



## Appeal Decision

Inquiry Held on 9-12 March 2021, and 16-17 March 2021

Site visits made on 22 February and 18 March 2021

**by Peter Rose BA MRTPI DMS MCM I**

an Inspector appointed by the Secretary of State

Decision date: 10 May 2021

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### Appeal Ref: APP/D3830/W/20/3261311

#### Land at Birchgrove Road, Horsted Keynes

- 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 Fairfax Acquisitions Limited against the decision of Mid Sussex District Council.
  - The application Ref: DM/19/4276, dated 9 October 2019, was refused by notice dated 20 April 2020.
  - The development proposed is 'outline planning application, with all matters reserved apart from means of access, for up to 32 new dwellings, comprising 90% affordable housing units, and 10% open market units, with access from Birchgrove Road, open space, associated infrastructure and landscaping'.
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### Decision

1. The appeal is dismissed.

### Preliminary matters

#### *Description of development*

2. The original description of development was for up to 32 new dwellings but comprising 85% affordable housing units and 15% open market units. The description of development was subsequently amended prior to the authority's decision to 90% affordable housing units and 10% open market units. The appeal has been publicised on those revised terms.

#### *Plans*

3. The proposal involves an outline application with all matters reserved for subsequent approval except access. Only two drawings are submitted seeking formal approval: drawing Ref: 1906/PL.01 Revision B, 'Location Plan'; and drawing Ref: SK21613-06, 'Pedestrian & Vehicular Access Strategy'.
4. The application is also accompanied by a number of illustrative drawings and which, whilst not determinative, have helped inform my reasoning. These include an 'Indicative Site Layout' Ref:1906/PL.04 (the illustrative layout).
5. The parties have agreed that whilst a number of the application drawings are described as indicative, they are in fact merely illustrative in nature. Except as set out in the specified access drawing as it relates to details of the Birchgrove

Road junction, the parties also agree the application is not seeking approval for any matters of internal access.

*Planning obligations*

6. The appeal is supported by an agreement between the appellant and local planning authority made pursuant to section 106 of the Act and dated 19 March 2020 (the section 106 agreement).

**Main issues**

7. The main issues are:

- the possible contribution of the proposed dwellings to meeting local housing need;
- the effect of the development upon the character and appearance of the appeal site and its surroundings, and including whether or not the scheme would conserve and enhance the natural beauty of the High Weald Area of Outstanding Natural Beauty (the AONB);
- whether or not the proposal would preserve the significance of Lucas Farm, a Grade II listed building, and preserve or enhance the significance of Horsted Keynes Conservation Area.

**Reasons**

***The contribution to local housing need***

*Local needs and best available evidence*

8. The proposal is promoted under Policy DP32 of the Mid Sussex District Plan, 2014-2031 adopted March 2018 (the District Plan). Policy DP32 provides for development of affordable housing as Rural Exception Sites subject to various criteria. These include at criterion ii) that the housing is to meet local needs justified by the best available evidence.
9. The policy's accompanying narrative explains how Rural Exception Sites would not usually be granted permission for housing. They seek to address the needs of the local community by accommodating households who are either current residents or who have an existing family or employment connection.
10. Neither Policy DP32 nor the National Planning Policy Framework (the Framework) offers further definition of 'local', and the Inquiry received evidence of need at a number of different levels.
11. The most local data relates to Horsted Keynes Parish. The Horsted Keynes Housing Needs Survey, a snapshot dating from 2019, found significant unmet local housing need for affordable housing. The survey identified 24 households as having an unmet affordable housing need over the next decade or more.
12. A similar and more up-to-date picture derives from the Council's Common Housing Register. As at 6 January 2021 it included 29 households with a local connection to Horsted Keynes in need of affordable housing. Ten of the 29 households are existing tenants living in social housing in Horsted Keynes.

13. Apportioning a district-wide need for affordable dwellings over the 17 year period of the District Plan by population suggests, fairly crudely, a pro-rata requirement for Horsted Keynes amounting to some 44-56 affordable dwellings. There have been no affordable housing completions or planning permissions for affordable housing in the period 2014-2020.
14. The Council's emerging Mid Sussex District Council Site Allocations Development Plan Document July 2020 (the DPD) proposes two housing allocations in Horsted Keynes. These comprise: Site SA28, Land south of the Old Police House, Birchgrove Road, (25 dwellings); and Site SA29, Land south of St Stephens Church, Hamsland (30 dwellings). Together these sites could deliver, subject to viability, 17 affordable housing units if developed in accordance with the Policy DP31 requirement for 30% affordable housing. The DPD is at an advanced stage of preparation and a recent appeal found no reason to suggest either of the two allocations would not be deliverable.<sup>1</sup>
15. Data was presented by the Council for a wider area drawing upon the parishes of Horsted Keynes, Ardingly, Lindfield Rural and West Hoathly. Based upon the same District-wide need, the pro-rata share for the four parishes is in the range of 257-330 affordable dwellings. In the period 2014-2020, there were 83 affordable housing completions and planning permission has been granted for 137 affordable dwellings. The DPD proposes four site allocations which could yield a total of 44 affordable dwellings. The total number of completions, permitted dwellings and draft allocations in the four parishes amounts to 264 dwellings. A delivery of 264 would place supply just above the lower end of the identified range of need of 257, but well short of the upper level of 330.
16. Alternatively, the Medium Super Output Area 06 (the MSOA) is suggested by the appellant as a more appropriate context within which to consider the housing needs of the local community. Although the MSOA and the four parishes cover similar areas, a number of schemes which have delivered a significant amount of affordable housing in recent years are just outside the MSOA boundary but still fall within the four parishes. Applying similar pro-rata methodology to the MSOA, need is identified to be in the range of 202-259 dwellings relative to a total number of completions, permitted dwellings and draft allocations of 83.

*Summary of conclusions*

17. The Council now accepts that it would be possible for a reserved matters application to come forward with a housing mix that could deliver 90% affordable housing and meet local needs. Based on the Council's position that there is a local need for 24-29 affordable dwellings, the authority recognises that the appeal proposals would meet local needs justified by the best available evidence for the purpose of criteria (ii) of Policy DP32. This is notwithstanding any possible release of existing properties through transfer of existing tenants from social housing in Horsted Keynes should that eventuality arise.
18. The accompanying narrative to Policy DP32 suggests that delivery of Rural Exception Sites will normally be led by Parish Councils, and the proposal is not supported by either Horsted Keynes Parish Council or by the Horsted Keynes Community Land Trust Feasibility Group. Nevertheless, such support is not a

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<sup>1</sup> Appeal Ref: APP/D3830/W/19/3242226 dated 12 February 2021 and relating to Land to the rear of Peacocks, Church Lane, Horsted Keynes

pre-condition to a proposal's ability to meet local housing need and I assess the appeal scheme according to its merits. I also note the relatively early and emerging status of the Horsted Keynes Neighbourhood Plan and the efforts being made towards other possible community-led housing schemes for the village but which have yet to materialise.

19. Whether specific to Horsted Keynes, or considered in relation to the four parishes or relative to the MSOA, the best available evidence demonstrates there is likely to be significant local need for affordable housing and the proposal would thereby align with Policy DP31's general commitment to delivery of such accommodation. The policy's guiding Strategic Objective 13) is to provide the amount and type of housing that meets the needs of all sectors of the community. The Framework similarly seeks to ensure that the supply of homes is boosted, and that planning policies and decisions in rural areas are responsive to local circumstances. It encourages local planning authorities to bring forward Rural Exception Sites that will provide affordable housing to meet identified local needs, and to consider whether allowing some market housing on sites would help to facilitate this, as also accommodated by criterion v) of Policy DP32.
20. The Framework describes Rural Exception Sites as 'small', but no definition is offered, and no further detailed specification is forthcoming from the Planning Practice Guidance. Policy DP32 does not define sites to be small. Rather, in criterion iv) reference is instead made to a need for the scale of the development to respect the setting, form and character of the settlement and surrounding landscape, and I return to this reference as part of my assessment of character and appearance.
21. In summary, I am satisfied that the scheme would meet local needs justified by the best available evidence as expected by criterion ii) and, setting aside criterion iv), otherwise generally accords with the remaining expectations of Policy DP32.

### ***Character and appearance***

#### *The AONB*

22. The appeal site is an area of arable land some 3.2 hectares in size and of irregular shape. It lies just outside the Built-up Area Boundary to Horsted Keynes as defined in the DPD, and within the High Weald Area of Outstanding Natural Beauty (the AONB).
23. The High Weald AONB Management Plan 2019-2024 (the Management Plan) explains how the AONB is characterised by dispersed historic settlements of farmsteads and hamlets and is described as one of the best-preserved medieval landscapes in north-west Europe. The Management Plan sets out the vision of a landscape which retains its distinctive historic landscape character and beauty. The significance of the AONB and its characteristic features are recognised in similar terms through other corresponding guidance at national, county and local levels.

#### *Assessment*

24. The Management Plan, through its Statement of Significance, explains how the natural beauty of the AONB comprises five defining components of character that have made the High Weald a recognisably distinct and homogenous area

- for at least the last 700 years. These include: geology in terms of a ridged and faulted landform; dispersed historic settlement, including isolated farmsteads and late Medieval villages; a dense network of historic routeways (now roads, tracks and paths); ancient woodland; and small, irregular and productive fields, bounded by hedgerows and woods.
25. The appeal site forms part of a wider pattern of pleasant small and medium sized irregular fields. The fields are generally enclosed by a network of hedgerows and which connect to various areas of woodland beyond. To the west of the site, the village of Horsted Keynes sits in proximity to a ridge line in the landscape, and further dispersed settlement extends along Birchgrove Road opposite. Both Birchgrove Road and Danehill Lane are historic drove routes. It is also a significant AONB characteristic that the site is a field forming part of the wider separation between the settlement of Horsted Keynes and elsewhere.
  26. Taken together, these features lead me to conclude that the site is highly characteristic of the defining components of the AONB and, accordingly, makes an important contribution to the wider significance of the designation.
  27. The surroundings of the site are undoubtedly part of a settled landscape in which open land co-exists with dispersed built form, and the AONB washes over Horsted Keynes and adjacent dispersed settlement. Nevertheless, I do not accept that the appeal site has a transitional or in any way urban location. The site does lie adjacent to an historic village and there is some sporadic development along Birchgrove Road, but the predominant character is essentially one of countryside, and the built form is consistent with the dispersed settlement pattern generally characteristic of the AONB.
  28. In that context, any built form proposed for the site would be likely to give rise to some degree of landscape harm by virtue of its contrasting physical presence, but no policies prohibit greenfield development on such terms. Rather, the Council acknowledges that there is local affordable housing need in the AONB, and that it cannot expect to meet such needs in the absence of development.
  29. To mitigate the extensive built form of up to 32 dwellings and associated access, the appeal scheme would introduce significant planting to the site along its Birchgrove Road and Danehill Lane frontages and a large area of native woodland planting to the south-east. The latter would occupy a position fairly central to the wider field pattern and is indicated to be substantial in scale. These features would serve to significantly screen the proposed built form and, indeed, might generally be regarded as helping to maintain a rural character and appearance for the site.
  30. Even so, such mitigation would not be consistent with the particular defining AONB components of small irregularly shaped fields predominantly bounded by hedgerows and similar. Such measures would thereby contribute to a materially different character and appearance contrary to the expectations of the Management Plan. A dense woodland buffer and associated boundary planting as proposed would obscure characteristic AONB views and features and, rather than conserve, would seriously undermine the wider historic field pattern of which the site forms an important and integral part.
  31. Further, the High Weald Housing Design Guide November 2019 (the Design Guide) urges that the character of the High Weald should be embedded into

- genuinely landscape-led design, taking account of features such as field patterns and boundaries. The appeal proposal runs contrary to the landscape in this regard. The scheme seeks to develop relatively exposed ground in an elevated position and which affords significant visibility not just from its frontages but also in more distant views from the south-east.
32. Similarly, the Design Guide requires development to be sensitive to existing historic settlement patterns. The location is not well related to the existing village of Horsted Keynes, being outside the Built-up Area Boundary and further separated by the historic drove route of Danehill Lane.
  33. The Design Guide also advises that new development should be good enough to be seen, not justified on the basis that existing or proposed planting will screen it from view. Whatever the quality of any detailed design, built form absent mitigation in this location would be even more harmful to those same defining components of AONB significance.
  34. The illustrative layout shows a cul-de-sac layout for the proposed 32 dwellings. Such layouts are specifically identified as unsuitable in the Design Guide, which states that dead-ends are uncommon and not in-keeping with the historic character, and that such arrangements are therefore to be avoided. Whilst the Design and Access Statement suggests that the scheme would be redolent of a farmstead, there was some inconsistency between the appellant's witnesses in this regard, and I draw little confirmation to that effect from the illustrative layout.
  35. Even allowing for the proposed planting and replacement of hedges, the built form and new site access would still erode the existing rural character of Birchgrove Road in the vicinity of the site and would have a similar urbanising effect towards the top of Danehill Lane. Exactly how much of the important established hedgerows fronting Birchgrove Road would be lost or otherwise impacted for the new access and associated works also remains unclear.

*Summary of conclusions*

36. The evidence does not lead me to conclude the scheme would yield only a moderate adverse effect upon landscape character, and nor that the effect would be less than significant. Applying the evidence presented through agreed methodology<sup>2</sup>, I consider the general sensitivity of the landscape to be high, the proposed magnitude of change to be major, and the effect upon landscape character to be major adverse.
37. The site also has high visual sensitivity, particularly in its immediate exposure to receptors in Birchgrove Road and Danehill Lane, including to nearby residents and pedestrian passers-by. Changes in view mean receptors would experience major adverse effects adjacent to the site. More moderate adverse effects would be experienced by receptors further away as the development becomes relatively less incongruous with distance and more readily assimilated into its wider surroundings with the benefit of mitigation.
38. Section 85 of the Countryside and Rights of Way Act, 2000 places a statutory duty upon me to have regard to the purpose of conserving and enhancing the natural beauty of the AONB. The Framework similarly requires that planning policies and decisions should contribute to and enhance the natural and local

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<sup>2</sup> Guidelines for Landscape and Visual Impact Assessment, Third Edition 2013 (GLVIA3)



environment by protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan, and by recognising the intrinsic character and beauty of the countryside.

39. Framework policies also include in the first part of paragraph 172 that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs. The Framework further states that the scale and extent of development within these designated areas should be limited.
40. The Council considers the appeal scheme to be 'major development' for the purposes of the Framework, and the second part of paragraph 172 states that planning permission should be refused for such schemes other than in exceptional circumstances. The appellant points to other decisions and proposed DPD allocations by the Council which consider similar or larger schemes not to be major.
41. Despite the significant adverse impact the scheme would have on the purposes for which the area has been designated and defined and its setting, basic considerations of nature, scale (absolute numbers of dwellings)<sup>3</sup> and of local consistency do not, on balance, lead me on those terms to regard the appeal scheme as major development. Nevertheless, even as 'non-major' development, the harm arising would still be in conflict with the protective policy set out in the first part of paragraph 172 for great weight to be given to the conservation and enhancement of the landscape and scenic beauty of the AONB<sup>4</sup>, and contrary to the accompanying duty under section 85.
42. The scheme would conflict with Objective S2 of the Management Plan which seeks to protect the historic pattern and character of settlement, with Objective R1 which looks to maintain the historic pattern and features of routeways, and with Objective FH2 which seeks to maintain the pattern of small irregularly shaped fields bounded by hedgerows and woodlands.
43. The application would introduce an unduly imposing and discordant presence significantly harmful to the character and appearance of the appeal site and its surroundings, and which would fail to conserve and enhance the natural beauty of the AONB. I find the scheme would thereby be contrary to Policies DP12 and DP16 of the District Plan. These seek, amongst other things, to protect the countryside in recognition of its intrinsic character and beauty, and to only allow development within the AONB where it conserves or enhances natural beauty and has regard to the High Weald AONB Management Plan.
44. I conclude the proposal would also be contrary to criterion iv) of the Rural Exception Sites provision offered by Policy DP32 as the scale of the development would not respect the setting, form and character of the settlement and surrounding landscape.
45. Further, the special justification for new homes in the countryside set out in Policy DP15 is subject not just to accord with Policy DP32 but also to not being

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<sup>3</sup> Footnote 55 clarifies that interpretation of 'major development' is a matter for the decision maker, taking into account a scheme's nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined

<sup>4</sup> See R. (on the application of Monkhill Limited) and the Secretary of State for Housing, Communities and Local Government and Waverley Borough Council, Neutral Citation Number: [2021] EWCA Civ 74, Case No: C1/2019/1955/QBACF

in conflict with Policy DP12. There is also no other specific policy reference in support of Policy 12. The proposal is in conflict with all three policies.

46. The sum of the harm arising is a matter to which I attach considerable weight.

### ***Heritage***

#### *Lucas Farm*

47. Lucas Farm is a Grade II listed building located to the north-west of the site, on the opposite side of Birchgrove Road. Aside from the main house, it comprises a collection of other incidental buildings and open areas.

48. The West Sussex County Council Monument Full Report describes Lucas Farm as an 18th century double-sided loose courtyard farmstead with additional detached elements to the main plan. It indicates how Lucas Farm has been identified as an historic farmstead through the Historic Farmsteads and Landscape Character in West Sussex Project.

49. Although the asset has been variously modified over time, the heritage significance of Lucas Farm arises from its evidential value as a surviving 18th century farmstead, from its historical value illustrating the manner in which the farmstead has evolved, and in its aesthetic value, particularly through the house's impressive frontage and use of traditional and vernacular materials. The Inquiry was also informed by the current owner how the historic asset remains a working farm, and of an association between the farm and the appeal site.

50. As an historic farmstead, its surviving countryside setting to the north, south and east, and which includes the appeal site, makes a positive contribution to its significance and the manner in which the asset is appreciated.

51. The main house is set further away from the appeal site than other parts of the curtilage and does not face in that direction. The house is also set back from the Birchgrove Road frontage and, whilst vegetation can be removed or otherwise reduced, this boundary to Lucas Farm is heavily planted. There has also been some erosion of the original agricultural setting through development of other built form along Birchgrove Road, including the adjacent housing development of Lucas.

52. These various factors serve to constrain intervisibility between the appeal site and significant elements of Lucas Farm and would, in turn, limit the effect of the development upon the asset's setting. Nevertheless, the rural surroundings to the farm, and more particularly the area's historic AONB character as it relates to the asset, would be undermined by the built form and accompanying enclosure of the appeal site.

53. The appeal site is only one aspect of the farm's wider setting. Other elements of its setting which also contribute to its significance, including its wider rural context, would remain unaltered, as would the asset's evidential, historical and aesthetic importance. Accordingly, I consider that harm to the overall significance of Lucas Farm would be limited.

#### *Horsted Keynes Conservation Area*

54. The significance of the Horsted Keynes Conservation Area in part relates to its historic development as a rural village in close connection with the surrounding



rural landscape. Mid Sussex Council's 'Conservation Areas in Mid Sussex' publication August 2018 identifies how extensive views of the countryside from within the Conservation Area are amongst those features that contribute to its particular character.

55. The existing approaches to the village and Conservation Area along Birchgrove Road and along Danehill Lane are through open countryside with only occasional, dispersed buildings largely characteristic of the AONB. This setting is relevant to the Conservation Area's significance as a long-established village settlement with a direct visual and functional relationship to its rural AONB surroundings. The loss of the appeal site's open character, coupled with glimpsed views of houses and the presence of an access road and associated urbanising features in passing views, would all detract from that setting.
56. Whilst the appeal site is neither within nor directly adjacent to the Conservation Area, it still provides an immediate focal point at the end of a particular channelled view outwards along Birchgrove Road, and part of a rural backdrop in which the eastern end of the Conservation Area can be appreciated.
57. Accordingly, whilst the appeal site only relates to one relatively small part of the Conservation Area as a whole, there would be some limited harm to its significance.
58. I do not consider the DPD's draft allocation of Site SA28 to be comparable in its heritage implications. By virtue of its location on the village-side of the junction of Birchgrove Road and Danehill Lane, any development of SA28 is likely to have a far stronger and more integral visual and functional relationship to the existing built form of the settlement. The appeal site is more detached, and has a far more important role to play than SA28 in maintaining a distinct rural setting to both the Conservation Area and to Lucas Farm. Indeed, the junction would seem to function in townscape terms as a natural end-stop to the village, with its settled form largely confined to the west, and with open AONB countryside characteristically to the south and east.

*Summary of conclusions*

59. I therefore conclude the proposal would not preserve the setting of Lucas Farm, and would thereby not accord with Policy DP34 of the District Plan which requires development to protect listed buildings and their settings.
60. I further conclude the scheme would not preserve or enhance the character or appearance of Horsted Keynes Conservation Area and would thereby be contrary to Policy DP35 of the District Plan. Amongst other things, this seeks to ensure features that contribute to the special character of the Conservation Area are protected.
61. These policies are consistent with the Framework which advises that heritage assets are an irreplaceable resource, and requires them to be conserved in a manner appropriate to their significance. When considering the impact of a proposed development on the significance of a designated heritage asset, it requires great weight to be given to an asset's conservation, and irrespective of harm.
62. The collective harm I have identified to the significance of Lucas Farm and to the Conservation Area would, in overall terms, be relatively modest. It would be less than substantial and at a relatively low level that would not seriously

affect the significance of the designated assets, individually or collectively. That level of harm still remains to be weighed against the public benefits of the proposal in my overall assessments to follow.<sup>5</sup>

## **Other matters**

### **Access**

63. No objection is raised by the highways authority or planning authority and I have no reason to find any concerns in relation to the proposed details. The scheme would thereby be compliant with Policy DP21 of the District Plan which, amongst other things, seeks to ensure that development protects the safety of road users and pedestrians.

### **Section 106 agreement**

64. The section 106 agreement makes various commitments, including measures to address the Council's previous other objections relating to infrastructure, and to the Ashdown Forest Special Protection Area (the SPA). Additionally, the agreement makes provision for other mitigations, and for affordable housing.
65. The proposed development would lie within the SPA's Zone of Influence and, in the absence of mitigation, would thereby be likely to have a significant adverse effect upon the SPA due to potential increased recreational pressures.
66. The Suitable Alternative Natural Greenspace and the Strategic Access Management and Monitoring mitigation approach set out in Policy DP17 of the District Plan accord with a strategic partnership solution for recreational disturbance supported by Natural England. This seeks to ensure compliance with the requirements of the Habitats Regulations, and the section 106 agreement makes specific provision in that regard for necessary mitigation in accordance with the recommendations of Natural England.
67. The Council raises no objection in relation to the Ashdown Forest Special Area of Conservation (the SAC). As a windfall development within the context of the Mid Sussex Transport Study, the scheme's potential effects upon the SAC are incorporated into the overall results of the transport model and it is agreed that no specific mitigation is required.
68. As the competent authority, I am satisfied from the evidence and representations before me that the proposed development with the mitigation proposed would not have an adverse effect upon the integrity of the SPA or upon the SAC. The proposal would thereby accord with Policy DP17 which, amongst other things, seeks to prevent adverse effects upon each.
69. The section 106 agreement makes provision for various other mitigation, including education, recreation and community facilities. These provisions accord with Policy DP20 of the District Plan which, amongst other things, seeks to ensure that developers provide for, or contribute towards, the infrastructure and mitigation measures made necessary by their development proposals through appropriate on-site mitigation and infrastructure provision.
70. The main parties confirmed at the Inquiry they were satisfied with the form and content of the agreement as a deed. I find the agreement to be compliant with

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<sup>5</sup> Framework paragraph 196

Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and to be generally fit-for-purpose. Accordingly, I take into account the commitments and accompanying terms as considerations of my decision.

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

71. The Council is able demonstrate a land supply of 5.37 years based upon the authority's most recent published Annual Position Statement 2020. The Council's Housing Delivery Test measurement for 2020 was 91% and the authority is required to produce an Action Plan and to apply a 5% buffer to supply.

### ***Other concerns***

72. A number of other matters were raised by interested local parties at the application stage. These included flooding, noise and disturbance, and light pollution. None have been further substantiated, none are supported by the authority, and I find no reason to oppose the scheme in principle on those terms.

## **Overall assessments**

### ***i) The development plan as a whole***

#### *Policy DP32 and its relationship to the wider development plan*

73. It is submitted that Policy DP32 provides a mechanism for the development to proceed as a Rural Exceptions Site in the face of any breaches of Policies DP12, DP15 and DP16 and so accord with the development plan as a whole. This is because Policy DP32 operates as an exception to the restrictive approach of other policies.
74. Be that as it may, I have concluded there would be significant conflict with criterion iv) of Policy DP32 such that the proposal would not accord with its requirements. Further, reflecting the statutory duty under section 85 and the scale of harm involved, I place particular weight on the conflict arising with criterion iv) such that the scheme fails to accord with Policy DP32 as a whole. Any possible overriding dispensation Policy DP32 may itself offer to offset conflict with other policies does not therefore arise.

#### *All policies*

75. I consider the policies which are most important are those referred to and variously applied in my assessment of the main issues and other considerations. I regard that overall basket of most important policies to be up-to-date, and have found conflict and harm in connection with Policies DP12, DP15, DP16, DP32, DP34 and DP35.
76. The lack of policy compliance occasioned by the scheme is such that the appeal proposal cannot be regarded, read sensibly and in the round, to accord with the development plan as a whole. The scheme would involve fundamental conflict with the development plan on a range of important matters.

### ***ii) Other considerations in favour of the scheme***

77. The scheme would make a significant contribution of affordable housing, and a further addition of market housing.

78. The Council's two allocated sites could potentially contribute, at least in part, to meeting the need for affordable housing within Horsted Keynes. If those proposals materialise, the benefits of the appeal scheme towards meeting housing need in Horsted Keynes would be offset to some degree. Nevertheless, I cannot accept that any possible over-provision relative to Horsted Keynes, if that were to ever arise, should count against the scheme. Horsted Keynes is part of a wider local planning authority to which the same development plan policies apply and within which housing need exists and remains to be met. In terms of satisfying affordable housing need in Mid Sussex, any over-provision relative to Horsted Keynes would, in principle, still be a wider benefit and a factor in favour of the scheme.
79. The appellant also questions whether affordable homes arising from the DPD allocations would be satisfactorily reserved to meet the identified local need, and so place greater premium upon the relative benefits of the appeal scheme. The Council's housing allocations policy read in conjunction with the accompanying SPD identify priority and arrangements for bids from applicants who have a local connection with the town or village where the new development is located. I do not accept that only the present appeal proposal, as a DP32 scheme with its accompanying section 106 commitments, is significantly distinguished in its ability to meet local affordable housing need.
80. The more general economic benefits of development would include investment in construction and related employment for its duration, and an increase in subsequent local household expenditure and demand for services from new residents.
81. The appeal site is in a relatively sustainable location, at the edge of Horsted Keynes. The development would be well placed to support, and to be served by, a range of local services and other facilities in and around Horsted Keynes. This is confirmed by Policy DP6 which defines Horsted Keynes as a medium-sized Settlement Hierarchy Category 3 village and with accompanying expectations of available services.
82. The proposal includes a commitment to biodiversity through its 'Mitigation Statement and Habitat Creation and Management Plan'.
83. In sum, I find the benefits of the development amount to significant collective weight in favour of the proposal.

***iii) Heritage balance***

84. The extensive public benefits arising from the scheme would out-weigh the low level of harm I have found for the heritage significance of Lucas Farm and the Conservation Area. Accordingly, the Framework does not provide a clear reason for refusing the development proposed in this specific regard.

***iv) Final planning balance***

85. Relevant development plan policies apply and those which are most important for determining the application are not out-of-date within the terms of Footnote 7 of the Framework or otherwise. The tilted balance of paragraph 11 d) of the Framework is therefore not engaged, and the application remains to be determined in accordance with the statutory duty under section 38(6).<sup>6</sup>

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<sup>6</sup> Planning and Compulsory Purchase Act 2004

86. Section 38(6) requires this appeal to be determined in accordance with the development plan, unless material considerations indicate otherwise. The scheme does not accord with the development plan as a whole, and I find the weight of the conflicts and harms arising in those regards not out-balanced by the far lesser but still significant weight of other material considerations. Accordingly, I find that planning permission should be refused.

**Conclusion**

87. For the reasons given above, I conclude that the appeal should be dismissed.

*Peter Rose*

INSPECTOR

## **APPEARANCES**

### **For the local planning authority:**

Jack Parker of Counsel, instructed by Mr T Clark, Solicitor and Head of Regulatory Services, Mid Sussex District Council

He called:

Neil Williamson BA(Hons) - Director, Neil Williamson Associates Ltd

Emily Wade - Conservation Officer, Mid Sussex District Council

Christopher Tunnell - Director, Arup

(Susan Dubberley - Senior Planning Officer, Mid Sussex District Council also contributed to round-table discussions)

### **For the appellant:**

Christopher Boyle of Queens Counsel, instructed by Rodway Planning Consultancy Ltd

He called:

Peter Armstrong - Senior Associate,  
Hyland Edgar Driver Landscape Architects

Mark Sanderson - Director, The Heritage Advisory

Michael Taylor - Director, Chilmark Consulting Ltd

Tim Rodway - Director, Rodway Planning Consultancy Ltd

(Andy Leahy, Bespoke Property Consultants also contributed to round-table discussions)

### **Interested parties:**

Phil Miles - local resident, and on behalf of the Horsted Keynes Community Land Trust Feasibility Group

Councillor Webster - Horsted Keynes Parish Council

Councillor Colville - Horsted Keynes Parish Council

Claire Tester - High Weald AONB Unit



## INQUIRY DOCUMENTS

The following documents were submitted and accepted by the Inquiry:

Reference	Document
ID1	Draft Inquiry programme
ID2	Case management telephone conference summary note
ID3	Statement from Councillors Colville and Webster
ID4	R. (on the application of Monkhill Limited) Neutral Citation Number: [2021] EWCA Civ 74, Case No: C1/2019/1955/QBACF
ID5	District Plan map extract
ID6	Draft Site Allocations DPD map extract
ID7	Appellant opening statement
ID8	LPA opening statement
ID9	Final note on affordable housing need and supply
ID10	Final summary points of disagreement - affordable housing need
ID11	NCA 122 High Weald extract
ID12	Council's heritage proof of evidence
ID13	Listing description for Lucas Farmhouse
ID14	Heritage Gateway - Lucas Farm Historic Farmstead
ID15	Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment (Historic England, 2008)
ID16	Lucas Farm Historic Farmsteads and Landscape Character extract
ID17	Appellant's heritage statement
ID18	Appellant's heritage statement of case
ID19	Horsted Keynes Community Land Trust statement
ID20	Horsted Keynes Conservation Area map
ID21	LPA's note on landscape assessment scales
ID22	Correspondence from Julia Wykeham-Martin
ID23	Ashdown Forest Zone of Influence
ID24	Final statement of common ground
ID25	Housing Delivery Test 2020
ID26	Summary note of responses to public consultation in connection with application DM/20/4692
ID27	High Weald response to DM/20/4692
ID28	County response to DM/20/4692
ID29	Parish response to DM/20/4692
ID30	Landscape response to DM/20/4692
ID31	Draft section 106 agreement
ID32	Suggested list of conditions
ID33	Development Viability SPD
ID34	LPA closing statement
ID35	Appellant closing statement
ID36	Development Infrastructure and Contributions SPD
ID37	Notes relating to Inquiry housekeeping
ID38	Heritage note on further information regarding Lucas Farm
ID39	Final suggested list of conditions
ID40	Completed section 106 agreement