

Appeal Decision

Hearing held on 16 May 2017

Site visit made on 17 May 2017

by Kenneth Stone BSc Hons DipTP MRTPI

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

Decision date: 12 June 2017

Appeal Ref: APP/E2205/W/16/3159895

Land off The Street, Smarden, Kent.

- 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 Gladman Developments Limited against the decision of Ashford Borough Council.
 - The application Ref 16/00045/AS, dated 12 January 2016, was refused by notice dated 29 July 2016.
 - The development proposed is described as 'up to 50 residential dwellings (including up to 35% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, informal village green area, surface water flood mitigation and attenuation, vehicular access point from The Street and associated ancillary works. All matters to be reserved with the exception of the main site access'.
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Decision

1. The appeal is allowed and outline planning permission is granted for up to 50 residential dwellings (including up to 35% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, informal village green area, surface water flood mitigation and attenuation, vehicular access point from The Street and associated ancillary works. All matters to be reserved with the exception of the main site access at land between Smarden Charter Hall and Weathercock, Pluckley Road, Smarden, Kent in accordance with the terms of the application, Ref 16/00045/AS, dated 12 January 2016, subject to the conditions contained in the schedule at the end of this decision.

Procedural matters

2. The Council provide the site address as 'land between Smarden Charter Hall and Weathercock, Pluckley Road, Smarden, Kent'. It was agreed at the hearing that this more accurately described the site address and indeed the road onto which the site fronts is, at this point, Pluckley Road and not 'The Street'. However, much of the appellant's evidence and indeed the Council's landscape evidence and the Statement of Common Ground refer to this road frontage as that with The Street. I have adopted the Council's description of the site in my formal decision above and I have also substituted reference to 'The Street' in the Conditions to 'Pluckley Road', where appropriate, as this is the correct and more accurate address of the site. I have however in my reasoning below continued to refer to this as The Street to ensure consistency with the references in the evidence and due to the colloquial referencing of the
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frontage as The Street in much of the discussion at the hearing, including with local residents.

3. I was provided with certified copies of two separate signed, sealed and dated Planning Obligations in the form of Unilateral Undertakings at the end of the hearing. One dealt specifically with affordable housing securing 35% of the dwellings to be provided as affordable housing units and includes various obligations related to tenure mix, type and timing. The second secures various financial contributions in relation to cemeteries, play space, outdoor sports pitches, the voluntary sector, secondary education, primary sector education, and libraries to either the Council or County Council as appropriate; and to provide for the management, transfer and maintenance works for the proposed open space and in respect of an ecological management area. I return to these matters further below.

Main Issues

4. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the surrounding area, including, the Low Weald National Landscape Character Area, the Beult Valley Farmlands Character Area and the entrance to and visual and functional amenity of Smarden (including whether there is a need for a landscape buffer);
 - The effect of the proposed development on users of the public right of way along the southern boundary of the site.

Reasons

Background and context

5. The Statement of Common Ground (SoCG) confirms that the Council cannot demonstrate a deliverable five year housing land supply. According to the figures in the SoCG the Council has a requirement for 6,923 units and a supply of 4,547, providing a supply of only 3.28 years or a shortfall in the region of 2,376 units. This is a significant undersupply and does not meet the Government's objective to significantly boost the supply of housing set out in paragraph 47 of the Framework. This is a matter of significant weight in the determination of this appeal.
6. The lack of a five year supply of housing land triggers paragraph 49 and 14 of the National Planning Policy Framework such that relevant policies for the supply of housing are not to be considered up to date and that planning permission should therefore be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole or specific policies in the Framework indicate development should be restricted.
7. The assessment of the scheme in the context of the 'tilted balance', as it has become known, does not however remove the statutory obligation to determine applications for planning permission in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a significant material consideration. My starting point is therefore the development plan and whether there is conflict with it before moving on to

consider whether there are any material considerations that indicate a decision otherwise than suggested by the development plan should be taken.

8. In this regard the Council's Development Plan through the Ashford Borough Council Core Strategy, 2008 (Core Strategy) and the Tenderden and Rural Sites DPD, 2010 (TRSDPD) set out a distribution of housing across the borough including a rural settlement hierarchy, policy CS6, that directs development to the larger settlements in the rural area. Policies in the TRSDPD including TRS1 and TRS2 allow for minor infilling and new residential development outside the built-up confines of villages, respectively, subject to limitations. The development does not fit within any of these limitations and as such the policies would either not be relevant (policy TRS1) or would be in conflict with (policy TRS2). The appellant accept¹ that the appeal proposals are a departure from the Development Plan and I see no reason to conclude otherwise. This therefore leads me to consider whether there are material considerations that would indicate otherwise than a determination in accordance with that conflict.
9. The weight attributable to the policies in the Development Plan is considered under the relevant consideration of the issue below.
10. The Council has published a Local Plan 2030 and undertaken public consultation. Further consultation is expected to take place on a revised plan to take account of responses to the initial consultation during the summer of 2017. The SoCG confirms that both parties accept that the Local Plan is at a very early stage of its preparation and that it can only be attributed very limited weight in the determination of this appeal. The Council have raised an issue of prematurity and I return to this matter further below in the 'Other Matters' section. I have, however, had regard to the fact that within the Local Plan, which is accompanied by a sustainability appraisal, that the appeal site is allocated for residential development, with an indicative contribution of some 25 dwellings.
11. Since the determination of the application and the submission of this appeal a scheme for outline planning permission for up to 25 residential dwellings, local authority reference 16/01515/AS, on the same site has been considered and determined by the Council. Planning permission was granted on 20 April 2017. The appeal site is identified as the same area, albeit that a different framework plan provides for a smaller developable area and a greater proportion of open space and green infrastructure. This is a material consideration in the determination of this appeal.

Character and appearance

12. The appeal site is an open field of some 3.3 ha on the outskirts of Smarden, a small historic rural Kent village. The site is flat and in agricultural use for arable crops. It contains a small pond with scrub woodland vegetation surrounding. The site is an irregular shape and bounds Pluckley Road (albeit this is referred to in much of the evidence as 'The Street') from which it is separated by an existing mature hedgerow. Along the northern boundary, that with Weathercock, and beyond, the field is contained by a hedge and tree boundary. This contains both the site and an extended area to the east identified as an ecological enhancement area (outside the site boundary but land controlled by the appellant). The return southern boundary of the

¹ Para 5.5.1 of The appellants Hearing Statement

ecological enhancement area is similarly contained with significant tree and hedge landscaping until it meets the eastern boundary of the appeal site again, which is relatively open at this point. Beyond these areas, towards the east and south there is open countryside. Along the southern/western boundary the site abuts Charter Hall, a relatively modern community hall, and the garden of 'Appletrees', a large detached residential property within the grounds of which the occupiers also run a commercial enterprise as a golf academy. The site is separated from these areas by mature hedging.

13. A public right of way (AW191a) passes along the southern/western boundary of the site and adjacent to Charter Hall on an approximately north-east south-west alignment, out into the open countryside.

(i) *Landscape character*

14. The site is located within the Low Weld National Landscape Character Area. Key characteristics of this area include a general pastoral landscape; field boundaries of hedgerows and shaws enclosing small irregular fields and linking into small and scattered linear settlements; many small rivers; streams and water courses; abundance of ponds; and traditional rural vernacular of local brick, weatherboard and tile hung buildings.
15. Local landscape character has been assessed in the Ashford Landscape Character Assessment which sub divides the landscape into 33 different sub areas within the borough. The site is located within the Beult Valley Farmlands Local Landscape Character Area. Key characteristics of this area include flat low lying flood plain of the River Beult; numerous small field ponds; varied field pattern; small clusters of trees and shrubs; narrow roads; scattered settlements; picturesque settlement of Smarden with an abundance of distinctive vernacular properties.
16. The site contains representative features of a number of these characteristics. However, given the flat nature of the land and strong tree belts in the surrounding landscape there are not extensive or panoramic views of the wider landscape. The boundary hedges and tree lined boundaries along The Street, adjacent to Weathercock and the area for ecological enhancement and along the boundary with Charter Hall and Appeltrees serve to contain the site in the wider landscape. For the majority of these boundaries the site is seen against the backdrop of development within Smarden Village, including the more modern developments at Glebe Close and its surroundings, opposite the site, and the Charter Hall and properties in Chessenden Lane. In this context existing residential development is in close proximity and associated with views of the development site. The eastern boundary, although the most open presently, would be reinforced by structural landscaping and a significant landscape buffer, such that would further serve to further contain the development within the wider landscape. The appeal site would not break down existing field boundaries and would take advantage of existing mature tree and field boundary screening for the majority of its boundaries and supplement and enhance this where appropriate.
17. The site would change in character from an open arable field to a developed housing scheme and this would have a negative effect in character terms. However, this would be relatively localised and contained by the existing landscaping and structural landscaping proposed within the scheme. The localised negative effect has also to be considered in the context of the extant

planning permission for 25 units and the proposed allocation of the site for residential development in the emerging development plan. In this context there is going to be development of this site; the question is the extent of that development. However, in landscape terms, the appeal site would be developed; as such its contribution to the rural appearance of this section of the surrounding area would be compromised.

18. The proposed development the subject of this appeal towards the northern half of the site would result in a similar area and extent of the site being developed as that which has planning permission, subject to some minor variations. There would be little significant difference between the impact of the schemes in landscape terms in the general footprint and developed area of this part of the site. On the southern half of the site towards Charter hall and the open fields to the south and east the approved scheme would allow for greater space and openness. There would still however be the introduction of development, a closer developed edge and the appearance of development extending away from the Street boundary out towards the open countryside. The extra open space and landscaped area would become more of a visual response to soften the impact rather than a wider landscape character quality and it is in that context I will consider those matters.
19. The site is not subject to any landscape designations. The parties disagree as to whether the site is a 'valued landscape' in terms of paragraph 109 of the Framework. The courts have held that that the consideration of whether a site is a valued landscape should consider whether it has demonstrable physical attributes to warrant such a protection. The appellant has undertaken an assessment against the criteria of box 5.1 from the Guidelines for Landscape and Visual Impact Assessment third edition (GVLIA3). Against the differing approaches I draw out a conclusion that the landscape of the site, even on the Council's assessment, is of moderate scenic quality. The site has a strong association with the edge of the village and is at a transition to the countryside. It is heavily influenced by the adjoining built development, road frontage and wider containing landscape features. The site affords views towards the open countryside but is an arable field which, within its boundaries, is not of itself distinguishable. The arable nature of the land reduces its conservation interest and there is limited recreational value across the majority of the site. The public footpath, a matter I return to below, is located close to the edge of the site, running between Charter Hall and Appletrees and then for a short section adjacent to the site itself. This is a limited length and does not affect the majority of the site. The site itself has limited demonstrable physical attributes that distinguish it; it has some of the features of the wider landscape but the contained nature of the site mean these are not of significant value to the wider landscape. As such I conclude that the site is not a valued landscape in the context of paragraph 109 of the Framework and therefore specific policies in the Framework do not indicate development should be restricted in this regard.
20. I therefore conclude that whilst there would be some localised harm to the landscape character of the area, this would be contained and limited. The overall landscape effect, I am satisfied, would be such that the proposed development of this site would be relatively contained and that appropriate mitigation would assist in reducing the limited localised adverse effect.

(ii) *Entrance to Smarden*

21. Smarden is a small historic rural Kent village; its general form is of a small linear village that has developed organically over time. At its centre is the Grade I St Michaels church and a number of other listed buildings Grade II* and Grade II. Much of these are contained within a Conservation Area. The route through the village is relatively narrow and includes significant bends on the entrances and in its heart. This restricts long views through the village. The organic growth has seen the development of more modern developments since the 1930's onwards and these are highlighted on the plan of the village conservation area in the Smarden Parish Design Statement.
22. At this eastern end of the village the appeal site is an open field between Charter Hall and Weathercock. The road alignment across the frontage is relatively straight but approaching the village from the east there is a set of sharp bends from Mill Lane round to Weathercock. Approaching these bends it is apparent there is built development and it has the appearance of the entrance to the start of the village. This is reinforced by the entrance feature and lorry restriction signs, which although I was informed are here simply to notify heavy lorry drivers of the access restrictions, do add to the sense of entering the village. As one rounds these bends the modern development of Glebe Close and Haslewood Close are evident. The road frontage along this side is heavily treed and adds to the pleasant rural feel. The open aspect of the appeal site and its boundary hedge add to this rural feel and transition into the village proper beyond.
23. The retention of the boundary hedge, with the exception of a small section required for access, would retain this important landscape feature and serve to reduce the impact from the development. Similarly the proposals identify a landscape buffer with the developable area set back from the main highway such that additional landscaping could be employed to further reduce any intrusive visual impact. This would ensure that there was a degree of set back and separation from the road and a retention of the sense of space; more than half of the road frontage of the site is provided as what is described as an informal village green and this would reflect some of the characteristics of the village and the 'minnis green' further into the village. On this basis I am satisfied that the proposed framework proposals do identify sufficient space and landscaping such that there would not be a significant harmful effect on the entrance to the village.
24. Within the context of the entrance to the village I am also conscious of the planning approval that has already been granted for the development of this site. A similar view would be presented as one approached the village from the east coming round the bends and the development would then be seen through filtered views beyond the highway. I note that here is additional green space at this corner which would enable further strengthening of the landscaping at this corner but this would only be a marginal improvement and the remainder of the development would have a similar impact on the frontage of the road on this access to the village. I also have in mind the emerging site allocation suggesting that there would be some development of this area and therefore there would be an effect of the entrance of the village in any event.

25. The appeal site would also be visible from the public footpath and access to the village when entering the village from the open countryside beyond. I address this matter in detail below.
26. I conclude that there would be some minor localised harm to the entrance to the village along the road frontage consequent with the development of the site and changing from an open field to include built development. However this would be mitigated to some extent by the retention of the boundary hedge, for most of the boundary, and the structural landscaping that would be undertaken.

(iii) Function and appearance of Smarden

27. The Council have confirmed, paragraph 7.49 of its hearing statement, that it is accepted that the proposal would not substantially or directly harm the heritage assets within the locality, designated or not. When queried at the hearing the Council confirmed that it did not raise issues in terms of harm to heritage assets as part of its case. The main historic core of the village is visually separated from the site given the distance and road geometry. There are no direct lines of sight or important views into the conservation area or of the listed buildings such that would suggest I should adopt a different conclusion. I am satisfied that there is no direct effect on the appearance of the conservation or the setting of the listed buildings.
28. In terms of the potential impact arising from an increased level of activity through the village. The proposal would result in 50 new dwellings, this is 25 more than the extant approved scheme. Whilst much was made of the fact this was a doubling of the approved scheme it is only some 25 units which would amount to only some 5% of the village as a whole, according to the figures in the evidence. The Traffic assessment includes trip distribution figures and this notes that there would be 10 additional vehicles going towards the village in the am peak and 5 in the pm. Even with the light traffic that was observed these are limited figures that would have no significant impact on the character and quality of the environment of the village.
29. There were concerns raised by many of the local residents with regard to the impact on services in the village including doctors, schools, and the basic social infrastructure of the village. The appellant has provided a Unilateral Undertaking to address the impact on services and infrastructure and I deal with this matter in greater detail below.
30. It was suggested by local residents that the development of 50 houses at this one location would unbalance the village. There was however no symmetry or planned form of the village. It has grown organically over time and there have been periods of differing growth resulting in additions of differing styles forms layout and density. This development would be another chapter in that evolution at a time when housing shortage is a significant issue and the Council cannot identify a five year housing land supply.
31. I accept that there are no clear examples in the immediate locality of housing developments of the size of this site. However there have been incremental increases in the size of developments as pressure increases for housing. This is evident in the later housing developments, which have generally increased in size. The recent approval of 25 units is seen by the local residents as being sufficient to fulfil its obligations and maintain the quality of their environment.

This development is not being held against them, as suggested, but is a material consideration and one that I must have regard to when considering whether the development before me is acceptable. Whilst the increase in unit numbers doubles that proposed it is in my view only a small addition to the overall size of the population in terms of an additional 25 units. Such an increase is not of such a scale that would change the character, appearance or function of the village or affect any heritage assets within it. As such the balancing exercises in paragraphs 132 to 134 of the Framework are not triggered and specific policies in the Framework do not indicate development should be restricted in this regard.

(iv) *Landscape buffer*

32. The Council contend that the proposals should maintain an adequate landscape buffer adjacent to the Charter Hall to maintain its setting and usage and that this would maintain an appropriate response to the development of the site and maintain the appearance of the site and its relationship with the adjacent development. In this regard they also refer to policy S37 in the emerging local plan which amongst other matters includes a requirement that any development of the site should create an area of informal open space along the southern parcel of the site, adjacent to the memorial hall as shown on the proposals map. An inset map is included which highlights an area of proposed green space buffer.
33. The policy identifies the site as suitable for residential development upto 25 units and also includes other design parameters. The extant planning permission for 25 units has a green space buffer and includes parameters which would be consistent with this policy.
34. The scheme the subject of this appeal includes an informal village green at the Street frontage that extends beyond the rear of the depth of the Charter. The framework plan also includes an area of land identified as 'land gifted to the Charter Hall. However it emerged during the hearing this is no longer to be gifted to the Charter Hall but is available to be open landscaping and I therefore have considered it as part of that landscape buffer. The Framework plan also includes a landscape buffer within which the public right of way would be maintained in the region of some 20m at its narrowest point.
35. In effect there would be an area of land towards this rear corner of the site towards the eastern boundary where there would potentially be development within the area identified in the emerging proposals map as proposed landscape buffer.
36. In visual terms the frontage of the site with The Street would comply with the open space requirement and would provide for the setting of the Charter Hall when viewed from The Street. The width of the open Street within the depth of the site would narrow and would appear as developed land close to the Charter Hall. However with the land to be gifted to the Charter Hall the space and surroundings within which the Charter Hall would be set would still maintain a reasonable degree of openness and separation from the proposed development. With appropriate landscaping and lower density development at the periphery of this part of the developed area of the site this would not significantly harm the appearance of the setting of the Charter Hall, which is not a heritage asset.

37. The policy S37 is in an emerging local plan at a very early stage and both parties agree that it should be given limited weight. I therefore give the minor conflict with this emerging policy limited weight. The harm to the appearance of the area from the development, in relation to this point, would also in my view be limited.

(v) *Conclusions on character and appearance*

38. To draw these strands together I conclude that the proposed development would result in minor harm to the character and appearance of the surrounding area resultant from the minor harm to the landscape character of the site, limited harm to the street scene on The Street at the entrance to Smarden and limited harm to the space around the Charter Hall.

39. Given that I have identified that the proposal would result in harm I am also satisfied that the proposal would conflict with policy TRS2 and TRS17 in the TRSDPD and policy CS1 of the Core Strategy which seek to protect the countryside. However the weight I give this conflict is reduced by the lack of a five year housing supply meaning policies for the supply of housing are out of date and the tilted balance of paragraph 14 of the Framework needs to be addressed. I also reduce the weight given the extant planning permission which would result in a significant proportion of the site being developed and the Council's stated aim in the emerging plan which allocates a significant proportion of the site for development. Given these material considerations I am satisfied that this conflict with the extant development plan policies and the limited harm would not be sufficient to warrant me dismissing this appeal.

40. The Council contend that as there is an emerging plan, that they have a good record of housing provision, that they have granted planning permission on the site for 25 units and other factors which demonstrate that the Council is proactively addressing the housing shortfall, and that the policies are consistent with the Framework, that I should therefore still give significant weight to these policies in the development plan.

41. The SOCG makes it clear that the housing land supply calculation includes a 20% buffer due to the Council's poor performance in housing provision, the development plan is at a very early stage and there is no indication that it will be forthcoming and adopted in the near future. The fact the Council has granted 25 units on this site will have no material impact on the housing supply figures, given the comments above. There is no indication that the Council has taken on board the need to grant planning permissions at a greater level to address the shortfall and there is poor housing supply which conflicts with the Government's aim to significantly boost housing supply and one of the central aims of the Framework. Whilst there is a degree of consistency with elements of the Framework, regarding the countryside, this is more restrictive than the Framework suggests and the central theme of boosting housing supply is not met. I therefore am satisfied that the conflict with these policies should be afforded limited weight.

Public Right of Way

42. A Public right of way, AW191a, runs within the site of the Charter Hall adjacent to its boundary with Appletrees. This results in the public right of way being contained within an existing developed site for approximately 1/3rd of its length. This would not change with the development proposal. For the

remaining 2/3rds the site runs adjacent to the boundary hedge with Appletrees and the open arable field of the appeal site. The proposed development has an area of land identified as land gifted to the Charter Hall, which is now proposed as open space, at this point the closest edge of the developable area is in excess of some 30m. The developable area then draws closer to the PRoW which would be maintained within a landscape buffer. This would be for a length of somewhere in the region of 100m. The developable area has an irregular boundary and at its closest point is in the region of 20m from the PRoW, but this increases along the length of the path.

43. The existing path has an open aspect once you have left the Charter Hall and there are views to the open countryside beyond. This is a pleasant and rural feel albeit that it is still evident that you are on the outskirts of the village given the proximity of Charter Hall and the domestic boundary hedge of Appletrees. It is not until you pass out of the site and into the next field that the feeling of open countryside is more fully apparent. The proposed development would reduce the openness of the final section of the PRoW but with the maintenance of the buffer zone and appropriate landscaping this would not be an unpleasant environment and would still appear as a footpath at the outskirts of the village heading towards the open countryside.
44. Travelling along the PRoW in the opposite direction towards Smarden from further afield the tree lined boundaries of the fields' obscure views to provide only glimpsed views. Only once in the adjacent field and given the open eastern boundary do you have views of Smarden. But even then you view Appletrees, the Charter Hall and the modern housing on the opposite side of The Street as the background to your views. With the proposed development housing will be brought closer into that view and the village edge will appear closer. However with strong planning and a good buffer at the eastern boundary to supplement the existing tree lined boundary further north these views can be filtered and the impact ameliorated. The views from the PRoW would then be not dissimilar to that currently existing, with houses beyond a tree lined boundary and an evident village edge.
45. In conclusion I am satisfied that the proposed development would not result in material harm to users of the public right of way along the southern boundary of the site. Consequently the proposal would not conflict with policy TRS18 of the TRSDPD which seeks to protect amongst other matters public rights of way.

Other matters

46. Outline planning permission is sought with all matters except the access reserved for future consideration. The submitted details provide for the main access onto The Street and other internal roads are matters that can be satisfactorily addressed under layout issues or by the imposition of appropriate conditions. The application submission included a transport statement which demonstrated the access was safe and adequate for the proposed development and could provide sufficient sight lines. Albeit that there were some concerns raised by residents regarding the access arrangements neither the local planning authority nor the highway authority raised any objections to the application on the basis of the access location or arrangements. Given the road geometry and alignment on the approaches to the proposed access location, with the sharp bends reducing traffic speeds in one direction and good straight visibility in the other, and the general low traffic speeds in the area and through the village, I am satisfied that there would be no material harm to

highway safety resultant from the proposed development and the access arrangements. The submitted plans identify additional crossing points and other matters which can be addressed through appropriate conditions and overall I am satisfied regarding highway safety implications of the development.

47. The proposals include the provision of an ecological enhancement area the management of which is secured through a Unilateral Undertaking; this is a positive benefit of the scheme.
48. The Council contend that to grant planning permission would be premature and would undermine the plan making process in relation to the emerging local plan. It is argued that the doubling of the level of housing units on the site from the emerging development plan allocation would fundamentally undermine the plan as a whole. This is not a credible stance. The proposal would result in the addition of 25 additional units. The housing shortfall presently runs to the region of 2,376 units, as stated in the SOCG. It is also noted in the SOCG that the granting of this permission would make no material difference to the housing land supply position. Each application must be considered on its merits, on a site by site basis and this decision does not seek to double the housing supply in the whole of the rural area on every other site as intimated by the Council, it addresses the particular circumstances of this site at this point in time. The Council's position also conflicts with the Government advice in the Planning Practice Guidance which advises on the weight to be given to emerging plans and that only limited weight can be given at the early stages of plan production, which this plan is at.

Planning Obligations

49. Concerns were expressed by local residents that the underlying infrastructure in the village was insufficient to support a development of this scale. In particular concern was expressed at the demand for school places and the demands on doctors' surgeries. The appellant has entered into a planning obligation, in the form of a Unilateral Undertaking which makes provision for financial contributions towards primary and secondary education, the contributions to be used at particular locations. The County Council have assessed and confirmed the need for the contributions and that there are no more than five contributions for each scheme. Whilst concern was expressed by residents I was given no firm evidence of a significant impact that would arise and in the light of the County Council's conclusions I see no reason to conclude otherwise, that the contributions are necessary and appropriate and address any shortfall that would arise as a result of the development. Similarly in relation to doctors' surgeries whilst I heard hearsay evidence I was provided with no formal objection from a health authority or doctor's surgery in the area and there is no corroborated substantive evidence to demonstrate a significant shortfall in care or that the additional occupants from the net 25 unit increase could not be accommodated.
50. The Unilateral Undertaking also makes financial contributions towards other social infrastructure in the village including in relation to strategic open space, play space, outdoor sports pitches, the voluntary sector, libraries and increasing cemetery capacity. The contributions are required to address the impact of the development and are aimed towards identified schemes which will overcome the impacts of the development and enhance local social infrastructure in the village. I have taken these into account in my

determination of this appeal. The appropriate authority has also confirmed that the contributions do not add to more than four other contributions in relation to the proposed schemes.

51. A separate Unilateral Undertaking has also been completed and this secures the provision of 35% of the properties as affordable housing. The TRSDPD makes it clear that affordable housing in the rural area is particularly important. The scheme would contribute to the delivery of affordable housing in the rural area and I give that significant weight in my determination of this appeal.

Overall conclusions and conditions

52. In relation to decision taking the second bullet point of paragraph 14 of the Framework requires that planning permission is granted where relevant policies in the development plan are out of date unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole or specific policies in this Framework indicate development should be restricted.
53. I have concluded that relevant policies in the development plan are out of date by virtue of the lack of a five year housing land supply and that the tilted balance of the Framework is triggered. I have also concluded that there are not specific policies in the Framework or development plan that indicate development should be restricted, in particular in relation to valued landscapes and the historic environment.
54. In terms of the impact of the development on the character and appearance of the area, whilst there is conflict with development plan policies, I have given that conflict limited weight for the reasons given above, and that the harm that arises to the character and appearance of the area is minor. I have further concluded that there would be no material harm to the enjoyment of the PRow. The benefits of the scheme include the provision of a number of housing units in the absence of the Council having a five year housing land supply, albeit that this scheme would make no material impact on the undersupply it is important to bring forward housing where possible to meet the aim of significantly boosting housing supply in the Framework. There is a significant benefit attributable to the provision of affordable housing and there are also minor economic and ecological benefits that would accrue from the development of the site. It is clearly evident that the adverse impacts of the development would not clearly and demonstrably outweigh the benefits of the scheme and therefore planning permission should be granted and I will allow the appeal.
55. The parties provided me with an updated list of proposed conditions and comments. I have considered these with reference to the guidance in the Planning Practice Guidance and by reference to the wording of the draft conditions contained in Annexe A to circular 11/95 *the use of conditions in planning permissions*, which remain extant, albeit the circular itself has been cancelled.
56. I have imposed the standard outline time limit conditions. Although it was suggested by the appellant that they would accept reduced time limits to bring forward the development in the light of the significant housing shortfall in the area there was no substantive justification that this would materially affect the supply position and so is not necessary. I have imposed an approved plans

condition to ensure the access arrangements provided are in accordance with the approved plans, along with a further condition to ensure the details are implemented by an appropriate time in the development, and that the general arrangements identified in the illustrative Framework come forward as this is the basis on which the development was promoted and accepted.

57. There were a number of detailed conditions related to landscaping suggested by the Council however these are matters that would be addressed by the landscaping reserved matters and so are therefore not necessary. I have however imposed a condition ensuring the landscaping does include enhancement of the tree and hedge treatment along the eastern and southern boundary as this is required in the interest of the appearance of the development and its impact on the surrounding area. I have also imposed landscape related conditions in relation to the carrying out of the arboricultural assessment, the retention of trees and hedges and a management plan as these will secure important principles upon which the scheme is based and found to be acceptable.
58. Similarly I have imposed conditions requiring the submission of an ecological enhancement strategy and biodiversity masterplan to ensure the positive benefits attributable to these matters are secured.
59. I have imposed a number of highway and traffic related conditions to address bus stops, cycle parking and vehicle parking to ensure that these details are provided and which are necessary to ensure they come forward at the appropriate time and are retained thereafter. I have also imposed a condition requiring details of the internal estate roads as these are not covered by the reserved matters and are necessary to ensure safe and appropriately detailed access arrangements.
60. There are a number of technical and further investigatory works which it is necessary to ensure are carried out these include a programme of archaeological work and contamination and I have therefore imposed appropriate conditions. I have also imposed a condition requiring details of a sustainable surface water drainage scheme to be submitted to ensure the site is properly drained and a condition requiring an acoustic scheme to protect future residents from noise from the Charter Hall to safeguard their future living conditions.
61. A construction management plan is required to ensure the construction process does not adversely affect local residents. Conditions are also required to ensure the provision of a wheel chair accessible unit and appropriate storage, refuse and recycling facilities, to ensure the development makes provision for such facilities in the interests of the future occupiers of the site and the demands of local services.
62. Many of the other suggested conditions are more in the nature of informatives, providing information on the matters that should be included in the reserved matters or information to assist the Council in the detailed consideration of the future submissions in relation to the reserved matters. They are however not necessary as conditions on an outline application. Also conditions which seek to address specific design matters are not required at this stage as these would be covered by the appearance reserved matter. I have also not imposed a condition restricting permitted development rights given the advice in the Planning Practice Guidance on this matter and the appearance, layout and

design of properties have not yet been agreed. The condition is therefore unnecessary and premature at this stage. Where appropriate I have amalgamated conditions or sought to include matters within other conditions I have imposed to reduce the number of conditions, in particular in respect of drainage and archaeology.

63. For the reasons given above I conclude that the appeal should be allowed.

Kenneth Stone

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Chris Still	Gladman Developments Ltd
Lucy Wilson	Gladman Developments Ltd
Katherine Schofield	FPCR
Steve Barker	Gladman Developments Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Cain Ormondroyd	Of Counsel
David Carter	Principal Policy Planning Officer
Wendy Fidler	Land Management Services Ltd
Paul Courtine	Solicitor for the Council
Katie Magnall	Senior Planning Officer

INTERESTED PERSONS:

Sarah Ellison	Smarden Parish Council - Planning
Geraldine Dyer	Local Ward Councillor Weald North Ward
Rosemary Taylor	Weald of Kent Protection Society
Alun Jones	Local Parishioner
Peter Gibbs	Local Resident
Michael Barkway	Chairman of Trustees of Charter Hall
Angela Foston	Local Resident & Foston Golf Academy

Brian Bristow	Local Resident
John Atkins	Smarden Parishioner and Chairman of Kemnal Academies Trust
Gill Bromley	Local Parishioner
Gary Mitchell	Local Resident
John Maxted	Local Resident
Christine Drury	Council for the protection of Rural England (Kent)
Josephine Morton	Local Resident
Judy Hollis	Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Updated schedule of list of suggested conditions and the appellants comments, including suggested amendments.
- 2 Updated Hearing statement submitted by Ashford Borough Council in the light of the decision of the Supreme Court in Suffolk Coastal DC v Hopkins Homes [2017] UKSG 37.
- 3 Copy of the Statement of Mrs Rosemary Taylor Chair of the Weald of Kent protection Society Planning Committee
- 4 Updated Core Documents list submitted by the appellant
- 5 Undated Unilateral Undertaking in respect of affordable housing submitted by the appellant
- 6 Compliance note relating to community infrastructure levy regulations 2010, submitted by Ashford Borough Council
- 7 Copy of Policy TRS2 from the Tenderden and Rural Sites Development Plan Document (2010) submitted by the Council
- 8 Copy of appeal decision APP/D3125/W/14/3000947 submitted by the appellant.
- 9 Certified copy of the dated, sealed and signed Unilateral Undertaking addressing affordable housing.
- 10 Certified copy of the dated, sealed and signed Unilateral Undertaking addressing financial contributions and other matters.
- 11 Plan showing locations from where to view the site on my unaccompanied site visit as agreed by both main parties.

Schedule of conditions for appeal APP/E2205/W/16/3159895

- 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 takes place 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 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 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 following approved plans: GA021-003-001 Rev C; and in general conformity with the illustrative development Framework 6838-L-02 Rev G.
- 5) The landscaping scheme pursuant to condition 1 shall include the creation of an enhanced hedge and tree boundary along the eastern and southern boundaries of the site to screen the development from the adjoining open countryside.
- 6) The details submitted pursuant to condition 1 of this permission shall identify how one of the affordable housing units to be provided are to be constructed so that the requirements of paragraphs M4(3)1 and M4(3)(2)(a) of schedule 1 to the Building Regulations 2010 (category 3 - adaptation to wheelchair user dwellings) are satisfied, and how this unit is to be constructed so that it provides for a 4 bed family house and the development shall be carried out in accordance with the agreed details.
- 7) Prior to the commencement of the development the applicant, or their agents or successors in title, will secure the implementation of a programme of archaeological work (including geo-archaeological and archaeological work) in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.
- 8) Prior to first occupation of the dwellings hereby approved the following shall have been provided and thereafter maintained for the duration of the development:
 - The footways and associated visibility splays in Pluckley Road, with no obstructions over 0.6m above footway level, as shown in plan GA021-003-001 Rev C
 - The access and associated visibility splays with no obstructions over 1m above carriageway level, as shown on plan GA021-003-001 Rev C.
- 9) Prior to the occupation of any of the units, details and a timetable shall be submitted to and approved by the Local Planning Authority in writing for the provision of formalised bus stops on Pluckley Road, which shall be designed to the latest accessibility requirements. Such works shall be carried out to the approved timetable and in accordance with the approved details.

- 10) No dwelling shall be occupied until space has been laid out and equipped within that plot for covered bicycle storage in accordance with approved details of the covered bicycle storage for the site as a whole that shall first have been submitted to the Local Planning Authority for approval at the same time as the details required pursuant to Condition 1 and approved in writing. Such approved covered bicycle parking shall be retained in perpetuity.
- 11) Details of vehicle parking facilities (that accords with the Council's adopted Residential parking and Design Guidance SPD or any other standards agreed with the local planning authority and clearly shows which spaces relate to which unit as well as those that are communal /visitor spaces) shall be submitted to and approved in writing by the Local Planning Authority at the same time as the submission of details pursuant to Condition 1. The approved facilities shall be provided prior to the development to which they relate being occupied. Thereafter, the facilities shall be retained for ancillary parking use and access thereto shall not be precluded.
- 12) If unexpected contamination is found at any time when carrying out the approved development it must be reported in writing to the Local Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared.

Following completion of the remediation scheme a verification report that demonstrates the effectiveness of the remediation carried out must be prepared and submitted for approval in writing by the Local Planning Authority.
- 13) The development hereby approved, shall be carried out in accordance with recommendations of the approved Arboricultural Assessment dated October 2015 submitted with the application. No development shall begin until details of the means of protecting retained trees and hedges within and immediately adjacent to the site of the particular phase, including root structure from injury or damage prior to or during the development works have been submitted to and approved in writing by the Local Planning Authority. Such protection measures shall be implemented before any works are carried out and retained during building operations and furthermore, no excavation, site works, trenches or channels shall be cut or laid or soil, waste or other materials deposited so as to cause damage or injury to the root structure of the trees or hedges.
- 14) No tree or hedge shown to be retained shall be cut down, uprooted or destroyed, nor shall any retained tree or hedge be pruned, thinned or reduced other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority.
- 15) A landscape and open space management plan, including long term design objectives, management responsibilities and maintenance schedules for all open space and landscape areas other than small, privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.

- 16) No development shall take place, including groundworks, until an ecological enhancement and mitigation strategy for protected and notable species has been submitted to and approved in writing by the Local Planning Authority. The content of the strategy shall be in accordance with the recommendations of the Ecological Appraisal submitted with the application (December 2015) and include the:
- Identification of ecological impacts, informed by new and/or updated ecological surveys for badger, bats, dormice, reptiles and great crested newts;
 - Purpose and objectives of the proposed works;
 - Detailed design(s) and or working methods necessary to achieve stated objectives;
 - Extent and location of proposed works, including the receptor site, shown on appropriate scale maps and plans;
 - Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
 - Persons responsible from implementing the works, including times when specialist ecologists need to be present on site to oversee works;
 - Ongoing monitoring provision.

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

- 17) A Biodiversity Management Plan (BMP) for the site and Ecological Enhancement Area shown on the Illustrative Framework Plan shall be submitted to, and be approved in writing by the Local Planning Authority prior to the commencement of the development. The content of the BMP shall include the following:
- Description and evaluation of features to be managed
 - Ecological trends and constraints on site that might influence management;
 - Aims and objectives of management;
 - Appropriate management options for achieving aims and objectives;
 - Prescriptions for management actions (including an annual work plan capable of being rolled forward over a five year period);
 - Details of the body or organisation responsible for implementation of the plan;
 - Ongoing monitoring and remedial measures.

The BMP shall also include details of the legal and funding mechanisms by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results form monitoring show that conservation aims and objectives of the EMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning

biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

- 18) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- Details of the construction access
 - the parking of vehicles of site operatives and visitors
 - routing of construction vehicles and the loading and unloading of plant and materials
 - storage of plant and materials used in constructing the development
 - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - vehicle washing facilities
 - measures to control the emission of dust and dirt during construction
 - a scheme for recycling/disposing of waste resulting from demolition and construction works
 - a scheme to control noise during the construction phase.
 - Hours of operation
- 19) Full details of facilities to accommodate the storage of refuse and material for recycling for each dwelling and its collection by refuse vehicles shall be submitted at the same time as details required to be submitted pursuant to condition 1 and approved by the Local Planning Authority in writing. The approved details shall be implemented before the occupation of the dwellings to which they relate. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any subsequent other Order revoking or re-enacting that Order, such approved facilities shall be retained in perpetuity and access thereto shall not be precluded.
- 20) No development shall begin until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of through the methods detailed in the submitted Flood Risk Assessment.

No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- a timetable for its implementation, and
 - measures to prevent the discharge of surface water onto the public highway, and
 - a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.
- 21) Prior to the commencement of development, a scheme for protecting the dwellings / development hereby approved from noise from The Charter Hall in accordance with the Noise Report submitted with this application shall be submitted to and approved in the Local Planning Authority. The approved protection measures shall thereafter be completed before the approved dwellings / development are occupied, and thereafter shall be retained as effective protection.
- 22) The proposed estate roads, footways, footpaths, verges, junctions vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients and street furniture shall be laid out, before the dwellings with which they area associated are first occupied, in accordance with details to be submitted to and approved in writing by the local planning authority before construction begins. The details shall include plans sections, indicating as appropriate the design layout, levels, gradients, materials and method of construction.

END