016 and 13 April 2016
Southern Planning Practice on behalf of Sunley Estates Ltd	29 January 2016
Hambrook District Residents Association	9 February 2016

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

by Michael J Hetherington BSc(Hons) MA MRTPI MCIEEM

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

Date: 16 November 2015

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TOWN AND COUNTRY PLANNING ACT 1990  
CHICHESTER DISTRICT COUNCIL  
PLANNING APPEAL BY SUNLEY ESTATES LTD

Inquiry held on 22-25 September 2015

Land East of Broad Road, Hambrook, Chichester, West Sussex, PO18 8UA

File Ref: APP/L3815/W/15/3004052

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**File Ref: APP/L3815/W/15/3004052**

**Land East of Broad Road, Hambrook, Chichester, West Sussex, PO18 8UA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Sunley Estates Ltd against the decision of Chichester District Council.
- The application ref. CH/14/02138/OUT, dated 25 June 2014, was refused by notice dated 5 December 2014.
- The development proposed is: Residential development of 120 single and two storey dwellings comprising 48 affordable homes and 72 market price homes, garaging and parking together with retail unit(s), sports pavilion/community facility, new vehicular and pedestrian access to Broad Road, emergency and pedestrian access to Scant Road West, sports facilities – 2 tennis courts, football pitch and 4 cricket nets, children's play area, public open space and natural green space on a site of 9.31 hectares.

**Summary of Recommendation: The appeal be dismissed.**

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**Preliminary Matters**

1. Following the submission of two planning agreements, discussed further below, the Council confirmed at the inquiry that it no longer wishes to pursue its 3<sup>rd</sup> and 4<sup>th</sup> refusal reasons. These relate to highway impact (3<sup>rd</sup> reason) and securing the provision of affordable housing, the proposed retail unit, mitigation in respect of international nature conservation designations and various local infrastructure requirements (4<sup>th</sup> reason).
2. With the agreement of the main parties, I led a round table session in respect of housing land supply on 24 September 2015. On the same date, I held an accompanied site visit. I have also made unaccompanied visits to various sites and viewpoints in the site's vicinity.

**The Site and Surroundings**

3. The appeal site, which has an area of some 9.31 hectares, comprises two fields used as grazing land. It is roughly triangular in shape, its north-eastern boundary being formed by the A27 dual carriageway. It is common ground that, owing to intervening vegetation, there is limited intervisibility between the site and the A27. The site's other two sides are also adjoined by roads – Broad Road (to the west) and Scant Road West (to the south). These roads, in part, define the settlement boundary for Hambrook as set out by the Chichester District Local Plan First Review (CDLPFR), adopted in 1999. Both are separated from the site by substantial vegetation. In the case of Broad Road, this comprises a mainly broadleaved hedge separated from the road by a verge. It was noted at the site visit that this hedge lies outside the appeal site on land associated with the highway. At the time of the visit, it was also noted that a section of this hedge had been trimmed near some electricity wires. There is also a gap containing a field access gate. Broad Road, which connects Hambrook to settlements to the north of the A27, is well used. A footway on the opposite (western) side of the road to the appeal site provides a link to a nearby bridleway<sup>1</sup>.
4. An area of residential development (Aviary Close and Shepherds Close) lies to the west of Broad Road, extending northwards to a point near the intended site

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<sup>1</sup> Inspector's note: During my visits to the site I observed pedestrians using the footway, and cyclists and horse riders using the carriageway, of Broad Road in the site's vicinity.

access. This is separated from Broad Road by a belt of trees and other planting: only glimpsed views of these dwellings are available from Broad Road. In contrast, the southern side of Scant Road West is flanked by facing dwellings (a mix of single and two storey dwellings including chalet bungalows) between its junction with Broad Road and the site's eastern corner, where there is a turning area and a bridleway. Further housing development of a broadly similar character lies to the south of Scant Road West. The appeal site's boundary with Scant Road West includes mainly broadleaved shrubs and a number of mature trees. However, views are possible into the site through gaps in the hedge, including a gateway near the junction of Scant Road West and The Avenue<sup>2</sup>.

5. The site is located outside the South Downs National Park (SDNP) and the Chichester Harbour Area of Outstanding Natural Beauty (AONB). It does not lie within a Conservation Area.

### Planning History

6. It is agreed in the Statement of Common Ground (SoCG) that the site has no relevant history of planning applications. It was considered in the Council's Strategic Housing Land Availability Assessment (SHLAA) in May 2014<sup>3</sup>. This states that the site could be suitable for housing development in the future, although the delivery date is unknown.

### Planning Policy

7. The Council's decision notice makes reference to various policies in the CDLPFR. However, these were superseded when it adopted the **Chichester District Local Plan: Key Policies 2014-2029** (CDLP:KP) on 14 July 2015. It is common ground that the only relevant elements of the CDLPFR that have been carried forward are the above-noted settlement boundaries. For the avoidance of doubt, the appeal site lies outside the settlement boundary for Hambrook.
8. The Council clarified at the inquiry that, bearing in mind its position with regard to the 3<sup>rd</sup> and 4<sup>th</sup> refusal reasons, it now considers that the appeal scheme would conflict with the following CDLP:KP policies: 2, 5, 33 and 45<sup>4</sup>.
9. **Policy 2** sets out the Plan's development strategy and settlement hierarchy. It states that the development strategy identifies the locations where sustainable development, infrastructure and facilities will be accommodated which in terms of scale, function and character support the role of identified settlements. Hambrook/Nutbourne is identified as a Service Village. The policy states that outside of Chichester city (which will continue to be a focus for major development in the Plan area) and the Settlement Hubs (which lie above Service Villages in the settlement hierarchy and which are intended to accommodate new development to meet identified needs to reinforce their role), the Service Villages will be the focus for new development and facilities. The policy adds that provision will be made for the following in Service Villages:
  - Small scale housing developments consistent with the indicative housing numbers set out in Policy 5;

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<sup>2</sup> The site is described more fully in section 1.0 of the SoCG.

<sup>3</sup> Land east of Aviary Close (site ref. HB08420) – see SoCG appendix 3.

<sup>4</sup> The full text of these policies is set out in SoCG appendix 11. Additional text from the CDLP:KP is contained in Inquiry Document 24.

- Local community facilities, including village shops, that meet identified needs within the village, neighbouring villages and surrounding smaller communities, and will help make the settlement more self-sufficient; and
  - Small scale employment, tourism or leisure proposals.
10. The policy states that there is a presumption in favour of sustainable development within Settlement Boundaries which will be reviewed through the preparation of Development Plan Documents (DPDs) and/or Neighbourhood Plans. It adds that development in the Rest of the Plan Area outside the listed settlements is restricted to that which requires a countryside location or meets an essential local rural need or supports rural diversification in accordance with policies 44-45.
11. **Policy 5** states that small scale housing sites will be identified to address the specific needs of local communities in accordance with stated indicative parish housing numbers – 25 in the case of Chidham and Hambrook Parish (which includes the appeal site). The policy adds that suitable sites will be identified in neighbourhood plans or in a Site Allocation DPD.
12. **Policy 33** establishes criteria for new residential development, stating that planning permission will be granted when all have been met. In summary, these require that schemes meet the highest standards of design and provide the following: adequate infrastructure; high quality broadband linkage; a high quality living environment in keeping with the character of the surrounding area and its setting in the landscape; and an appropriate density of development. Proposals should respect and where possible enhance the character of the surrounding area and site and should take into account the need to promote public safety.
13. **Policy 45** states that within the countryside, outside Settlement Boundaries, development will be granted where it requires a countryside location and meets the essential, small scale, and local need which cannot be met within or immediately adjacent to existing settlements. Specific criteria are set out in respect of sustainable development in the countryside. Notwithstanding the evidence of one of the appellant's witnesses<sup>5</sup>, it was accepted by the appellant that the appeal scheme does not satisfy the criteria set out by policy 45<sup>6</sup>.
14. Although not a matter of dispute between the main parties, **Policy 34** – which relates to affordable housing – is also relevant. This states, among other matters, that a 30% affordable housing contribution will be sought on all residential development sites where there is a net increase of dwellings.
15. The **Chidham and Hambrook Neighbourhood Plan 2015** (NP) was submitted to the Council during the progress of this appeal<sup>7</sup>. It was published for public consultation on 27 August 2015 in line with regulation 16 of the Neighbourhood Planning (General) Regulations 2012. The consultation period had not been completed at the time of the inquiry.
16. The NP refers to the indicative housing number of 25 dwellings set out in CDLP:KP policy 5. It notes that planning permission has been granted for 86 homes since January 2014 and states that there is accordingly no current

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<sup>5</sup> Paragraph 2.5.5 of Mr Allen's proof of evidence.

<sup>6</sup> Paragraph 29.6 of appellant's closing submissions (inquiry document 28).

<sup>7</sup> The NP is appended to Ms Bell's supplementary proof of evidence.

requirement for it to identify new sites for major development. It adds that changing local needs may require the building of new homes later in the period<sup>8</sup>. **Draft policy LP1** of the NP supports the development of affordable units on rural exception sites to meet local needs and development of 10 units or fewer on windfall sites – which are not specifically identified. Other policies set out various criteria for new development. Map 2 of the NP proposes four extensions to the Settlement Boundary in order to accommodate sites with planning approval. These do not include the appeal site, which remains outside the amended Settlement Boundary.

17. In addition, the NP contains a list of community aspirations which the plan recognises and seeks to accommodate. These are: recreation ground, allotments, new village centre, village green, sports field, local GP and dental surgery, local shop, cricket pitch, football pitch, cycle lanes, better parking facilities and traffic calming<sup>9</sup>.
18. Specific references to the **National Planning Policy Framework** (the Framework) and national **Planning Practice Guidance** (PPG) are set out in the remainder of this report.

### The Proposal

19. The application proposes a mixed use development of 120 dwellings along with retail unit(s), sports pavilion/community facility and sports facilities, as described more fully in the description of development in the heading of this report. The main access would be taken from Broad Road with an emergency and pedestrian access from Scant Road West. The application form indicates that all matters of detail other than access are reserved for future determination. The appellant clarified at the inquiry that all such details shown on the appeal drawings are for illustrative purposes only. The schedule of application plans at the end of this report (Appendix 1) was agreed by the main parties<sup>10</sup>.
20. A request for an EIA screening opinion was made to the Council in May 2014. The Council responded in June 2014 stating that the proposal did not constitute EIA development and that an Environmental Statement was not required<sup>11</sup>.
21. The application is supported by a range of additional studies that are listed in the SoCG<sup>12</sup>. These include assessments in respect of landscape, arboriculture, contamination, archaeology, transport, noise, flood risk, drainage and ecology.
22. Two planning agreements under section 106 of the Town and Country Planning Act 1990 (as amended) were tabled during the inquiry<sup>13</sup>. These are described in more detail later in this report.

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<sup>8</sup> NP paragraphs 43-45.

<sup>9</sup> NP paragraph 100.

<sup>10</sup> Inspector's note: The agreed list supersedes that set out in the Council's decision notice.

<sup>11</sup> See section 2 and appendix 4 of the SoCG.

<sup>12</sup> SoCG paragraph 3.1.

<sup>13</sup> Inquiry documents 22 and 23.

## The Case for the Appellant – Sunley Estates Ltd

The main points are as follows:

### *Introduction & Background*

23. Housing development is always contentious and raises much concern. In truth, development is far more benign than people fear and, in relation to certain developments, brings about material benefit to the community in which it sits. The country has a desperate need for more housing, estimated to be around 250,000 per annum. Even with the Framework in place, only 119,000 houses were built last year – a shortfall of 131,000 homes. It is submitted that the planning system is woefully failing to provide the houses which we need. It must change, as has been recognised recently by the Minister for Planning<sup>14</sup>.
24. It is considered that Chichester District Council reveals this failure of provision. Every step of the Council is to frustrate housing, rather than to provide it. Over the last 8 years, every year has shown a failure to provide enough homes. Even last year only 350 houses were completed, when the Council was relying on 477 to be provided. It is submitted that the Council did everything it could to prevent the CDLP: KP from providing the objectively assessed need (OAN) for housing and has now done everything it can to prevent additional housing from coming forward such as in the present appeal. If this site is resisted then CDC will never get close to meeting its OAN. The consequences of such failure amount to significant harm to those in need of housing, to the affordability of housing and the pressure on local housing authorities.
25. It is submitted, in summary, that the appeal scheme is special for the following reasons:
- It would provide a package of benefits that would truly enhance the settlement of Hambrook, a package that is almost identical to the aspirations set out in the NP<sup>15</sup>.
  - It would provide 120 houses with a varied housing mix, including 48 affordable housing units (40%), in a District that has struggled to meet its past requirements for market and affordable housing<sup>16</sup>.
  - It would provide a large development in a location which is completely unconstrained, unlike the vast majority of the District which is subject to very serious designations such as the SDNP and AONB.
  - The site is truly sustainable in a sustainable settlement. The issue has been addressed twice recently (2014) in appeal decisions<sup>17</sup> and that conclusion has

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<sup>14</sup> See inquiry document 1.

<sup>15</sup> NP paragraph 100.

<sup>16</sup> Inspector's note: The Council tabled an Affordable Housing Note (inquiry document 16). This states that existing permissions will meet the Parish's identified affordable housing needs. However, the Council accepted (Ms Bell in response to my questions) that the affordable housing proposed in the appeal scheme would contribute to meeting the District's overall need for affordable housing provision. Ms Bell also stated that as the neither the affordable housing target nor the delivery rate set out in the Note were set out in the Local Plan (or in any Council planning policy document) less weight should be afforded to them.

<sup>17</sup> Land West of Broad Road (ref. APP/L3815/A/13/2205287) and Wakefords Field (ref. APP/L3815/A/14/2216805) – appendices 6 and 7 respectively in the SoCG.

been endorsed. West Sussex County Council (WSCC) as local highway authority also endorses that view.

- The scheme is proposed by a bespoke small builder looking to provide a high quality development which will be built out quickly and not stored for landbanking purposes over some years.

#### *A Vision for Hambrook*

26. Hambrook was classified as a rural dormitory settlement in the Council's Settlement Capacity Profiles (SCP) undertaken in 2013. It has evolved over many centuries but the main parties agree that the majority of development emerged in the late 20<sup>th</sup> century. The appeal site was considered in the May 2014 SHLAA, with the conclusion that it could be suitable for housing development in the future. Two housing appeals have been determined in the past 18 months with planning permission being granted for both.
27. The site and its locality are not subject to any national or local landscape or ecological designations: it lies in a 'non-designation corridor' between the SDNP and AONB that is the focus for most of the District's intended new development. There is no Conservation Area in Hambrook and it is not contended by the Council that any listed buildings or their setting would be affected. It is common ground that the site has very well-defined boundaries. It is surrounded by development on all three sides, with residential development on Broad Road, residential development on Scant Road West and the A27 on its northern boundary<sup>18</sup>. The A27 severed Hambrook House from the settlement.
28. Hambrook and Chidham forms a parish of 1000 houses. Those houses and their residents require local services and facilities. It is common ground that there would be benefit in the provision of additional facilities, which are the prime aspiration of the NP. Such facilities will only come forward with development. The Council say that the 86 houses already approved well exceed the requirements of CDLP:KP policy 5: as such, the only new facilities that will come forward are those already proposed, namely allotments, an orchard and informal open space. It is submitted that this represents a vision of stagnation and gentle decline, forcing residents to undertake unnecessary trips to find additional facilities. It is noted that the Parish Council resisted the applications that were granted planning permission in 2014, yet now their representative praises the facilities that they will provide. It is likely that the same will happen here.
29. In contrast, the appellant promotes a vision which does involve housing but also involves the provision of facilities that would transform the settlement, the Parish and the lives of those who live there. The proposal would enable the village to be energised and revitalised in exactly the way that is sought by CDLP:KP policy 2. It is a vision of sustainability and optimism for the future of the settlement which national planning policy, with particular reference to promoting healthy communities<sup>19</sup>, embraces and supports.

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<sup>18</sup> Inspector's note: As described in paragraph 4 of this report, the appeal site is adjoined by residential development on its southern side (on the opposite side of Scant Road West) and on part of its western side (on the opposite side of Broad Road, although this is separated from Broad Road by a substantial belt of trees and shrubs).

<sup>19</sup> Paragraph 70 of the Framework.

### *Sustainable Development*

30. There is a fundamental judgement for the decision maker as to whether the appeal scheme amounts to sustainable development or not in accordance with the Framework – notably paragraphs 6 and 7. It is noted that the Council's closing submissions do not conclude that the scheme is not sustainable development. It is strongly contended by the appellant that the scheme should properly be considered to be sustainable development for the following reasons.
31. The site lies in a settlement that has been chosen by the Council as a location for sustainable development and as a focus for such development. Indeed, the Council accepts that the site lies in a sustainable location<sup>20</sup>. WSCC concludes that the development would be accessible by alternative modes of transport to the private car. The site lies within 850 metres of Nutbourne railway station which has services to London, Portsmouth and Chichester: there are level footways along Broad Road. It is 1250 metres from a bus stop (route 700). Hambrook is identified as a Service Village in the CDLP: KP hierarchy. It would be considered odd if development on one side of Scant Road West is sustainable development and that on the other side is not.
32. The Inspector in the Broad Road appeal took the view that the site concerned was not an unsuitable location for 28 dwellings in terms of services, facilities or accessibility. He concluded that the scheme would amount to sustainable development<sup>21</sup>.
33. The Inspector in the Wakefords Field appeal reached strong conclusions on sustainability. He noted that, in terms of a rural village, Hambrook seemed to be well connected and considered that the site concerned was sustainable in transport terms. He concluded that the presumption in favour of sustainable development applied<sup>22</sup>.
34. The transport evidence presented by the appellant, which is the only transport evidence available to the inquiry, reaches a firm conclusion that the site is accessible by alternatives to the private car<sup>23</sup>. The scheme would bring forward a number of highway safety benefits, including an extension to the 30mph speed limit on Broad Road, traffic calming and improved pedestrian facilities. Sustainability benefits would result from the location of additional services and facilities within the site as already described: this would reduce the need for residents to travel. Other improvements, such as a Safer Routes to School scheme at Chidham Parochial Primary School and access improvements for pedestrians and cyclists at Nutbourne railway station, could also be delivered.

### *Development Plan*

35. It will be necessary for the decision-maker to consider whether the proposal complies with the Local Plan for the purposes of section 38(6) of the 2004 Act. The law is clear on this – it is appropriate to consider the weight that should be applied to the presumption in accordance with the development plan. In the present case, significant weight needs to be given to the development plan

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<sup>20</sup> Ms Bell in cross-examination.

<sup>21</sup> Paragraphs 29 and 42 of appeal decision APP/L3815/A/13/2205287 – SoCG appendix 6.

<sup>22</sup> Paragraphs 11 and 26 of appeal decision APP/L3815/A/14/2216805 – SoCG appendix 7.

<sup>23</sup> See appeal statement by Mr Stilwell BSc CEng MICE FIHE MCIHT FAIRSO, attached as appendix 1 to Mr Ellis's proof of evidence. Mr Stilwell did not appear at the inquiry.

because of its recent adoption, but it is contended that it is also necessary to consider:

- The material changes in circumstances since the CDLP:KP examination, notably those relating to the Tangmere Waste Water Treatment Works (WWTW), the highway constraint and the Council's failure in housing delivery in 2014/15.
- The fact that some of the evidence put before the CDLP:KP Inspector has been shown not to be correct with the passage of time. For example the Council discounted the appeal site on the basis that it had not been considered due to the transport constraint. The passage of time has shown that the site is not subject to any transport constraint.
- The recent increased emphasis on housing delivery arising from the Minister's comments, as already noted.

36. In any event, it is contended that the scheme accords with the CDLP:KP as a whole. Policy 1 is complied with because it amounts to sustainable development. Policy 2 has two material elements in the bullet points which are complied with, even on the Council's case<sup>24</sup>: the proposal will provide leisure proposals and a village shop. The alleged breach<sup>25</sup> is that the proposal would not be small scale. However, the wording is that 'provision will be made for the following'. Therefore, a proposal that is beyond that is not inherently a breach because it does not fall within that class of development identified. It is not a fair or reasonable interpretation of the policy. It is submitted that the policy is complied with overall because of the compliance with the two final bullet points<sup>26</sup>.

37. Policy 5 has no place in the reason of refusal: it is not therefore accepted that it is breached by this development. That is understandable because, as the Council officer's report<sup>27</sup> makes clear, the parish housing numbers set out in policy 5 are indicative and not an absolute ceiling. This is reflected by the actual wording of the policy which says 'indicative housing numbers'. It cannot be accepted that the policy is breached if higher numbers are provided. With reference to the legal agreements and illustrative drawings, policies 8, 9 and 52 are complied with<sup>28</sup>. While it is accepted that policy 45 is not complied with, this should have limited weight because of its reliance on an out-of-date Settlement Boundary.

#### *Emerging Neighbourhood Plan (NP)*

38. It is considered that we are at 'half time' with the NP. The appellant intends to make objections to its contents<sup>29</sup>. These factors go to its current weight.

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<sup>24</sup> The second and third bullet points of the part of policy 2 addressing Service Villages: see paragraph 9 of this report.

<sup>25</sup> With respect to the first of the three bullet points.

<sup>26</sup> Inspector's note: In response to my questions, the appellant's planning witness (Mr Ellis) stated that the appeal scheme would amount to a small scale proposal in the context of the present size of the settlement (some 12% of an existing figure of 1,000 dwellings).

<sup>27</sup> Appendix 9 of the SoCG – page 80.

<sup>28</sup> Inspector's note: the scheme's compliance with policies 1, 8, 9 and 52 is not disputed by the Council. The text of these policies is contained in SoCG appendix 11.

<sup>29</sup> Mr Ellis in cross-examination.

39. In terms of compliance with the NP's emerging provisions, the Council accepts that policy LP1 is not breached by the proposal because of the wording of that draft policy<sup>30</sup>. Map 2 is breached but the Settlement Boundaries are out of date because they have not been updated in the light of the CDLP:KP. The appeal scheme would comply with the list of aspirations set out in NP paragraph 100.

#### *Assimilation into the village*

40. The allegation that the appeal scheme would 'not be easily assimilated into the village'<sup>31</sup> has no place in the consideration of an outline planning application. It is impossible to determine on the basis of an outline scheme. However, it is important to also reflect on the contradiction that lies within the Council's case: it is alleged that the proposal would not assimilate because of the existence of boundary vegetation but it is also alleged that the scheme would be harmful because of its visual prominence. The allegation is mystifying in reality.
41. In practice, assimilation would be achieved. As a commercial facility, the retail shop would not be able to function if people could not see it and use it. The scheme's sports facilities, open space and children's playground would encourage use and accessibility. The village green would become a sought-after focal point within the village. It would be somewhere for people to meet, dwell and feed the ducks – a location characterised by openness. Given the proposed range of uses, the notion that appeal scheme would turn its back on the village is untenable.
42. Specialist townscape evidence has also been provided by the appellant to demonstrate that the scheme would assimilate into the settlement<sup>32</sup>. This concludes, in summary, that the context of Hambrook is of a range of densities and built form which affords a reasonable degree of interpretation of density and built form across the appeal site. Having assessed the appeal scheme in relation to design it is considered no harm would result. Specifically it is felt that there would be no perceivable contrast in scale (height and massing) in relation to neighbouring development on Broad Road and Scant Road West that would visually detract from recognised existing qualities and no perceived contrast in built form and style that would detract from the character of existing buildings.

#### *Character, appearance and rural setting of Hambrook*

43. It is submitted that the development would have no material harm on the landscape character of the site and its setting. That is the conclusion of the appellant's landscape witness<sup>33</sup>. It should be noted that this is not a landscape that merits any designation which identifies its quality and worth.
44. At the local level, the site lies on the northern edge of the 'Southbourne Coastal Plain' character area (SC5) in the WSCC Landscape Character Assessment of West Sussex (2003)<sup>34</sup>. The appellant's landscape and visual impact assessment

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<sup>30</sup> Ms Bell in response to Inspector's questions. Inspector's note: Ms Bell accepted that draft policy LP1 does not state that only the stated types of housing would be supported. However, she referred to the supporting text within the NP (see paragraph 16 of this report above) and noted the appeal site's exclusion from the proposed Settlement Boundary (NP map 2).

<sup>31</sup> From the Council's first refusal reason.

<sup>32</sup> Proof of evidence, appendices and figures of Mr Pullan.

<sup>33</sup> Proof of evidence and appendices of Mr Allen.

<sup>34</sup> Relevant extracts are attached as appendix B to the appellant's LVIA, which forms appendix 1 to Mr Allen's proof of evidence. See also paras 3.25-3.27 of the appellant's LVIA.

- (LVIA) assesses the sensitivity of this landscape area as moderate<sup>35</sup>. Landscape effects were assessed in respect of area SC5<sup>36</sup>: the magnitude of change arising from the development was considered to be low, with a minor positive effect on landscape character<sup>37</sup>. Given that existing vegetation would be retained and enhanced, no specific mitigation is proposed in terms of landscape character<sup>38</sup>. The Council's own landscape capacity assessment concludes that the appeal site lies within a character area – Hambrook Upper Coastal Plain (118) – that is one of the top 14 character areas out of 81 that can accommodate development<sup>39</sup>.
45. The site has few identified potential visual receptors: seven were identified<sup>40</sup> with sensitivities ranging from low to moderate. These relate to properties on Scant Road West, The Avenue, The Old Post Office, properties on Shepherds Close, Hambook House (lying to the north of the A27) and a bridleway at the eastern end of Scant Road West. The magnitude of change arising from the appeal scheme would be varied, ranging from negligible to high (on construction) and negligible to moderate (at year 1). The residual visual effects of the proposals were considered to range from minor neutral/neutral to moderate beneficial: the latter assessment applies to properties on the western end of Scant Road West and the Old Post Office where the existing substation and some of the hedge would be removed and views would be opened up to the new village green<sup>41</sup>.
46. Specifically, it is important to note that the site is very well contained by characteristics on the ground. The A27 forms an almost impenetrable barrier to views from the north and amputates the site from the landscape character on the opposite side of the road. The effects on Broad Road and Scant Road West in terms of landscape character are very small because of the very strong boundaries that are in place. These can be reinforced in the future. It is therefore submitted that the harm that is alleged in respect of landscape character is grossly exaggerated – a view that is reinforced by the Council's failure to raise this as a matter likely to preclude development in both the original 2014 SHLAA or the further work that it undertook in November 2014<sup>42</sup>.
47. Turning to visual amenity, it is submitted that the extent of concern is very local. The Council's landscape witness accepted that all of her viewpoints lie within 50 metres of the site<sup>43</sup>. It is accepted that there would be material change but the key question is whether that change would be harmful. With reference to the

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<sup>35</sup> Paragraphs 3.29-3.31 of the appellant's LVIA.

<sup>36</sup> Landscape effects were also assessed in respect of character area SC6 which lies to the north of the A27. For that area the magnitude of change was assessed as negligible with no effect on landscape character.

<sup>37</sup> Paragraph 5.2 of the appellant's LVIA.

<sup>38</sup> Paragraph 5.5 of the appellant's LVIA. However, the appellant states that further planting could take place (see paragraphs 46 and 47 of this report).

<sup>39</sup> Chichester District Landscape Capacity Study Extension (August 2011): relevant extracts are included as appendix 8 to Mr Allen's proof of evidence with a plan (figure 3) in appendix B to Mrs Butcher's proof of evidence. Inspector's note: This study identifies area 118 as having 'medium' landscape capacity.

<sup>40</sup> See tables at paragraphs 3.41 and 5.11 of the appellant's LVIA.

<sup>41</sup> Paragraphs 5.7 to 5.11 of the appellant's LVIA.

<sup>42</sup> Report to CDC Cabinet 24.11.14 attached as appendix 7 to Mr Allen's proof of evidence. This states that the site has potential to increase housing supply and that it was 'not assessed within existing transport model'.

<sup>43</sup> Mrs Butcher in cross-examination.

appellant's LVIA, it is contended that in all of these viewpoints the effect of the scheme would be marginal, and in some cases it would be beneficial. The visibility of the development could also be heavily mitigated because of the significant areas within the site that would be available for planting.

48. Because of the site's characteristics, it is difficult to imagine a development of this size that would have so little impact upon both landscape character and visual amenity.

### *Settlement Hierarchy*

49. The appeal scheme proposes 120 houses. There are approximately 1,000 households in the Parish taking into account the 86 units that have been permitted in the past two years. The proposal would therefore result in about a 12% increase in households and a 13% increase in the built footprint of Hambrook<sup>44</sup>. Such an increase would not result in material harm in terms of the settlement hierarchy set out in the CDLP:KP. The concern of the Council<sup>45</sup> is that this level of growth would mean that Hambrook would enter the next level of the hierarchy – i.e. a settlement hub. These are defined in the CDLP:KP as secondary service centres providing a reasonable range of employment, retail, social and community facilities serving the settlement and local catchment areas<sup>46</sup>. It is strongly considered that the addition of 120 units would not result in such an outcome. Indeed, the Council alleges<sup>47</sup> that the settlement hierarchy would be 'unsettled': this does not amount to significant and demonstrable harm.
50. Furthermore, the housing figures set out in policy 5 appear to have been predetermined without a proper capacity assessment. The Council should have started with the Objectively Assessed Needs (OAN) figure not the constraints. This might then have established those areas and settlements in the western corridor where constraints truly apply. It is apparent, for example, that the parish housing figures bear little relationship to the 'scoring' system of sustainability criteria used in the Council's Settlement Capacity Study<sup>48</sup>.
51. The matter has been confused by the Council's assertion<sup>49</sup> that the site should be treated as falling within the 'Rest of Plan Area' in policy 2. However, policy 2 is not in essence a development management policy; it is instead a policy containing the settlement hierarchy that influences the policies of the rest of the Plan and sets out a strategy of what will be accommodated during the Plan period. It seeks to influence the evolution and growth of different locations in the Plan period. In essence the use of Settlement Boundaries is far too blunt a tool in this context. The fundamental aim of the policy is to identify locations where sustainable development, infrastructure and facilities will be accommodated. That is then expanded upon by setting out what provision will be made for in the settlement villages – including shops. It is therefore erroneous for the Council to pursue its arguments in respect of the alleged breach with policy 2.

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<sup>44</sup> Paragraph 7.3 of Mr Pullan's proof of evidence.

<sup>45</sup> Ms Bell in cross-examination.

<sup>46</sup> CDLP:KP paragraph 5.1 – included in appendix 4 to Ms Bell's proof of evidence.

<sup>47</sup> Closing submissions by Mr Lewis – inquiry document 27.

<sup>48</sup> See table 3 at page 25 of Mr Ellis' proof of evidence.

<sup>49</sup> Made by Mr Lewis, in response to Inspector's questions, when cross-examining Mr Ellis.

### *Five Year Housing Land Supply*

52. The appellant's first contention is that the matter of five year land supply is a relatively academic debate if the conclusion is reached that the appeal scheme amounts to sustainable development. As has been set out in two relevant appeal decisions<sup>50</sup>, it is correct to allow sustainable development even if a five year land supply exists. The land supply will however need to be examined if the decision maker considers that the scheme would not amount to sustainable development.
53. In that regard, the appellant agrees that the shortfall needs to be met in the next five years and that a 20% buffer should be applied – in the context of what is considered to be a lamentable past performance by the Council with regards to housing supply. Completions for 2014/15 also show a significant undersupply<sup>51</sup>.
54. However, the appellant objects to the Council's approach of calculating the five year supply based upon the period 2016-2121. This represents a change of position by the Council shortly before the inquiry. It conflicts with the approach adopted elsewhere, notably an appeal decision where the Inspector supported the use of the most up to date and robust completion figures<sup>52</sup>. In the present case the Council's housing supply witness cannot point to one year where the Council has got its prediction of delivery correct. The evidence of the appellant's housing witness should therefore be preferred.
55. The aim of paragraph 47 of the Framework is that the Local Plan meets the full OAN for housing. That is the starting point and this must be right given the overarching policy aspiration of significantly boosting the supply of housing.
56. The CDLP:KP Inspector accepted that the constraints identified by the Council at the examination were sufficient to justify (in accordance with the Framework) a lower housing requirement figure of 435 dwellings per annum (dpa). This view came as a surprise to the industry: it is felt that the Inspector made a marginal judgement call that the benefits of adoption outweighed the concerns about meeting OAN. However, this approach needs fresh consideration because there has been a change in material considerations, particularly because Southern Water are now predicting the earlier provision of the Tangmere WWTW by two years<sup>53</sup> and by the conclusion that the transport constraints that precluded meeting the OAN have been shown to be erroneous with regard to the present site. It is noted that the aspiration of the Council is to meet the OAN as soon as possible: hence its commitment to an early review<sup>54</sup>.
57. It must therefore be right that the figure of 435 dpa is a minimum rather than a ceiling. If sites are identified that can provide additional housing and are sustainable development then planning permission should be granted.

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<sup>50</sup> Appeal refs. APP/X1735/A/13/2192777 (paragraph 21) and APP/M1710/A/14/2229095 (paragraph 25) – appendices 9 and 10 to Mr Ellis' proof of evidence respectively.

<sup>51</sup> See paragraph 3.20 of Mr Hewett's proof of evidence.

<sup>52</sup> Appeal ref. APP/W0530/A/13/2207961 (paragraph 22) – appendix MH04 to Mr Hewett's proof of evidence.

<sup>53</sup> Inspector's note: It is however the evidence of the appellant's housing supply witness that the Council's assumption regarding the delivery of sites affected by this constraint is over-optimistic (paragraphs 20-26 of Mr Hewett's position statement – inquiry document 18).

<sup>54</sup> CDLP:KP paragraph 7.9 – included in inquiry document 24.

58. The supply assumptions of the Council's housing supply witness are grossly optimistic. The PPG requires local planning authorities to undertake robust assessments<sup>55</sup>. The guidance does not support the Council's reliance on the optimism of hopeful planning applicants. Rather, as set out above, the Council's past performance in respect of projections of housing completions suggests a need to apply caution to its assumptions in the present case.
59. The appellant's housing witness has provided detailed evidence in respect of the seven sites where the cases of the two main parties materially differ<sup>56</sup>. What should be stressed is that five of the sites propose the delivery of more than 500 units in total. This reveals sites of material complexity. There are significant and material issues that will require to be dealt with prior to delivery.
60. It is submitted that the benefit of doubt should be exercised in being cautious on supply. If over-provision is made then it complies with the Government's desire to significantly boost the supply of housing. If under-provision occurs there will be material harm for those who need houses and a conflict with the aspiration of the Government that Councils should provide a five year supply of housing.

### *Conclusions and Planning Balance*

61. Both main parties accept that there needs to be a balancing exercise. The question is whether it is the lesser balance set out in the first part of paragraph 14 of the Framework, which is purely a consideration of the planning benefits considered against the harm identified by the Council, or the balance set out in the last bullet point of paragraph 14 which clearly places a presumption in favour of sustainable development and requires the Council to identify adverse impacts which significantly and demonstrably outweigh the benefits.
62. However, the scales are balanced, the appellant strongly contends that the benefits of the proposal are very considerable, most notably: the provision of market housing in a District which has failed consistently to make adequate provision; the provision of affordable housing in line with CDLP: KP policy to meet an acknowledged need in the District; and the provision of a retail unit and other facilities in line with CDLP: KP policy 2 and NP aspirations.
63. The two overarching policy aspirations of the Government are to achieve a significant boost in the supply of housing and to promote sustainable development. The appeal scheme will significantly boost the supply of housing in a District which has consistently sought to avoid the provision of OAN based on constraints that do not apply to this site. The scheme will unquestionably amount to sustainable development. Hambrook is identified as a preferred location in the development plan, it lies in close proximity to key services and facilities, it has been concluded to be a sustainable location in two appeal decisions last year and it has been accepted by the Council as a sustainable location in the present inquiry. The proposal would also bring forward material

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<sup>55</sup> PPG ref. ID 3-005-20140306.

<sup>56</sup> Inspector's note: See Mr Hewett's proof of evidence and appendices. In preparation for the round table session, I asked both main parties to prepare position statements in respect of housing land supply. The appellant's statement and appendices are inquiry documents 18 and 19. When read with the Council's position statement (inquiry document 20) these set out the areas of agreement and disagreement between the two main parties in respect of this matter. I have summarised key points from this evidence in Appendix 2 to this report.

benefits that comply with paragraph 70 of the Framework in respect of the provision of recreational facilities, shops (providing employment opportunities), open space and sports facilities. These factors in favour of granting planning permission deserve significant weight.

64. The only two remaining factors are harm to the landscape and townscape and that the proposal is beyond the level of policy 2. The impacts do not significantly and demonstrably outweigh the benefits. The landscape impact would only be within 50 metres. The townscape impacts could be completely alleviated at the reserved matters stage, and benefits would accrue such as the village green. Policy 2 of the CDLP: KP does not set a ceiling: at best it relies on policy 5 which only sets out indicative figures.
65. Consequently, the presumption in favour of sustainable development should be applied in this case. It has not been dislodged by the impacts alleged by the Council's evidence. Accordingly, planning permission should be granted for the appeal development.

### **The Case for Chichester District Council (CDC)**

The main points are as follows:

#### *Introduction*

66. The Council refused planning permission for the appeal proposal on four grounds. However it is no longer relying on its third ground, which relates to the scheme's effect on the highway network. WSCC as local highway authority no longer objects to the proposal and CDC has no reason to take a different view. The fourth ground for refusal has been overcome by the submitted legal agreements.
67. Accordingly, two main grounds of objection remain:
- i) The proposal, due to its substantial scale and location beyond the settlement boundary, would result in a disproportionately large extension to Hambrook which would not assimilate well into the remainder of the village. This excessive extension into the rural area would cause harm to the character and appearance of the approach to the village and also to its rural setting.
  - ii) The excessive number of houses proposed for the site would conflict fundamentally with the settlement hierarchy set out in CDLP: KP policy 2, which is the proper basis for distributing new housing and other development in the very recently adopted Local Plan.

#### *Housing Land Supply*

68. It is also necessary to respond to the appellant's claim that the Council is unable to demonstrate a five year supply of housing. Paragraph 47 of the Framework states that local planning authorities to boost significantly the supply of housing should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs (OAN) for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework. The paragraph makes clear that the exercise of seeking to meet the OAN for housing is one for the plan-making stage. Neither this paragraph, nor any other paragraph in the Framework, refers to OAN when setting out policy for development management.

69. The CDLP:KP evidence base led to an OAN of 505 dpa for the Local Plan area – namely the District excluding land within the SDNP. In the event, the Plan set a lower housing delivery requirement for the Plan area of 435 dwellings per annum, the CDLP:KP Inspector having taken into account various constraints, including the SDNP, AONB and a number of international nature conservation designations. She concluded that the Plan demonstrated a positive approach to maximising the delivery of housing<sup>57</sup>.
70. The Council's very recent adoption of the CDLP:KP (July 2014) means that it unquestionably has at least a five year housing land supply for the purposes of the Framework. Its most recent evidence, based on data from 1 September 2015, is that it now has a 5.7 year supply in respect of the period 2016-2021 (a surplus of 421 dwellings). Written evidence has been tabled in support of the claim<sup>58</sup>, which was debated at the round table session. It is reasonable to rely upon a period starting in 2016: this is consistent with the advice in the PPG that 'local planning authorities should have an identified five year supply at all points during the Plan period<sup>59</sup>.' This in turn is consistent with earlier advice published by DCLG<sup>60</sup>. The appellant has also produced housing land supply data using the period 2015-20: this also shows a surplus supply (of 220 dwellings)<sup>61</sup>. The Council accepts (1) that the 'Sedgefield' method of distributing the housing shortfall should be used, (2) that a 20% buffer should be applied in accordance with paragraph 47 of the Framework and (3) that the buffer should also be applied to the shortfall. The completion figures for 2014/15 are not in dispute.
71. The Council has justified its reliance on an updated timetable for the upgrade of the Tangmere Waste Water Treatment Works (WWTW) with reference to the comments of its operator (Southern Water). It is submitted that robust estimates of likely completions are provided for the seven sites that are disputed by the appellant, which take account of higher local completion rates<sup>62</sup> than the appellant suggests. Average housebuilder figures, which are relied upon by the appellant, can only provide a very general yardstick to be used where more detailed information is not available. The Council's assessments of future housing delivery and phasing<sup>63</sup> draw on a wide variety of site- and development-

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<sup>57</sup> Paragraph 60 of CDLP:KP Inspector's Report – SoCG appendix 5.

<sup>58</sup> See Rebuttal Proof of Evidence by Mr Davidson, with appendices, and the CDC housing land position statement tabled at the inquiry (inquiry document 20).

<sup>59</sup> PPG ref. ID 3-030-20140306.

<sup>60</sup> Notably a letter from DCLG to Cheltenham BC dated 20.5.09: see appendices 2-4 of Mr Davidson's rebuttal proof of evidence. However, Mr Davidson accepted at the round table session that this advice is no longer extant.

<sup>61</sup> Inspector's note: The evidence supporting the Council's position on housing supply is set out in Mr Davidson's rebuttal proof of evidence and the Council's position statement tabled at the inquiry (inquiry document 20).

<sup>62</sup> Appendix 6 of Mr Davidson's rebuttal proof of evidence. Inspector's note: The appellant's case in this regard is set out in section 4 of Mr Hewett's proof of evidence. Based upon evidence from the regional offices of national house builders and the local offices of regional housebuilders, Mr Hewett considers that the market is currently able to absorb some 45 dwellings per annum (dpa) per volume site for one developer, including 30% affordable housing. These total site delivery figures rise to 90 dpa for two developers but only to 107 dpa for three developers. In contrast, Mr Davidson's evidence states that – for example – an average of 60 dpa was delivered at a brownfield site in Chichester (Graylingwell Hospital) with a single developer, including one year with 92 dwellings.

<sup>63</sup> Inspector's note: This evidence is summarised in Appendix 2 to this report.

specific information, including the WSCC annual surveys and the Council's own development progress updates.

72. The appellant's claim that the OAN figure should, in effect, be used as the housing requirement for the Plan area is misconceived, and conflicts with the PPG's guidance that 'Housing requirement figures in up-to-date adopted Local Plans should be used as the starting point for calculating the five year supply. Considerable weight should be given to the housing requirement figures in adopted Local Plans, which have successfully passed through the examination process, unless significant new evidence comes to light<sup>64</sup>.' The appellant's case disregards the clear conclusion of the Local Plan Inspector that the Plan was sound in requiring 435 dpa to be delivered pending a review within five years<sup>65</sup>.
73. The Council's reliance on a constrained housing requirement of 435 dpa is not inconsistent with sustainable development. Paragraph 47 of the Framework is qualified: the full OAN is to be met in the Local Plan as far as consistent with the policies of the Framework. It is reasonable that the Plan be given a proper opportunity to take effect before a fair assessment is made of its impact on the housing trajectory for the plan period.

#### *Character and Appearance*

74. As accepted by the appellant<sup>66</sup>, an assessment of how well a development assimilates with its surroundings requires consideration of how well it conforms with or complements the general pattern of development that surrounds it. The Council's landscape witness<sup>67</sup> explained that the strong containment of the site by vegetation poses a barrier to the successful integration of any development with the established settlement to the south and west. Reserving the submission of landscaping details to a later stage leaves open the possibility that, if outline planning permission were granted, the appellant could seek the substantial removal of the boundary vegetation to open up views of the site<sup>68</sup>. In that scenario, the difficulty of seeking to integrate a more exposed 120-unit scheme, at the edge of the settlement, with the remainder of this service village of moderate scale would be even more acute.
75. The appellant's landscape witness made clear the appellant's strong preference to retain the boundary vegetation, but prayed in aid a proposal (not binding at this outline stage) to provide a village green in the site's south-western corner in an attempt to open up the scheme to the village. However, his suggestion that the backdrop to this view would comprise only a limited number of houses softened by green infrastructure overlooked the proposed retail unit which, as the witness

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<sup>64</sup> PPG ref. ID 3-030-20140306.

<sup>65</sup> Inspector's note: See in particular paragraphs 43 to 60 of the CDLP:KP Inspector's report (SoCG appendix 5). This accepted that the Transport Study was flawed for the purpose of meeting OAN (paragraph 54), but noted the complexities underlying the transportation situation and reached a view that the failure to adopt the Plan at that stage would delay the delivery of the area's strategic priorities, weaken the Council's ability to ensure that development is sustainable, hinder the planned delivery of appropriate infrastructure and undermine the momentum and positive work undertaken in respect of NP preparation (paragraph 55).

<sup>66</sup> Mr Pullan in cross-examination.

<sup>67</sup> See Mrs Butcher's proof of evidence.

<sup>68</sup> Inspector's note: However, as was established at the site visit (paragraph 3 of this report), most of the planting on the Broad Road frontage lies outside the appeal site boundary.

accepted<sup>69</sup>, would require a visible commercial presence if it is to be viable. The incongruous presence of this retail unit, competing with vegetation to announce its presence, would reinforce the sense of the scheme standing separately and apparently self-sufficiently from the rest of the settlement. As the witness stated, this is a 'visually separated site' which is 'completely cut-off'<sup>70</sup>.

76. Both the appellant's landscape and urban design witnesses suggested that it would not be incongruous to develop the site given that the bridge where Broad Road crosses the A27 marks the true northern boundary of the settlement. However, with reference to the photographic evidence of the Council's landscape witness, there are no visual links in views from the bridge to the village: the true entry point into the village is at the sign where the village starts coming properly into view<sup>71</sup>. While the use of the phrase 'transition zone' by the appellant's landscape witness<sup>72</sup> acknowledges that there is separation between these two points, the lack of any visual links with the village at the A27 bridge means that there is nothing to indicate that such a 'zone' has commenced.
77. Historic maps submitted by the appellant<sup>73</sup> show that the annotation 'Hambrook' has moved further south on Ordnance Survey maps over the years, reflecting the extent to which the southern part of the village has been developed in recent years. But in any event, it is clear that the settlement boundary for the village has been drawn so as to exclude the appeal site. There is no prospect of this changing in the emerging NP. If there is any active 'gravitational pull' today in terms of development it is along the length of Broad Road to the south of the Post Office – as is evidenced by the granting of planning permission for areas on the east side of that road to the south of White Lodge<sup>74</sup>. Indeed, the appellant's urban design and landscape witnesses differ as to the position of the appeal site within the village, the former maintaining that the 'village focus' was 'adjacent to the appeal site', while the latter stating that Hambrook has 'no defined centre'<sup>75</sup>.
78. Several factors undermine the credibility of the appellant's landscape evidence. It was conceded that the appellant's Landscape and Visual Impact Assessment (LVIA) had not considered road users as a category of visual receptors, as was clearly required. Insofar as residents at home were identified as visual receptors, the conclusion that they were of low to moderate sensitivity sits uneasily with the Guidelines for LVIA<sup>76</sup> that such receptors are most susceptible to change. The visibility of a development affects the assessment of magnitude of effect, not the sensitivity of receptors<sup>77</sup>.
79. Furthermore, as was accepted by the appellant's landscape witness<sup>78</sup>, there is a clear inconsistency between his statement that the proposed change in land use

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<sup>69</sup> Mr Allen in cross-examination.

<sup>70</sup> Mr Allen in cross-examination.

<sup>71</sup> Viewpoints 11 and 19 respectively in the appendices to Mrs Butcher's proof of evidence.

<sup>72</sup> Mr Allen in cross-examination.

<sup>73</sup> Appendix 1 to Mr Pullan's proof of evidence.

<sup>74</sup> See Figure 6 of Mr Pullan's bundle of figures.

<sup>75</sup> Paragraph 4.34 in Mr Pullan's proof of evidence and paragraph 2.1.2 of Mr Allen's proof of evidence respectively.

<sup>76</sup> Extract at inquiry document 25.

<sup>77</sup> Other detailed criticisms of statements made by Mr Allen are set out in paragraph 9 of the Council's closing submissions (inquiry document 27).

<sup>78</sup> Mr Allen in cross-examination.

would 'inevitably have a substantial and irreversible effect on [the site's] character and appearance' and the view of the appellant's LVIA that the effect of the proposal on landscape character area SC5 'would therefore be low and the effect on landscape character would be minor positive'<sup>79</sup>. A scheme of 120 units having a 'substantial and irreversible effect' on the site's character and appearance cannot conceivably constitute a 'low' degree of change in the character area overall.

80. It is submitted that the true assessment of the scheme's effect is set out in a statement from the appellant's urban design witness, namely that it would 'change the character of the northern edge of Hambrook'<sup>80</sup>, although that sits uneasily with his contention that the appeal scheme would 'not significantly extend beyond the existing built envelope of the village'<sup>81</sup>. At the inquiry, the witness stated that he only sought to refer to the new buildings not extending significantly to the north of the building line of development on the opposite side of Broad Road: however, such a building line could only be appreciated from an aerial photograph given the strong containment of vegetation on both sides of that road.
81. The Council's landscape witness undertook an LVIA in line with the up-to-date and acknowledged methodology<sup>82</sup>. In respect of landscape, this identifies the site and its setting as the landscape receptor, with sensitivity assessed as medium. Factors affecting this include the presence of largely intact boundary trees and hedgerows that contribute to the setting and approach to Hambrook from the north and form a strongly defined edge to the settlement. The wider area generally has a degraded tree and hedgerow framework. In addition, the site is considered to have a high local value, having perceived positive character by providing a visual and physical gap between the settlement and the A27. The magnitude of the landscape effect is assessed as high for several reasons including the major loss of agricultural fields that are key to local landscape and settlement character and that provide the above-noted gap, the major alteration to the local landscape character of the approach to the village through the siting of the development in the village's rural setting and a major alteration to the scale of the village. The effects would be long term and non-reversible. By combining receptor sensitivity and magnitude of change, the scheme's landscape effects would be major/moderate adverse. This is appraised as a substantial effect, as it is likely to be an effect of key importance to decision-making.
82. In respect of visual effects, 8 groups of viewpoints were assessed in the context of receptors including residents, road users and pedestrians (a mix of medium and high sensitivities). The magnitude of change ranged between low and high, giving a range of likely visual effects. In five of the groupings (relating to close views from Broad Road and the junction of Broad Road and Scant Road West and from various residential properties in the site's vicinity), these were assessed as being major/moderate adverse, reducing (in two of the groups of residential receptors) to moderate adverse with leaf cover on existing vegetation. A finding

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<sup>79</sup> Paragraph 3.2.2 of Mr Allen's proof of evidence and para 5.2 of the appellant's LVIA (appendix 1 of Mr Allen's proof of evidence).

<sup>80</sup> Paragraph 7.8 of Mr Pullan's proof of evidence.

<sup>81</sup> Paragraph 7.3 of Mr Pullan's proof of evidence.

<sup>82</sup> Sections 7 and 8 of Mrs Butcher's proof of evidence.

of major/moderate adverse indicates a significant effect that is relevant to decision-making and is also of district importance.

83. It is submitted that the Council's landscape witness has provided a measured assessment of the landscape and visual impact of the proposal. Her conclusion that the scheme would result in a disproportionately large extension to Hambrook was substantiated by copious photographic evidence and predicated on a rigorous assessment of the landscape and visual context. Her conclusion was that the scheme would constitute an excessive extension into the rural area that would cause unacceptable harm to the character and appearance of the approach to the village and its rural setting.

#### *Settlement Hierarchy*

84. Policy 2 of the CDLP:KP supports small scale housing in a list of service villages including Hambrook/Nutbourne provided that such housing is consistent with the indicative housing numbers set out in policy 5. Policy 2 therefore defers to policy 5 for the judgement as to what the indicative housing numbers should be. Central to policy 2 is that all service villages have Settlement Boundaries which will be reviewed through the preparation of DPDs and/or Neighbourhood Plans. The CDLP:KP Inspector was satisfied that this provides a clear strategy for addressing boundary reviews at an appropriate stage in the process of identifying and allocating sites<sup>83</sup>. The principle that service villages should have settlement boundaries is integral to the CDLP:KP's approach to sustainable development.
85. Policy 5 indicates that the Parish of Chidham and Hambrook should provide 25 new dwellings in the plan period. The appellant states that this figure has not been robustly justified. However, an assessment of capacity was undertaken according to a variety of different metrics in the Settlement Capacity Profiles (SCPs)<sup>84</sup>. Further evidence was set out in a document tabled by the Council at the recent DCLP:KP examination<sup>85</sup>, which expands on the Council's approach when identifying these indicative housing numbers. This explains that parishes with medium-sized Service Villages providing more limited facilities were generally given an indicative figure of 25 dwellings. However, the score awarded by the SCP was only one factor in determining the indicative figure: other considerations were applied, such as proximity to Chichester which affected the numbers identified for Fishbourne. Applying a direct proportionate relationship between the settlement score and the final indicative housing figure would have been unduly mechanistic.
86. Necessarily, these indicative figures were subject to detailed scrutiny through the Local Plan process. It is not the function of the present appeal to duplicate the exercise already carried out by the CDLP:KP Inspector. She will inevitably have had a wealth of evidence before her on the soundness of the Council's strategic housing policies, including representations made by the appellant. This wealth of evidence has not been presented to the present inquiry. It is not therefore appropriate to invite the Inspector to second-guess the judgements that were reached by the CDLP:KP Inspector on these strategic housing issues. If the indicative housing figures are as flawed as the appellant contends then these arguments could and should have been advanced in a timely challenge to the

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<sup>83</sup> Paragraph 18 of the CDLP:KP Inspector's report – SoCG appendix 5.

<sup>84</sup> Extract from CDC Settlement Capacity Profiles – appendix 12 to Ms Bell's proof of evidence.

<sup>85</sup> Evidence Audit – inquiry document 5.

adoption of the CDLP:KP in the High Court. This was not done. As such, the indicative housing numbers in policy 5 can be relied upon as a sound appraisal of how the housing required in this District should be distributed sustainably in accordance with the Plan's settlement hierarchy.

87. In CDLP:KP policy 2, the rural area is described as the 'Rest of Plan Area'. The site falls within this as the policy presently stands. In this area, policy 2 restricts development to that which requires a countryside location or meets an essential local rural need or supports rural diversification in accordance with policies 44 and 45. While the appellant's witnesses were divided on the matter, the planning witness accepted that the scheme was in breach of policy 45<sup>86</sup>, but suggested that this breach was no more than a 'technicality' given the 'hiatus' until the Local Plan is reviewed in five years to seek to meet the OAN. It is submitted that this is tenuous: either there is a breach or there is not.
88. The appeal scheme is therefore inconsistent with the settlement hierarchy in CDLP:KP policy 2. If the appeal were to be allowed, it would force upon Hambrook a quantity of new housing that would be more appropriate for a Settlement Hub, thereby unsettling the settlement hierarchy within only a few weeks of the CDLP:KP being adopted. This would not be consistent with the plan-led approach required by the Framework.
89. The Council accepts<sup>87</sup> that the Settlement Boundary for Hambrook, as carried forward from the CDLPFR, is out-of-date as it has not yet been updated in accordance with the process provided for by policy 2. For the avoidance of doubt, the Council does not accept that the Settlement Boundary itself being out of date engages the reference in the last bullet point of paragraph 14 of the Framework to 'relevant policies' of the development plan being out of date. The relevant policy here is policy 2, which sets a forward-looking process for the revision of Settlement Boundaries in DPDs/NPs in accordance with the Plan's settlement hierarchy. Policy 2 cannot possibly be out-of-date: indeed, it does not seek to preserve the existing Settlement Boundary. The tests in the last bullet point of paragraph 14 of the Framework are not therefore engaged.

#### *Emerging Neighbourhood Plan (NP)*

90. The emerging NP, if made in due course, will become part of the development plan. Paragraph 216 of the Framework gives advice about how much weight to give to emerging plans. There is no suggestion that this does not apply to emerging NPs.
91. The emerging NP is currently in the fourth of the seven stages set out in national Planning Practice Guidance (PPG)<sup>88</sup>, which entails the District Council inviting representations from the public. It has already been the subject of one round of public consultation: the Parish Council took account of responses in the revised version that was submitted to the District Council. The next stage involves an independent examination. At the present stage the emerging NP should be given at least some weight, there being no prospect that its most relevant content, the delineation of the Settlement Boundary, will change from that shown on Map 2. As there is 'no current requirement for the NP to identify new sites for major

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<sup>86</sup> Mr Ellis in cross-examination.

<sup>87</sup> Ms Bell in response to Inspector's questions.

<sup>88</sup> PPG ref. ID 41-080-20150209.

development'<sup>89</sup> there is no basis for such an extension. The appeal scheme does not fall within the categories of housing development that are supported by NP draft policy LP1. The clear intention of this draft policy is that a housing proposal that is not within either of these categories will not receive support from the NP. The appeal scheme also lies outside the Settlement Boundary proposed in the emerging NP. The emerging NP therefore provides no support either for meeting the indicative provision set by CDLP:KP policy 2 on the appeal site or for providing a level of housing that is almost five times that indicative figure.

92. Paragraph 198 of the Framework states that where a planning application conflicts with a NP that has been brought into force, planning permission should not normally be granted. Whilst this paragraph may not yet be directly engaged, the conflict with draft policy LP1 will not go away as the emerging NP progresses given the extent to which the CDLP:KP indicative housing figure has already been exceeded in the Parish. Accordingly, the decision maker should have increasing regard to the clear policy instruction in paragraph 198 as the NP progresses.

#### *Conclusions of Chichester District Council*

93. The development plan and national policy require the dismissal of this appeal. The proposal is fundamentally at odds with the settlement hierarchy that is at the heart of the adopted Local Plan and which is reflected in the emerging NP which it also breaches. Whatever might be the sustainability credentials of the proposal in the narrow sense of its proximity to services, it is clear that one of the three dimensions of sustainable development set out in the Framework is the social dimension which requires the planning system to support 'strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being'<sup>90</sup>.
94. The Parish of Chidham and Hambrook has responded keenly and conscientiously to the Government's support for neighbourhood planning, preparing a NP that has, in accordance with the Framework and local strategic policy, made provision for the sustainable expansion of the settlement. To allow this appeal would drive a coach and horses through those efforts and fundamentally undermine confidence in neighbourhood planning – not only in this District but in all areas of England where communities have responded positively to the 'direct power' purportedly given to them in the Framework 'to develop a shared vision for their neighbourhood and deliver the sustainable development that they need'<sup>91</sup>. Having increasing regard to paragraph 198 of the Framework as the NP progresses, the appeal should be dismissed.
95. In summary, the proposal would fundamentally breach strategic and other policies in the development plan and there is no other material consideration that warrants granting planning permission. To the contrary, paragraph 198 of the Framework, as a material consideration, reinforces the importance of respecting the emerging NP. The appeal should be dismissed.

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<sup>89</sup> NP paragraph 45.

<sup>90</sup> Paragraph 7 of the Framework.

<sup>91</sup> Paragraph 183 of the Framework.

## Other Representations to the Inquiry

96. **Chidham and Hambrook Parish Council (CHPC)** objects to the proposal, supporting the Council's concerns. It considers that the appeal scheme would be highly inappropriate for this green field site, encroaching into a strategic gap and occupying good quality agricultural land. It would be visually intrusive, creating a ghetto that would not be easily assimilated. The impact would be catastrophic: local infrastructure such as the primary school, medical facilities and sewerage services (which discharge into Chichester Harbour) would be unable to support an additional 120 dwellings. There are few amenities and services within reasonable walking distance.
97. It is also felt that the scheme would be contrary to both the recent Parish Plan and the very recent emerging NP. Local people feel that any development should come forward on brownfield rather than greenfield sites. The CDLP:KP gives an indicative number of 25 dwellings. If this and other current proposals were all to come forward there would be an increase of 282 dwellings – an increase in excess of 50% of the existing number of houses in the village. It is considered that Hambrook is under siege. Nevertheless, the Parish Council does not object to development in principle: a proposal for a larger retail use at Chidham Garage was encouraged for viability reasons.
98. It is accepted that the proposal would meet some of the community's aspirations as set out in the emerging NP. However, the Parish Council and local people maintain their objections. This is because while the scheme's benefits are recognised, it is considered to amount to a net disbenefit to the Parish. It should also be noted that the approved developments on the western side of Broad Road will provide open spaces, allotments and a community orchard. The Parish Council is in negotiations to acquire these.
99. The written submissions of **Hambrook District Residents Association (HDRA)** raise similar concerns to those raised by CHPC. Comments on two additional matters were made at the inquiry<sup>92</sup>. First, it has been confirmed by WSCC that Chidham Primary School is currently operating at capacity. While children moving into the Parish would be accepted if they were starting school, that might not be the case in other year groups. Also, the Bourne Community College (secondary) is also at capacity, although there is capacity at some other secondary schools in Chichester.
100. Second, comments are made about the appeal scheme's effect on the character of Hambrook. In summary, the village experienced some development between 1980 and 2000, with two estates being built (of 26 and 11 houses) as well as smaller schemes. Between 2001 and 2011 there was minimal development, but in 2010/11 two developments were approved (at Lion Park and Hazel Copse) totalling 109 dwellings. Subsequently, a further 78 houses on four estates have been approved. Once these are built, the proportion of estate houses in the village will rise to 48% and the size of the village will have increased by 104%. If the appeal scheme is allowed these figures would increase to 58% and 155% respectively. Further applications in the pipeline would, if approved, continue that trend.

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<sup>92</sup> See inquiry document 8.

101. **Councillor Cullen** endorsed the views of the HDRA. He stated that local residents believe that the recent adoption of the CDLP:KP, along with the submission of the NP, has provided confidence, clarity and certainty for their area. For good reasons, the CDLP:KP sets a low level of housing numbers. However, the number of housing proposals that have been submitted in recent years threaten to change the area's rural character into that of an urban suburb. While the comments of the Planning Minister are noted<sup>93</sup>, it is felt that this refers to large strategic sites rather than sites like this one. Local volunteers have developed a neighbourhood plan. It is considered that an application of the scale now proposed would be a death blow to localism and would be clearly contrary to the aspirations of local people.

### Written Representations

102. The Council's case officer's report<sup>94</sup> summarises the consultation responses and third party representations that were received during its consideration of the application. These included some 96 third party objections that, in summary, expressed similar views to those voiced to the inquiry by CHPC, HDRA and Councillor Cullen. Other matters raised included flood risk and lack of local employment opportunities. Following the submission of the appeal, some 140 additional letters were received raising broadly similar concerns.

### Planning Obligations

103. Two legal agreements have been submitted, presenting alternative proposals to take account of the possibility that the Council may adopt a Charging Schedule introducing the Community Infrastructure Levy (CIL) prior to any grant of planning permission. The key relevant requirements in the case that a Charging Schedule has been adopted (the 'CIL agreement'<sup>95</sup>) are as follows:

- provision of on-site affordable housing (40%) comprising 14 shared ownership and 34 affordable rented homes;
- contribution towards mitigation measures in respect of effects on the Chichester Harbour Special Protection Area (SPA);
- provision of formal sports facilities on site;
- provision of a retail facility on site;
- provision of various open spaces<sup>96</sup> and associated implementation, maintenance and management;
- provision of fire hydrants; and
- provision of highway works: relocation of the 30mph speed limit with traffic calming measures; introduction of time-limited waiting restrictions at the lay-by to the south of the site access; introduction of uncontrolled crossings.

104. The key additional requirements in the case where a Charging Schedule has not been adopted (the 'non-CIL agreement'<sup>97</sup>) are contributions towards

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<sup>93</sup> Inquiry document 1.

<sup>94</sup> Appendix 9 of the SoCG.

<sup>95</sup> Inquiry document 22.

<sup>96</sup> Shown on plan 2 of the CIL agreement (inquiry document 22).

community facilities, health facilities, police services, public art, primary and secondary education, libraries, transport/highways and fire and rescue. However, the 'non-CIL agreement' does not specify the detailed highway works that are set out in the 'CIL agreement'.

105. Statements of justification for these requirements have been submitted by CDC and WSCC<sup>98</sup>. These refer to relevant CDLP:KP policies and other policy guidance, and describe areas where existing deficiencies occur – notably in educational provision. The measures that are proposed to mitigate against potential recreational disturbance of the SPA are summarised. These matters are not in dispute between the parties. Taking the submitted evidence into account, I am satisfied that these requirements satisfy the tests required by regulation 122 of the Community Infrastructure Regulations 2010.

### **Conditions**

106. The SoCG contains some 23 agreed conditions. I deal with these individually below, taking account of national policy in the Framework and guidance in the PPG. Where I suggest a significant change to the wording an amended condition is set out below in italics. A full list of conditions, incorporating my amendments and renumbered accordingly, is attached at Appendix 3 to this report. I suggest that these be imposed if the Secretary of State decides to grant planning permission for the proposed development.

### **Conditions 1 (i), (ii) and 2 – Reserved Matters and Standard Time Limits**

107. The application is for outline planning permission so it is necessary to impose the standard conditions relating to reserved matters and commencement in accordance with Section 92 of the Town and Country Planning Act 1990. However, the suggested condition 1(i) contains some duplication and I suggest that its first and second paragraph are shortened and combined.

*"Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development is commenced and the development shall be carried out as approved."*

108. Although not suggested in the SoCG it is necessary that the development should be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. I suggest that the following additional condition should be imposed.

*"The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule at the end of this decision in relation to matters that are not reserved for subsequent approval."*

### **Conditions 3 and 16 – Materials and Site Levels**

109. Given that the scheme's appearance remains to be finalised, materials and levels are more appropriately addressed at the reserved matters stage. These conditions fail the test of necessity. I suggest that they should not be imposed.

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<sup>97</sup> Inquiry document 23.

<sup>98</sup> Appendix 16 to Ms Bell's proof of evidence.

### **Conditions 4 and 5 – Construction Hours and Management Plan**

110. Given the site's proximity to housing these conditions are needed to safeguard residents' living conditions. However, as the construction management plan would need to be approved by the local planning authority in due course, it is unnecessarily prescriptive to specify its contents at the present stage. I suggest that the final sentence and list of bullets in suggested condition 5 be deleted.

### **Conditions 6 and 9 – Access and Visibility Splays**

111. Construction of the site access, including the provision of the proposed visibility splays, in advance of any other development is needed for highway safety reasons. Given that construction of the access itself involves development, I suggest that the word 'otherwise' is added for reasons of clarity. For reasons of brevity, I suggest that conditions 6 and 9 should be combined.

*"Development shall not otherwise commence until the vehicular access serving the development and the proposed visibility splays have been constructed in accordance with drawing number TSP/SUN/P2502/06B. Once provided the visibility splays shall be maintained and kept free of all obstructions over a height of 0.6 metres above carriageway level."*

### **Conditions 7, 10, 12, 14 and 15 – Drainage**

112. The appellant has submitted a Drainage and Utilities Assessment along with a Drainage Strategy Plan which gives some information about the intended foul and surface water drainage proposals. Full details of these arrangements are still needed, along with an implementation clause, to ensure satisfactory provision. The suggested condition 10 is unduly prescriptive and duplicates condition 7, while conditions 10, 12 and 15 also contain overlapping provisions. I suggest that a more succinct single condition should be imposed.

*"Development shall not commence until details of the proposed means of foul and surface water drainage, including details of the maintenance and management of any sustainable drainage system (SuDS), have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until drainage works have been constructed in accordance with the approved details."*

### **Condition 8 – Travel Plan**

113. Although a travel plan was prepared in support of the appeal application, the submission and implementation of an updated version is needed in order to promote sustainable transport. I suggest that the agreed condition should be shortened in the interests of clarity and brevity.

*"No part of the development shall be occupied until a travel plan has been submitted to and approved in writing by the local planning authority. The travel plan shall thereafter be implemented in accordance with the approved details."*

### **Conditions 11, 13 and 19 – Discharge to Watercourses, Access/Maintenance Arrangements for Watercourses and Culverts and Requirements for the Storage of Oils, Fuels and Chemicals**

114. These conditions duplicate other regulatory regimes and therefore fail the test of necessity. I suggest that they should not be imposed.

### **Condition 17 – Archaeology**

115. The appellant's desk-based assessment explains that the appeal site potentially contains deposits of archaeological significance. It is therefore necessary to ensure that an appropriate investigation is undertaken. I suggest that the agreed condition should be shortened for clarity and brevity.

*"Development shall not commence until a scheme of archaeological investigation has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details."*

### **Condition 18 – Contaminated Land**

116. A desk-based preliminary ground contamination risk assessment report was submitted in support of the appeal application. Various potential sources of contamination were identified and it was recommended that further investigation should take place. This should be secured prior to the commencement of development. However the agreed condition is unduly lengthy and, in addition, requires a desk-top study to be undertaken when this has already taken place. I suggest that should be shortened for clarity and brevity.

*"Development shall not commence until a site investigation of potential contamination is carried out and its results submitted to and approved in writing by the local planning authority. If the site investigation indicates that remediation is necessary then a Remediation Statement shall be submitted to and approved in writing by the local planning authority. Remediation work shall then be carried out in accordance with the approved scheme. If remediation is required a Site Completion Report detailing the conclusions and actions taken at each stage of the works, including validation works, shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any dwelling hereby permitted."*

### **Condition 20 – SPA Educational Pack**

117. The Council states that, as part of the package of mitigation measures in respect of potential recreational disturbance of the SPA, it is necessary that an educational pack be distributed to all new residents of the scheme explaining the area's importance and sensitivity and suggesting ways in which residents could reduce their impact on it. However, given that a payment towards SPA mitigation is included in both submitted legal agreements, the detailed basis for this additional requirement is unclear. Furthermore, the agreed condition does not exactly specify the timing of the pack's distribution and does not contain any arrangements in respect of any future residents. On balance, it has not been shown that it would therefore meet the test of necessity. I suggest that it should not be imposed.

### **Conditions 21 and 23 – Habitat and Landscape Enhancement Plan and Enhancement of Biodiversity**

118. The submitted Ecological Assessment describes the site's existing ecological features, of which the hedgerows and more mature trees are of the greatest value, and identifies the potential for significant enhancement. It is therefore necessary to require the submission, approval and implementation of a biodiversity enhancement plan. A single condition is sufficient for this purpose, as there is some duplication in the submitted condition. However, given that

landscaping is a reserved matter, the requirement to submit a separate landscape management and enhancement plan would fail the test of necessity.

*“Development shall not commence until a scheme for the enhancement of the site’s biodiversity value has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details.”*

## **Condition 22 – Tree Protection**

119. Although a tree survey has been undertaken by the appellant, it is necessary that an arboricultural impact assessment and method statement be submitted, approved and implemented in order to protect important trees on the site.

## **Conclusions**

[Numbers in square brackets refer to paragraphs elsewhere in this report. ‘fn’ refers to a footnote to that paragraph.]

### *Main Issues*

120. Given that the Council no longer wishes to pursue its 3<sup>rd</sup> and 4<sup>th</sup> refusal reasons [1], the main issues in this appeal are as follows:

(a) whether the proposal would accord with the objectives of the CDLP:KP’s settlement hierarchy;

(b) the effect of the proposal on the character and appearance of the area;

(c) whether the proposal would accord with the emerging Chidham and Hambrook Neighbourhood Plan (NP); and

(d) whether the Council can demonstrate a five year supply of land for housing as required by paragraph 49 of the Framework.

### *Settlement Hierarchy*

121. Policy 2 of the CDLP:KP establishes a clear hierarchy of settlements within the District. Hambrook/Nutbourne is identified as a Service Village [9]. This policy is read in the context of policy 5 which, although not cited in the Council’s refusal reasons, is clearly material. Policy 5 establishes an indicative housing number of 25 units for the parish (Chidham and Hambrook) and describes how the relevant provision will be secured [11]. In this case, the Settlement Boundary for the village will be reviewed through the vehicle of a NP [15, 16].

122. The appeal site lies outside the present Settlement Boundary. CDLP:KP policy 45 therefore applies: it is common ground that the appeal scheme would conflict with the first paragraph of that policy, as it would not meet the specific criteria that are set out for development within the countryside [13]. However, it is also common ground that this Settlement Boundary is out of date because it has not been reviewed as is required by policy 5 [37, 89]. This reduces the weight that can be afforded to this policy conflict.

123. Nevertheless, it seems to me that, contrary to the Council’s assertion at the inquiry [51, 87], the appeal site cannot at present be treated as being in the

'Rest of the Plan Area' (ROPA) for the purposes of policy 2. The site adjoins a Settlement Boundary that has yet to be finalised in accordance with CDLP:KP policies 2 and 5. It is implicit in the approach described above that land that is presently outside the Settlement Boundary may need to be incorporated within that boundary if the intended policy objectives are to be achieved. Indeed, this is proposed in the emerging NP, albeit that changes are not proposed in respect of the appeal site. Until that process is complete, the extent of the ROPA in the village's vicinity cannot be determined.

124. The appellant seeks to both challenge the basis for the 25 unit figure contained in CDLP:KP policy 5 [50] and to demonstrate that the 120 unit development that is now proposed would, in any event, not breach that policy given that a specific ceiling on housing numbers is not set [37].
125. In respect of the first of these matters it seems to me that the appellant is seeking to revisit arguments that were made during the CDLP:KP examination. These matters were subject to detailed scrutiny at that time [86] and I agree with the Council that it is not the function of the present appeal to re-examine a Local Plan that has been very recently adopted. The CDLP:KP Inspector will have had access to a variety of information that has not been presented to this inquiry. Furthermore, she reached her conclusions based upon a consideration of the Plan area as a whole, rather than focussing on a specific site in a specific settlement. Clearly, the matter of whether relevant policies for the supply of housing are up-to-date in the terms of paragraph 49 of the Framework is a matter that needs to be considered in the light of housing land supply evidence. I return to this matter below. Subject to that, and bearing in mind the Council's description of the process underlying its evidence to the examination [85], I have no reason to question the robustness of the Inspector's conclusion that policy 2 provides a clear strategy for addressing boundary reviews at an appropriate stage in the process of identifying and allocating sites.
126. Turning to the second point, it is accepted that policy 5 does not place a ceiling on the numbers of houses to be accommodated in each parish. The stated numbers are clearly indicative. However, the purpose of an indicative figure is, in my view, to give a signal about the likely scale of housing that the Local Plan is seeking to accommodate in the area concerned. If this figure is to have any meaning, as it surely must within the genuinely plan-led system that is endorsed by the Framework<sup>99</sup>, it cannot represent an effective 'blank cheque'. While there is understandably some scope for flexibility, this must of necessity be limited by the terms of the policy and the position of the settlement concerned within the overall Plan hierarchy. It is notable in this context that policy 5 seeks the identification of *small scale* housing sites (my italics) [11].
127. In fact, the 25 unit figure has already been exceeded. Planning permission has been given for an additional 86 houses in the Parish in the last two years [16]. The appeal scheme would add a further 120 units to this total. By a reasonable reading, these figures taken together would constitute a significant excess over the indicative figure that policy 5 is seeking to plan for. It follows that the appeal scheme is at odds with the first bullet point of the relevant section of policy 2, which provides 'for ... small scale housing developments

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<sup>99</sup> Paragraph 17 of the Framework.

*consistent with the indicative housing numbers set out in Policy 5' (my italics again)[9].*

128. In that context, I do not accept the appellant's assertion that policy 2 would not be breached because the proposal does not fall within the class of development identified in that bullet point [36]. When viewed as a whole, the thrust of policy 2 is clear: major development is to be focused in the Sub-regional Centre (Chichester City), Settlement Hubs are intended to accommodate two strategic development locations and new development that would reinforce their role, and Service Villages are intended to accommodate small scale housing developments consistent with the numbers set out in policy 5 as well as local community facilities and small scale employment, tourism or leisure proposals [9]. Such an approach is not unusual in Local Plans. Indeed, it is implicit in the very concept of a hierarchy.
129. Clearly, some elements of the appeal scheme would accord with the second and third bullet points of the relevant section of policy 2 [36]. However, as already discussed, the housing element would conflict with the first bullet point. In addition, I do not feel that a 120 unit housing development can be considered to be 'small scale' in the context of a settlement that is the size of Hambrook. A 12% increase in housing numbers [49] represents a significant change. Taking all of the above together, I conclude that the proposal would conflict with the objectives of the CDLP:KP settlement hierarchy as set out in policies 2 and 5.
130. The appellant takes the view that any such conflict would not amount to significant and demonstrable harm [49] and queries whether the appeal scheme would indeed result in Hambrook entering the next level of the hierarchy as is alleged by the Council [49 fn]. I share the appellant's view in respect of the latter point: from the evidence before me<sup>100</sup> it appears that the identification of Settlement Hubs (which is a matter for the Local Plan in any event) is based upon the range of services that they contain rather than the scale of housing development that they may attract. However, in respect of the first point it is an implicit function of a plan-led system for the Local Plan to provide a level of confidence, clarity and certainty at the strategic level that is sufficient to enable detailed plans to be made at the local level. Such attributes are clearly valued by local residents [101]. Irrespective of the other main issues discussed below, the appeal proposal's conflict with the objectives of the Local Plan's settlement hierarchy is therefore an important consideration.

#### *Character and Appearance*

131. The appeal site lies on agricultural land that contrasts markedly with the built character of the nearby settlement. It is common ground that the proposal would have a substantial and irreversible effect on the character and appearance of the site itself [79]. This could hardly be denied, given the difference between farmland and a scheme including 120 houses and other facilities. What are in dispute are the resulting landscape and visual effects, as well as the implications of those effects in respect of character and appearance.
132. The site has significant planting on its southern and western boundaries [3, 4]. This establishes a distinct edge to the settlement: it is clear where the built area

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<sup>100</sup> See for example CDLP:KP paragraph 5.1, included in appendix 4 to Ms Bell's proof of evidence.

stops and the countryside begins [81]. In the case of Broad Road this position is in the vicinity of the village sign rather than the A27 bridge, from where the presence of the settlement is not easily appreciated [76]. The site therefore creates an undeveloped gap between the built-up area and the A27.

133. While this screening is significant, it is not complete. At various places, notably at gaps in the hedge on Scant Road West, at the field gate on Broad Road and at the place where the hedge has been trimmed on Broad Road, it is possible to view the open fields that lie on the other side of the field boundaries [3, 4]. The undeveloped nature of the site is apparent. It therefore forms part of the village's rural setting.
134. This conclusion is supported by the landscape assessment that has been undertaken for the Council [81], which considers the site and its surroundings as the appropriate landscape receptors. In contrast, the appellant's LVIA considers landscape effects in respect of a considerably wider area (notably character area SC5) [44]. However, most of character area SC5 is too widely separated from the site to be potentially influenced by the appeal scheme. The Council's assessment is more focussed and therefore represents a more appropriate study area in the context of GLVIA advice. Given the undeveloped and agricultural nature of the appeal site, the permanent nature of the development that is proposed and the 'substantial' effect that is accepted (see [131] above), it is difficult to understand the conclusion of the appellant's LVIA that the magnitude of landscape change would be 'low' [44, 79]. A 'high' level of change, as envisaged by the Council, would appear a more realistic assessment [81]. As such, the Council's conclusion that the appeal scheme would result in a 'major/moderate adverse' landscape effect is more robustly justified than the assessment of the appellant's LVIA that these effects would be 'minor positive'.
135. The suggested layout of the appeal scheme is illustrative only. However, it is common ground that the proposed development would be visible at various points including the main and emergency site accesses on Broad Road and Scant Road West respectively and the village green at the Broad Road/Scant Road West junction [41, 75]. While opportunities to introduce additional planting exist within the site, it is not the appellant's intention to seek to effectively conceal the development [41]. Indeed, such a strategy would result in the provision of an uncharacteristic townscape element: although some houses to the west of the site (such as on Aviary Road) are screened from Broad Road by planting, the general pattern of development within Hambrook involves dwellings facing the road, as is evident on Scant Road West [4]. These factors reduce the weight that I can attach to the appellant's suggestion that additional planting could provide appropriate mitigation [46, 47]. The areas of open space and landscape improvements that are suggested within the northern part of the site, while clearly representing assets in themselves [41], would not materially assist in that regard: they would not be easily seen from the existing village and, as already noted, intervisibility between the site and the A27 is very limited.
136. It is accepted that the full size of the appeal scheme would not be apparent from any one of the viewpoints on Broad Road or Scant Road West. That is not unusual in the case of developments of the scale that is proposed. Nevertheless, at each of those points it would be apparent that the site contained built development rather than agricultural fields. If more than one viewpoint were to be experienced, the scale of the proposal would become more apparent.

137. The scheme's visual impact was assessed by the two main parties. I share the Council's concerns, specifically those outlined at [78, 79], that there are deficiencies in the assessment that has been presented by the appellant in that regard. The categorisation of the sensitivity of nearby residents as visual receptors has been understated, while users of the adjoining roads (Broad Road and Scant Road West) were not identified as visual receptors at all [45]. These roads, Broad Road especially, are used by pedestrians, cyclists and horse-riders as well as vehicular traffic [3 fn].
138. In assessing the magnitude of the resulting visual change, and therefore the significance of the resulting effect, there is clearly a professional difference between the two main parties' landscape witnesses. I have no reason to doubt that, in principle, the establishment of a village green with facing development on its northern edge could create an appropriate visual focus. However, in order to create such an effect it would be necessary to remove an established planted boundary that forms a distinct edge between the existing built-up area and the countryside within which it is set. As already noted above, other parts of the proposed development would be visible from points on Broad Road and Scant Road West.
139. Notwithstanding the view of the appellant's urban design consultant that the scheme would not significantly extend beyond the existing built envelope of the village [80], a view that I sought to clarify at the inquiry, it is clear that as a matter of fact the resulting built envelope would extend beyond what is a well-defined settlement edge into an area that is characterised by agricultural uses and the lack of built development. Irrespective of the detailed design of the buildings now proposed, which is a matter that could be addressed at the reserved matters stage were matters otherwise acceptable [42], the above factors would combine to create a detrimental effect on the established rural character of the site and its surroundings. A substantial built addition to the village would be apparent. It is notable that the scale of the proposal would significantly exceed that of the two schemes allowed on appeal in 2014 – both individually and cumulatively [32, 33].
140. It is accepted that the viewpoints identified by the Council in respect of visual impact all lie within 50 metres of the appeal site boundary [47]. The appeal development would not have a significant visual presence in more distant views, for example from the northern side of the A27 [46]. However, given that sensitive visual receptors are located close to the site it is necessary that potential effects on such receptors should be considered. The proximity of these viewpoints to the site does not reduce the significance of the impacts that have been identified.
141. For the above reasons, I attach greater weight to the conclusions on visual impact set out in the Council's landscape evidence than to those provided by the appellant's landscape witness. I therefore agree with the Council that the scheme's visual effects would range from 'moderate adverse' to 'major/moderate adverse' depending upon the season [82].
142. The Council's arguments in respect of the scheme's inability to be 'easily assimilated into the village'<sup>101</sup> are less clear. Indeed, it seems to me that the Council has been unable to properly define what it means by assimilation in this

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<sup>101</sup> From the Council's 1<sup>st</sup> refusal reason.

context – over and above the matters of development scale and effect upon character and appearance, which are both addressed above, and the scheme’s resulting degree of connectivity with the settlement. In respect of the latter point, there is no evidence that adequate pedestrian, cycle and vehicular linkages could not be put in place, while it is likely that facilities within the scheme itself would be attractive to, and therefore used by, existing residents [41]. Nevertheless, in view of my comments above about the scheme’s landscape and visual effects, I conclude that the proposal would adversely affect the character and appearance of the area, contrary to CDLP:KP policy 33.

#### *Emerging Neighbourhood Plan (NP)*

143. The sole policy of the emerging NP that provides for the development of housing (draft policy LP1) does not, on its own terms, exclude a scheme on the scale now proposed. Strictly, the appeal scheme does not therefore conflict with that draft policy [39]. However, it is clear that the emerging NP when taken as a whole does not envisage additional housing of this scale being built during the Plan period [16]. The appeal site is not one of the four locations where it is proposed to extend the Settlement Boundary to accommodate developments with planning permission: the site would remain outside that boundary [91] with the intention that it would be subject to the restrictive provisions of CDLP:KP policy 45 once the NP is made. Notwithstanding that several of the NP’s community aspirations would be realised [17, 28, 39], I conclude that the appeal scheme would conflict with the emerging NP when read as a whole.
144. Given that the emerging NP has yet to be examined, and noting that it is likely that further representations will be made in respect of the appeal site [38], full weight cannot be afforded to its contents. However, the NP has been submitted in the context of a recently adopted Local Plan. In particular, the NP refers to the indicative housing number that is set for Chidham and Hambrook by CDLP:KP policy 5 [16]. In terms of the stages outlined in the PPG [91] the NP is now into the second half of its statutory processes. While the emerging NP does not yet benefit from the provisions of paragraph 198 of the Framework [94, 98], I consider that its provisions should attract moderate weight in this appeal in line with paragraph 216 of the Framework.

#### *Five Year Supply of Housing Land*

145. The areas of disagreement with respect to this matter have been helpfully clarified by the two main parties [59, 70] and are summarised in Appendix 2 of this report. The first of these relates to the headline housing requirement figure upon which the five year land supply calculation should be based. For the reasons set out below I share the Council’s view that this should be the CDLP:KP housing requirement of 435 dwellings per annum (dpa). Such an approach is consistent with national guidance, which gives considerable weight to housing requirement figures in recently adopted Local Plans [72].
146. Updated evidence has been provided about the upgrade of Tangmere WWTW (albeit that this is challenged by the appellant’s housing supply witness [56 fn]), while it is common ground between the main parties that that the appeal scheme is not precluded by transport constraints [56, 66]. However, detailed evidence has not been presented in this appeal about the effects of such constraints elsewhere in the Plan area. The CDLP:KP Inspector recognised that there were flaws in the transport evidence that was submitted to the examination, but

reached a balanced view that this should not delay adopting the Plan with a housing requirement of 435 dpa [72 fn]. The constraint imposed by the Tangmere WWTW, which does not affect the part of the District in which the appeal site is located, was only one of the factors acting to constrain the overall potential for housing delivery. While its updated delivery timescale would allow greater progress on some sites than was previously envisaged, this does not over-ride the conclusions of the CDLP:KP Inspector, which took account of constraints and opportunities across the Plan area as a whole. In respect of both of these matters, I do not feel that the evidence now presented gives a sound basis upon which to conclude that the balanced view of the CDLP:KP Inspector in respect of the housing requirement for the overall Plan area was flawed.

147. The comments of the Minister in respect of housing delivery [23, 35] are noted. National policy in the Framework seeks to significantly boost the supply of land for housing [55]. However, these matters do not in themselves amount to reasons to depart from the plan-led approach that the Framework supports.
148. Some elements of the housing supply calculation are not in dispute [70]. The Council accepts that the 'Sedgefield' method of distributing the housing shortfall should be used, that a 20% buffer should be applied in accordance with paragraph 47 of the Framework and that the buffer should also be applied to the shortfall. This approach accords with national policy and recent practice. The completion figures for 2014/15 are also not in dispute. However, these show that during that year there was a significant undersupply [53]. Bearing that in mind, I agree with the appellant that it is inappropriate to assess the five year land supply position based upon a period starting at April 2016. Such an exercise necessarily includes a forecast of completions that have yet to take place. This seems to me at odds with the national policy requirement that Councils should have an identified five year supply at all points during the Plan period [70]. This requirement means that such provision should be in place at the time at which a planning decision is being made rather than at some point in the future. In the present case, the more robust data are those applying to the period starting in April 2015. That is the period that should form the basis for calculating housing land supply in the present appeal. On the Council's calculation, this period shows a surplus supply of some 220 dwellings [70].
149. The appellant's position with regard to the upgrade of the Tangmere WWTW is unclear: it is argued that the upgrade is a reason to adopt a higher housing requirement while the implications for such an upgrade with regard to the delivery of specific sites are disputed [56 fn]. In any event, given that the Council's stance derives directly from the plant's operator, I afford it the greater weight. This view supports some of the Council's assumptions about delivery from the sites that are potentially affected by this constraint – the Westhampnett and Tangmere SDLs. I have no reason to doubt the Council's assessment that development of the West of Chichester SDL can commence without requiring completion of the WWTW upgrade<sup>102</sup>.
150. I also share the Council's concern about the appellant's use of standard completion rates [71]. Significant weight should be attached to the Council's adoption of actual delivery rates based upon completions in the locality. These show that strategic sites in Chichester District and elsewhere in West Sussex

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<sup>102</sup> Paragraph 8.27 of Mr Davidson's rebuttal proof of evidence.

have achieved higher rates of delivery than the evidence put forward by the appellant [71 fn]. It seems to me that the appellant's assessments in that regard are unduly pessimistic.

151. Turning to the specific site based comments, I note the appellant's view that ownership and access constraints appear to call the deliverability of the West of the Saltings site into question. The Council accepts that it is exploring the option of compulsory purchase<sup>103</sup>. However I do not see why this would necessarily preclude the development of a site of this scale within the above-noted five year period. I see no reason to discount this site.

152. In respect of the other sites listed I accept the Council's estimate of potential annual delivery rates for the reasons set out above. However, it is also necessary to examine the evidence supplied in respect of likely starts on site. This is based upon several factors including, importantly, the Council's ability to process and determine the relevant planning applications. The Council's estimate of the likely start date at Shopwyke (which already has outline planning permission) is based on evidence from the developer's agent, who confirms that a reserved matters application is due in 6-8 weeks<sup>104</sup>. I have no reason to take a different view. As such, I accept the Council's suggested timescale.

153. The position with regard to the West of Chichester SDL appears less certain. A planning application submitted in December 2014 has yet to be determined at the time of writing, while the developer's agent raises concerns about possible slippage<sup>105</sup>. Bearing in mind the time that the consideration of that proposal has taken to date, the Council's suggestion that the first units will be on site in 2017-18<sup>106</sup> appears optimistic. A more realistic assessment would be to put the suggested trajectory back by one year: this would reduce the yield for the five year period to 100 units – a reduction of 75 units from the figure assumed by the Council for 2015-2020. A current planning application (submitted in April 2014) in respect of the first phase of Westhampnett SDL also remains to be determined at the time of writing<sup>107</sup>. For similar reasons as for the West of Chichester SDL, a similarly cautious approach is justified. Putting the suggested trajectory back by one year for that site would reduce its yield for the five year period to 105 units – a reduction of 65 units from the Council's 2015-2020 estimate.

154. The Council's timescale for a site start at Tangmere (2018/19) – where a planning application has yet to be submitted – also appears optimistic, bearing in mind the time (to date) that it has taken to progress the above two applications. Putting the suggested trajectory of that site back by one year would reduce its yield for the five year period to 50 units – a reduction of 75 units from the Council's 2015-2020 figure.

155. The site described as South of Graylingwell Drive has a timescale for the consideration of a planning application for a scheme that is in excess of the 130 units that the Council has made allowance for in its land supply figures<sup>108</sup>. On

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<sup>103</sup> Paragraph 7.1.1 of inquiry document 20.

<sup>104</sup> Paragraph 8.18 of Mr Davidson's rebuttal proof of evidence.

<sup>105</sup> See paragraph 8.27 and appendix 17 of Mr Davidson's rebuttal proof of evidence.

<sup>106</sup> See appendix 1 of Mr Davidson's rebuttal proof of evidence (page 22).

<sup>107</sup> Paragraph 8.33 of Mr Davidson's rebuttal proof of evidence.

<sup>108</sup> Paragraph 7.7.1 of inquiry document 20.

balance, I am satisfied that the Council's estimate for this site, which is smaller than the SDLs referred to above, is justified.

156. Taking these matters together, I consider that the Council's stated surplus of 220 houses for the five year period 2015-2020 has been significantly over-stated. The deductions recommended above would reduce this figure by 215 dwellings. Strictly, therefore, I must conclude that the Council can demonstrate a five year supply of land for housing as required by paragraph 49 of the Framework. However, notwithstanding that this supply includes a 20% buffer, the margin for error is very small. Therefore, while relevant policies for the supply of housing should not be deemed to be out of date with respect to paragraph 49 of the Framework, I consider that the appeal site's potential to deliver housing and contribute to a more robust five year land supply would represent a planning benefit.

### *Conclusions and Planning Balance*

157. I have concluded above that the appeal scheme would conflict with the objectives of the CDLP:KP settlement hierarchy as set out in policies 2 and 5 [129] and would adversely affect the character and appearance of the area, contrary to CDLP:KP policy 33 [142]. While the conflict with CDLP:KP policy 45 attracts less weight for the reasons stated above [122], the conflicts with policies 2, 5 and 33 mean that the appeal scheme would not be in accordance with the development plan when the Plan is considered as a whole.
158. For the reasons stated above [156], relevant policies for the supply of housing should not be deemed to be out of date with respect to paragraph 49 of the Framework. However, given that the Settlement Boundary for Hambrook is out of date [39], the question arises as to whether – irrespective of the five year housing land supply position – 'relevant policies are out of date' so as to trigger the more onerous planning balance set out in the last bullet point of the Framework's paragraph 14.
159. The CDLP:KP is a very recently adopted Local Plan [7] that provides a signal about the level of housing development that is expected to be located within the settlement concerned [126]. The extent to which the Settlement Boundary for Hambrook is out of date must therefore be qualified by the scope and nature of the process that is intended to review it. As set out in CDLP:KP policy 5, this means the identification of small scale housing sites to address the specific needs of local communities in accordance with stated indicative parish housing numbers [11]. In appropriate circumstances, such as in the present case, this will require Settlement Boundaries to be altered. Of necessity, those boundaries will be out of date until that process is completed.
160. The appeal scheme represents a significant excess over the indicative housing figure set for the Parish by policy 5 [127]. Irrespective of the merits of the particular approach that has been taken in the NP, which is a matter for consideration elsewhere, there is no evidence that a development of the scale and type that the appeal scheme proposes is likely to come forward through the NP process. Indeed, given the CDLP:KP policy framework described above, and bearing in mind the recent planning permissions that have already been granted in the village [16, 49], there is no current local need for such a level of additional development to be accommodated.

161. National policy requires planning to be genuinely plan-led. Irrespective of the merits of the detailed policies and proposals of the emerging NP – which is yet to be examined – the policy framework that is provided by the CDLP:KP has provided confidence, clarity and certainty to the neighbourhood planning process [130]. The process that will establish up-to-date Settlement Boundaries for Hambrook is underway: submission of the NP to the Council has followed the adoption of the CDLP:KP without undue delay. Given that the underlying policy framework set out by CDLP:KP policies 2 and 5 is not out of date, it seems to me that, taken together, the out of date nature of Hambrook's Settlement Boundary does not cause 'relevant policies' to be out of date in the sense of paragraph 14 of the Framework. The more onerous planning balance in the last bullet point of that paragraph does not therefore apply.
162. Nevertheless, it is still necessary to consider the appeal scheme in the context of the presumption in favour of sustainable development set out in the first part of paragraph 14 [30]. It is common ground that the appeal site occupies a sustainable location: issues of accessibility and highway impact, although raised by local residents, do not form part of the Council's objections. The site is accessible by alternatives to the private car, notably as a result of its proximity to Nutbourne station [31]. Inspectors in two other appeal decisions have reached similar conclusions, albeit that these decisions were taken in the particular context of the schemes that they were considering including the lack of a five year housing land supply. Both decisions also pre-dated the adoption of the CDLP:KP [32, 33].
163. However, the definition of sustainable development addresses wider issues, as is made clear by paragraph 7 of the Framework. This identifies the three dimensions of sustainable development – economic, social and environmental. In respect of the first of these, it is common ground that the scheme would provide economic benefits, for example in respect of employment during the construction phase and in the proposed retail unit after completion. This weighs in favour of the proposal. In respect of the third dimension (environmental) it is clear that, subject to details that are yet to be finalised, biodiversity improvements would be forthcoming [118]. However, this benefit is in my view outweighed by the adverse effect that would be caused to the area's character and appearance [142]. The overall effect of the environmental dimension weighs against the proposal.
164. The social role of sustainable development is described as supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being [93]. Notwithstanding the fact that I have concluded that the Council is able to demonstrate a five year supply of land for housing, the margin for error in that calculation is very small [156]. The appeal scheme would provide a social benefit by delivering housing and contributing to a more robust five year housing land supply. It would also assist in meeting affordable housing needs at the District level [25 fn]. As noted above [162], the site occupies a sustainable location. Various specific community aspirations, including a new shop and recreational facilities, would be met [28].

165. However, the above description of the social role of sustainable development is grounded in the concept of the community. In this case, a policy framework has been established by the recently adopted Local Plan that provides the context for the community of Chidham and Hambrook to plan for development in the locality. The CDLP:KP does not indicate that there is a need within the Parish for the amount of market housing that is now proposed [127]. Given that the amount of affordable housing that the scheme would provide (48 units) would exceed the indicative figure for all housing within the Parish, there is no evidence that the scheme would meet an affordable housing need at the Parish level [25].
166. I have concluded above that the proposal would conflict with the emerging NP when read as a whole [143]. While only moderate weight can be afforded to that conflict in view of the stage that the NP has reached [144], the scheme's conflict with the objectives of the CDLP:KP's settlement hierarchy is an important consideration [130]. This is because at the community (i.e. Parish) level, there is no evidence that more housing is needed of the scale now proposed. Granting planning permission for the present proposal would therefore be at odds with the shared neighbourhood planning vision that is referred to in paragraph 183 of the Framework [94]. I agree with the Council that to allow this appeal would also fundamentally undermine confidence in the neighbourhood planning process that has taken place to date in Chidham and Hambrook. I consider that these factors are sufficient in the present case to over-ride the social benefits that I have described [164]. Overall, therefore, my findings in respect of the social dimension of sustainable development also weigh against the development.
167. Taking these matters together, I consider that the appeal scheme would not amount to sustainable development. It would not therefore benefit from the presumption set out in paragraph 14 of the Framework. The arguments that have been advanced in favour of the proposal are not sufficient to overcome the conflict with the development plan that is described above.

### **Formal Recommendation**

168. For all of the reasons I have given, I recommend that the appeal should be dismissed. However, if the Secretary of State disagrees, I recommend that any grant of planning permission be subject to the conditions set out in Appendix 3 to this report.

*M J Hetherington*

INSPECTOR

## APPEARANCES AND DOCUMENTS

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Gwion Lewis	Of Counsel Instructed by Ms N Golding, Principal Solicitor for Chichester District Council (CDC)
He called	
Mrs R Butcher	terra firma consultancy for CDC
BA(Hons) Dip LA, CMLI	
Ms J Bell	CDC
BA(Hons) MSc MA MRTPI	
Mr R Davidson	CDC (round table session)
BA MEnvPI MRTPI	

### FOR THE APPELLANT:

Mr Sasha White QC	Instructed by Mr I Ellis, Southern Planning Practice
He called	
Mr C Pullan	Nathaniel Lichfield & Partners
BA(Hons) Dip UD	
Mr D Allen	Allen Pyke Associates
Dip LA CMLI	
Mr I Ellis	Southern Planning Practice
BA MRTPI	
Mr M Hewett	Intelligent Land (round table session)

### INTERESTED PERSONS:

Mr C Archer	Chairman Chidham and Hambrook Parish Council
Mr P J Cole	Hambrook District Residents Association
Councillor M Cullen	District Councillor

## DOCUMENTS TABLED AT THE INQUIRY

Document 1	BBC News website extract: 'Million' new homes target declared by minister Brandon Lewis. Printed 21 September 2015.
Document 2	Extract from CDC Draft Local Plan Key Policies: Preferred Approach (2013).
Document 3	Extract from South Downs National Park Preferred Options document (September 2015).
Document 4	Letter from Henry Adams LLP dated 8 September 2015.
Document 5	Extract from CDC Local Plan Examination Evidence Audit – Housing Provision (November 2014).
Document 6	Opening submissions of the appellant.

Document 7	Opening submissions of CDC.
Document 8	Statement by Mr P J Cole (Hambrook District Residents Association).
Document 9	StreetView image of green space at A259 junction, Chidham.
Document 10	Extracts from Natural England Agricultural Land Classification maps.
Document 11	Draft agenda for housing land supply round table session.
Document 12	Location plans of housing sites discussed at housing land supply round table session.
Document 13	Letter from CDC to parish clerks dated 27 September 2012 in respect of parish housing numbers.
Document 14	CDC Development Plan Panel 20 November 2012 – Parish housing numbers and locations consultation (agenda item 6).
Document 15	e-mail from Mr Cole to CDC dated 22 September 2015.
Document 16	CDC note on Affordable Housing Provision.
Document 17	e-mail from Mr Smith (West Sussex County Council) dated 21 September 2015.
Document 18	Housing land supply position statement from Mr Hewett.
Document 19	Appendices to Mr Hewett's position statement.
Document 20	Housing land supply position statement from Mr Davidson.
Document 21	e-mail from Ms Ludford (South Downs National Park Authority) dated 11 September 2015.
Document 22	Planning agreement dated 23 September 2015 (CIL).
Document 23	Planning agreement dated 23 September 2015 (non-CIL).
Document 24	Further extracts from the adopted Chichester Local Plan: Key Policies 2014-2029 (CDLP:KP).
Document 25	Extracts from the Guidelines for Landscape and Visual Impact Assessment (3 <sup>rd</sup> edition).
Document 26	e-mail from Mr Stilwell (Stillwell Ltd and Stilwell Road Safety Ltd) dated 24 September 2015.
Document 27	Closing submissions of CDC.
Document 28	Closing submissions of the appellant.

**APPENDIX 1 – SCHEDULE OF APPLICATION PLANS**

38-1795-101 B

38-1795-102 A

38-1795-105

38-1795-PS04C (tabled at Inquiry)

2488-LA-01 P2

TSP/SUN/P2502/02 E

TSP/SUN/P2502/04 A

TSP/SUN/P2502/06 B

TSP/SUN/P2502/08 B

## APPENDIX 2 – SUMMARY OF MAIN AREAS OF DISAGREEMENT IN RESPECT OF FIVE YEAR HOUSING LAND SUPPLY (FYLS)

	Position of Chichester District Council	Position of Sunley Estates Ltd
Basis on which FYLS should be calculated	CDLP: KP housing requirement (435 dpa)	OAN accepted by the CDLP: KP Inspector (505 dpa)
Period of FYLS	2016-2021 (figures for 2015-2020 are quoted below in brackets)	2015-2020
Completion of Tangmere WWTW upgrade	By 31 December 2017	By 2019
FYLS forecasts for specific sites in dispute <sup>109</sup> :		
West of the Saltings	15 (15)	0
Graylingwell	332 (344)	250
Shopwyke	434 (339)	101
West of Chichester SDL	275 (175)	90
Westhampnett SDL	235 (170)	45
Tangmere SDL	200 (125)	0
South of Graylingwell Drive	130 (130)	73

Sources: Position papers submitted by both main parties during the inquiry (inquiry documents 18-20). In some cases these supersede the cases set out in the respective proofs of evidence.

<sup>109</sup> The locations of these sites are shown in inquiry document 12.

### APPENDIX 3 – CONDITIONS SCHEDULE

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development is commenced and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule at the end of this decision in relation to matters that are not reserved for subsequent approval.
- 5) The construction of the development and associated works shall not take place on Sundays or Public Holidays or at any time otherwise than between the following hours:  
0730-1730 Mondays-Fridays  
0900-1300 Saturdays
- 6) No development shall take place, including any works of demolition, until a construction management plan has been submitted to and approved in writing by the local planning authority. Thereafter the plan shall be implemented as approved and adhered to throughout the entire construction period.
- 7) Development shall not otherwise commence until the vehicular access serving the development and the proposed visibility splays have been constructed in accordance with drawing number TSP/SUN/P2502/06B. Once provided the visibility splays shall be maintained and kept free of all obstructions over a height of 0.6 metres above carriageway level.
- 8) Development shall not commence until details of the proposed means of foul and surface water drainage, including details of the maintenance and management of any sustainable drainage system (SuDS), have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until drainage works have been constructed in accordance with the approved details.
- 9) Development shall not commence until a scheme of archaeological investigation has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details.
- 10) Development shall not commence until a site investigation of potential contamination is carried out and its results submitted to and approved in writing by the local planning authority. If the site investigation indicates that remediation is necessary then a Remediation Statement shall be submitted to and approved in writing by the local planning authority.

Remediation work shall then be carried out in accordance with the approved scheme. If remediation is required a Site Completion Report detailing the conclusions and actions taken at each stage of the works, including validation works, shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any dwelling hereby permitted.

- 11) Development shall not commence until a scheme for the enhancement of the site's biodiversity value has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details.
- 12) Development shall not commence until an arboricultural impact assessment and method statement has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details.
- 13) No part of the development shall be occupied until a travel plan has been submitted to and approved in writing by the local planning authority. The travel plan shall thereafter be implemented in accordance with the approved details.



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

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

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

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

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act). This new requirement for permission to bring a challenge applies to decisions made on or after 26 October 2015.

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

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the date of the decision.

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

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

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

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

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

#### **SECTION 4: INSPECTION OF DOCUMENTS**

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