



MID SUSSEX DISTRICT COUNCIL SITE ALLOCATION DPD

MATTER 1 HEARING STATEMENTS

SUBMITTED ON BEHALF OF RETIREMENT VILLAGE DEVELOPMENTS LTD & NOTCUTTS LTD

1.1 Legal Requirements

(i) Does the Site Allocations Development Plan meet all its legal requirements (e.g. in relation to the Local Development Scheme; Statement of Community Involvement; and the Town and Country Planning (Planning) (England) Regulations 2012 (as amended)? Are there any other legal compliance issues?

1.1 No. The Site Allocations DPD (SADPD) is inconsistent with another development document the preceding Adopted Local Plan and does not have regard to National policies and advice to seek to assess and address the need for extra care or older persons housing. The Council has therefore failed in its duty in preparing this Plan in failing:

- To have regard to National policies and advice contained in guidance issued by the Secretary of State (s19(2) a) Planning and Compulsory Purchase Act 2004); and
- To have regard to another development document S192(h) Planning and Compulsory Purchase Act 2004 in failing to seek to assess and address the need for "extra care" or older people's housing.

1.2 Consequently, the scope of the Plan does not meet the soundness tests in the NPPF (para 35) as it is not "Consistent with National Policy", "Justified" or "Effective" and is not legally compliant as it is not in compliance with the **Town and Country Planning (Planning) (England) Regulations 2012 (as amended) or (s19(2) a) and h) of the Planning and Compulsory Purchase Act 2004).**

(ii) Has the Council followed due process in its preparation of the Plan, including the process of site selection and public involvement?

1.3 No. The District Council in its Topic Paper (TP4) sets out that no suitable sites for older people were identified through the Site Selection Paper 3 (para 1.62 and also summarised in



the SA - SUS1). For reasons set out below, the Council has misdirected itself in not seeking to address the need for specialist accommodation for the elderly through this Plan. This is in part because the Council has failed to include this within the scope of the Plan and as such has not given it proper consideration. Allied to this, the Council continues to rely on out-of-date evidence (the HEDNA as summarised in TP4) on the need for specialist older persons accommodation both in terms of quantitative and qualitative need. The Infrastructure Delivery Plan (IV1) and SA (SUS1) is also not adequate or up-to-date. As set out in detail in Matter Statements 2, 3 and 8, these documents should have been updated to inform the preparation of this Plan and satisfy the requirements of Adopted Local Plan Policies DP25 and DP30 (rehearsed below).

- 1.4 Consequently, and as set out in our representations to the Reg 18 Plan, Section 4 (attached to the Reg 19 Repts) the site selection process by the Council is fundamentally flawed allowing for no qualitative analysis of proposed housing. The site selection process further failed to recognise that specialist forms of accommodation, such as extra care, can be located in places that are less suited to C3 residential, because of the services and facilities it offers. Consequently, it identified no suitable sites for this use.
- 1.5 As a result of both these failings in terms of a quantitative and qualitative analysis of housing supply the Plan does not address an identified and pressing need for specialist elderly accommodation (specifically extra care). A need that was expressly acknowledged in the Albourne Appeal decision (Appendix 1) and given "substantial weight" (para 93) by the Inspector. The lack of provision is contrary to Policies DP25 and DP30 and the NPPF (para 61).

1.2 Scope of this Part of the Local Plan

- (i) Is the Scope of the Plan in line with the aims and strategy of the District Plan, including as set out in the Executive Summary and in particular in relation to its four main aims which are set out on pg4 of the submitted Plan?**
- 1.6 No – the Scope of the Plan as also summarised in the Executive Summary does not align with the aims and strategy of the District Plan.

1.7 The Scope of the Plan cross refers to Policy DP1 which identifies the need to allocate further employment sites in the Site Allocations DPD. Policies DP25 (Community Facilities and Local Services) and DP30 (Housing Mix), include similar commitments to identify and address the need/demand for community facilities¹ either through Neighbourhood Plans or a Site Allocations DPD. In the case of Policy DP30 it sets out that:

"....if a shortfall is identified in the supply of specialist accommodation and care homes falling within Use Class C2 to meet demand in the District, the Council will consider allocating sites for such a use through a Site Allocations Document, produced by the District Council." [Underlining our emphasis]

1.8 For a need or shortfall to be identified, it follows that there must be first an assessment of need.

1.9 Policy DP30 sets out (in respect of the whole Policy, which covers other housing needs) that *"evidence of housing need will be based on the best available evidence....."*. As set out in response to Matter 3.8 the best available evidence has not been used by the Council to assess the need for specialist older persons accommodation. Furthermore, contrary to the Council's evidence (which underpins TP4) the Inspector for the Albourne Appeal (decision attached at Appendix 1), found that *"...the evidence indicates a significant level of current unmet need, in particular for extra care² leasehold....."*

1.10 Whilst the 4No main aims of the Plan (in Exec Summary) set out the need, for example, to identify employment Sites in line with the Policy requirement of DP1, the list of "aims" completely fails to recognise the commitments in Policies DP25 and DP30 to address the need/shortfall for community facilities and specialist accommodation in this Plan.

1.11 Policies DP25 and DP30 do not pre-suppose that the Plan will allocate sites per se for specialist older persons accommodation, but it is central to the plan-making process, as a policy commitment, that these matters will be properly considered and robustly assessed by

¹ Supporting text to Policy DP25 defines what falls within the scope of "Community Facilities and Local Services", this includes amongst other uses specialist accommodation and care homes. This being development falling within Use Class C2 (pg 81 of the Adopted Local Plan).

² What we mean by extra care, is as set out in the Appendices to our Reg18 Reps and contained within our Reg19 reps.



the Council where there is a shortfall in supply This commitment should have therefore appeared as an additional “aim” of the Plan and should have shaped its preparation and informed its evidence base. It has not.

- 1.12 At the time the Local Plan was adopted, 16 out of 20 Neighbourhood Plans (NPs) were “made”, with only Haywards Heath NP identifying a site for circa 20No elderly persons bungalows (C2)³. With so many NPs made before the Local Plan was adopted and with no other NPs making special provision for specialist accommodation for the elderly, it is evident that this Plan is the only vehicle for addressing the identified and significant need now, for this specialist type of accommodation.
- 1.13 In failing to identify the commitments within Policies DP25 and DP30, the strategy for the Plan is fundamentally flawed and the Council has misdirected itself to overlook the policy requirement to further assess the need for specialist accommodation. This has resulted in other failings in the Council’s Evidence Base, notably the SA (SUS1) and IDP (IV1), addressed in Matter Statements 2 and 8. We have also addressed separately under Matter 3.8 the Council’s “need case” which is equally flawed.
- 1.14 Policies DP25 and DP30 are central to addressing the District Plan’s priority theme to “ensuring cohesive and safe communities” (para 2.14) and accompanying strategic objectives Nos.12 and 13 to “support sustainable communities which are safe, healthy and inclusive” and “to provide the amount and type of housing that meets the needs of all sectors of the community”⁴. In failing to consider as an “aim” of this Plan the requirements of these policies, the Plan has merely reduced the housing need to a purely numerical exercise for solely C3 housing purposes – and therefore is contrary to the aims of delivering sustainable development and the over-arching aims and objectives of the preceding Adopted Local Plan.

(ii) Does the Scope of the Plan accord with Court of Appeal Judgement of Oxted Residential Ltd V Tandridge District Council?

1.15 Adopted Local Plan Policies DP25 and DP30 set out as a policy requirement the following:

³ Such an allocation by its very nature, limited as it is by size would be unable to provide the level of care and support necessary to qualify as a C2 use.

⁴ Objectives 12 & 13 are referenced in Policies DP25 and DP30.



“Community facilities and local services to meet local needs will be identified through Neighbourhood Plans or a Site Allocations Development Plan Document produced by the District Council”
(Policy DP25)

And

“If a shortfall is identified in the supply of specialist accommodation and care homes falling within Use Class C2 to meet demand in the District, the Council will consider allocating sites for such use through a Site Allocations Document, produced by the District Council.”

Evidence of housing need will be based on the best available evidence (including local evidence provided to support Neighbourhood Plans).” (Policy DP30)

- 1.16 As already indicated, we consider the scope of the Plan is flawed in failing to acknowledge and address the need to identify sites to meet the evident significant need for specialist accommodation, including C2 extra care.
- 1.17 We have reviewed the Oxted Residential Ltd V Tandridge District Council, (29 April 2016). It considered inter alia, the issue of whether the Inspector who conducted the examination of the Tandridge Local Plan Part 2 and the Council who subsequently adopted the Plan could not lawfully have found the Plan to be sound because it was not informed by the objectively assessed housing needs (OAN) of the District as Government policy in the NPPF requires. We note the judgement makes clear in that case that the Tandridge Local Plan Part 2 was not obliged to rectify any shortcomings in the Council’s Core Strategy approach to housing land supply and assessment of need. This was outside the scope of that Plan which made it plain that it supported the Core Strategy, and did not substitute, amend or set out a new strategy. There was therefore no requirement as part of that plan-making process to use its evidence base to ensure it met the Council’s OAN to be consistent with the NPPF (para 38). This was simply outside the scope of the Plan – as recognised by the Courts.
- 1.18 This is not however the case with MSDC insofar as it has an Adopted Local Plan that establishes in 2No policies a requirement to identify and “plan” for community facilities and local services (including specialist accommodation) either through Neighbourhood Plans or the Site Allocations DPD. And if a shortfall in C2 accommodation is identified - to then



consider allocating sites. It is acknowledged that the policies (as worded) do not necessarily “require” allocations or other policy interventions to secure the provision specialist of accommodation, but more so that (in the first instance) that the matter is properly considered by reference to the best available evidence in the preparation of the Plan, as the primary method for addressing any identified and unmet need.

1.19 Allied to this and since the adoption of the Local Plan, the NPPF (para 61) has only strengthened its guidance around the requirement to assess and reflect in planning policies the need for older persons accommodation, amongst other housing types such as affordable (which is afforded its own planning policy). Additionally, the NPPG has been expressly updated, introducing a new section “Housing for older and disabled persons”, crucially establishing that:

- The need to provide accommodation for older people is critical [Para 001 Ref ID: 63-001-20190626];
- Plan-making authorities should set clear policies to address the housing needs of groups with particular needs such as older and disabled people. [Para 006 Ref ID: 63-006-20190626];
- Policies can set out how the plan-making authority will consider proposals for the different types of housing that these groups are likely to require. They could also provide indicative figures or a range for the number of units of specialist housing for older people needed across the plan area throughout the plan period. [Para: 006 Ref ID: 63-006-20190626]; and
- Recognises that site allocations for specialist housing for older people can provide greater certainty and encourage provision, especially where there is an unmet need. [Para: 013 Ref ID: 63-013-20190626]. ⁵

1.20 In *Oxted Residential Ltd V Tandridge District Council* (para 38) the Judgment sets out the Inspector’s assessment process which:

....will require him to ask himself, among other things, whether the local planning authority has had regard to national policy

⁵ See Section 3 of the Reg 19 Representations submitted on behalf of Retirement Village Development Ltd & Notcutts Ltd.



(section 19(2)(a)) and to "any other local development document which has been adopted by the authority" (section 19(2)(h)). The Judge noted that in this case there was no complaint of "inconsistency or potential inconsistency with another development document".

- 1.21 In this case the Council has failed to have regard to both **National policy (section 19(2)(a)) PCPA 2004** in failing to seek to assess and address the need for extra care **and to "any other local development document which has been adopted by the authority" (section 19(2)(h))PCPA 2004** as there is an identified inconsistency with the Adopted Local Plan. Consequently, the scope of the Plan does not meet the soundness tests in the NPPF (para 35) and is not "Consistent with National Policy", "Justified" or "Effective". It is also not legally compliant as it is not in compliance with the **Town and Country Planning (Planning) (England) Regulations 2012 (as amended) or (s19(2) a) and h) of the Planning and Compulsory Purchase Act 2004**.
- 1.22 Whilst the qualitative and quantitative matters of housing supply are addressed elsewhere (Matter 3), representations seeking the allocation of "Former Hazelden Nursery" for C2 extra care (Matter 3) and the introduction of a Development Control policy supporting the provision of extra schemes (Matter 7) falls fully within the scope and capabilities of this Plan for the reasons set out above.
- (iv) Policies SA34 to SA38 are termed 'development policies' in the Plan; can they be considered to be strategic in nature, and if so, does that in anyway set a precedent or even a requirement for the Plan to deal with other strategic issues, such as housing provision.**
- 1.23 Policies SA34-SA37 are strategic policies, satisfying the credentials in the NPPF (para 20-23) in that:
- Pg 5 of the Plan refers to the policies as "*additional strategic policies*" in line with the requirement to identify strategic policies (para 21);
 - They do not address matters of detail that could more appropriately be addressed through Neighbourhood Plans or other non-strategic policies (para 21);



- Looking ahead, safeguarding land for strategic highway, rail and cycle network, for projects which are not secured and as such the policies respond to long term opportunities and requirements (para 22);
- Policies SA35 and SA37 deal with cross boundary issues which will impact Tandridge District and Lewes District (para 21); and
- Ensures there is sufficient provision of infrastructure and employment which will shape the pattern and scale of development and ensure sufficient provision over the Plan period (para 20).

1.24 The above strategic policies are therefore clearly within and capable of being within the scope of this Plan where a need has been identified by the Council. Furthermore, the setting of strategic policies does not have to wait for the Local Plan Review. This is sound and proper.

1.25 However, this approach appears to contradict the Council's own position in respect of "older peoples housing" as set in TP4. The Topic paper concludes that, *"The District Plan review is the proper place to revisit strategic issues such as the provision of housing for older people; it is not within the scope of the Site Allocations DPD to re-establish needs."* (para 164)

1.26 As already indicated, we consider the scope of the Plan is fundamentally flawed in that it fails to consider and address the need for specialist accommodation for the elderly. The above statement in TP4 suggests that this failure is a result of the Council considering the re-assessment and establishment of need as being a strategic policy, outside the scope of this Plan, which is disputed.

1.27 In the context of the Council's own policies, this is clearly not correct. Where a significant "need" has been identified, such as in the case of specialist accommodation for the elderly, the Council's own approach has therefore set a precedent for this Plan to deal with other strategic issues *"to ensure that the Development Plan supports the delivery of sustainable development when considered as a whole"* (Pg4).

1.28 The above is notwithstanding, that the need for specialist accommodation should have been addressed in any event, within the context of the policies already contained in the Adopted Local Plan and the recent Appeal decision at Albourne (Appendix 1).

APPENDIX 1



Appeal Decision

Inquiry Held on 20-22, 24, 27, 28, 30, 31 July and 6 August 2020

Site visits made on 16 July, 7 and 16 August 2020

by Christina Downes BSc DipTP MRTPI

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

Decision date: 11 September 2020

Appeal Ref: APP/D3830/W/19/3241644

Site of the former Hazeldens Nursery, London Road, Albourne, West Sussex BN6 9BL

- 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 RV Developments Ltd and Notcutts Ltd against the decision of Mid Sussex District Council.
 - The application Ref DM/19/1001, dated 8 March 2019, was refused by notice dated 26 July 2019.
 - The development proposed is an extra care development of up to 84 units (comprising of apartments and cottages) all within Use Class C2, associated communal facilities. 2 workshops, provision of vehicular and cycle parking together with all necessary internal roads and footpaths, provision of open space and associated landscape works, and ancillary works and structures. Works to include the demolition of the existing bungalow on the site.
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DECISION

1. The appeal is allowed and outline planning permission is granted for an extra care development of up to 84 units (comprising of apartments and cottages) all within Use Class C2, associated communal facilities. 2 workshops, provision of vehicular and cycle parking together with all necessary internal roads and footpaths, provision of open space and associated landscape works, and ancillary works and structures. Works to include the demolition of the existing bungalow on the site on the site of the former Hazeldens Nursery, London Road, Albourne, in accordance with the terms of the application, Ref DM/19/1001, dated 8 March 2019, subject to the conditions in Annex C to this decision.

PROCEDURAL MATTERS

2. A costs application was made by RV Developments Ltd and Notcutts Ltd against Mid Sussex District Council. This is the subject of a separate Decision.
3. The application was made in outline form with access as the only matter to be considered at this stage. It was accompanied by a Parameter Plan (drawing no: RETI150215 PP-01 rev G) along with a detailed plan of the access and traffic calming measures proposed along London Road (drawing no: 1701-56 SK08 rev B). Following discussion at the inquiry it was agreed that the Sketch Layout (drawing no: RETI150215 SKL-04 rev J) should also be treated as an application drawing.

4. At the request of the Appellants, I undertook an accompanied visit to Charters Village, one of Retirement Villages' extra care developments in East Grinstead, West Sussex.
5. The proposal is supported by a Planning Obligation by Agreement (S106 Agreement) and a Planning Obligation by Unilateral Undertaking (UU). Just before the close of the inquiry the Council and the Appellants were involved in further discussions about the definition of Personal Care in the UU, amongst other things. As a result, changes were made whereby the Council reviewed its position and agreed that the proposed development would fall with Use Class Use C2 rather than Class C3 in the *Town and Country Planning (Use Classes) Order 1987 (as amended)*. As a consequence, there was no longer a policy requirement for affordable housing and the reason for refusal relating to that matter was no longer pursued. In order to allow the completion and engrossment of the legal documents, I agreed to a short extension of time following the close of the inquiry.
6. The planning application was made with reference to Use Class C2 in the description of the proposal. I was told that the Council would not validate it unless this reference was removed, which the Appellants agreed to do although by accounts not altogether willingly. In any event, as indicated in the preceding paragraph there is now no dispute that the proposal would fall within Class C2 and so it remains in the description as originally submitted.

REASONS

PLANNING POLICY CONTEXT AND THE APPROACH TO DECISION MAKING

7. For the purposes of this appeal the relevant part of the development plan comprises the *Mid Sussex District Plan 2014-2031* adopted in March 2018 (the MSDP) and the *Albourne Parish Council Neighbourhood Plan* made in September 2016 (the ANP). I do not consider that there are any pertinent saved policies or allocations in the *Mid Sussex Local Plan (2004)* or the *Small Scale Housing Allocations Development Plan Document (2008)* in this case. I return to this briefly below. The *West Sussex Joint Minerals Local Plan (2018)* is agreed by all parties not to be relevant.
8. It is the Appellants' case that the presumption in favour of sustainable development applies as set out in paragraph 11 of the *National Planning Policy Framework (the Framework)*. This is on two counts each of which is considered below. The first is that the development plan itself is not up-to-date. If that is the case, then the Appellants agree that paragraph 11c) could not apply. The second is that the basket of most important policies for determining the application are out-of-date because they are inconsistent with Framework policies. It is agreed between the main parties that the Council is able to demonstrate a five-year supply of deliverable sites to meet its housing requirement.

Whether the development plan as a whole is up-to-date

9. The Council has chosen to adopt a two-stage approach whereby the MSDP only includes strategic allocations, with the smaller housing sites to be identified through a *Site Allocations Development Plan Document (SA DPD)* and neighbourhood plans. Policy DP4 in the MSDP anticipates the former document

being adopted in 2020, but the 2019 Local Development Scheme envisages this to be the summer of 2021. I was told at the inquiry that the Regulation 19 consultation had only just commenced and so there appears to have been further slippage and a more realistic assessment would be adoption later next year or even early in 2022.

10. The 2004 *Planning & Compulsory Purchase Act (as amended)* requires local planning authorities to identify strategic priorities for the development and use of land in their area. Policies in the development plan document must address these priorities. This is reflected in paragraph 17 of the Framework and similarly in the 2012 version of the Framework. The MSDP sets strategic priorities (termed objectives) in Chapter 2 and the policies to address them in Chapter 4. These include policy DP4. As mentioned above, policy DP4 specifically refers to the subsequent preparation of the SA DPD. If this had been required to have been produced at the same time it is difficult to see how the Examining Inspector could have been found it legally compliant in terms of consistency with national policy or legislation. However, it was found to be sound and as far as I am aware, no legal challenge was made to its adoption.
11. It is the case that the Examining Inspector indicated an expectation that the SA DPD would follow "*soon after this plan*" and recorded that the Council had committed to bringing it forward "*at an early date*". However, there was no clear indication as to the anticipated timeframe, apart from what is indicated in policy DP4. There has clearly been slippage but, the complaint that the MSDP does not adequately address small sites coming forward is as true now as it was when the plan was found sound. The Framework does not require a plan to necessarily allocate all of the housing land supply for the whole plan period. That is why it distinguishes between deliverable and developable sites during different stages of the lifetime of the plan.
12. In any event, the MSDP includes other means for bringing small sites forwards including neighbourhood plans. Mid Sussex District has a good coverage of such plans, albeit that most were made under the auspices of the 2004 Local Plan. Nevertheless, there is insufficient evidence to support the Appellants' assertion that this therefore means that the contribution of small sites from this source is "nominal" on a district-wide basis. Whilst the Albourne Neighbourhood Plan includes few allocations, it is one of around 20 such plans. Policy DP6 is permissive of settlement expansion and allows small sites of less than 10 dwellings to come forwards under certain conditions. The Examining Inspector considered that it provided the MSDP with extra robustness and flexibility in maintaining a rolling 5-year supply of housing land.
13. For all of the above reasons I do not consider that the development plan is out-of-date at the present time.

The most important policies for determining this application

14. The Council and the Appellants consider that the following policies, which are included in the reasons for refusal, should be considered most important:

- MSDP: DP6, DP12, DP15, DP21, DP31, DP34, DP35
- ANP: ALC1, ALH1

All of these seem to me to fall within this category, save for policy DP31

relating to affordable housing. This rested on the dispute about whether the proposal fell within Use Class C2 or Use Class C3 and this in turn was resolved by the tightening of the definition of "Personal Care" in the UU. This document was not finalised at the time that the planning application was being considered by the Council and there was thus scope for change, as indeed happened during the inquiry. There was no dispute that the policy does not apply to Use Class C2 housing proposals and so, whilst it is relevant, I do not consider policy DP31 is of key importance to the determination of the application.

15. There are a number of disputed policies, which are as follows:

- Policy DP4 relates to housing delivery and sets out the District's housing requirement and how it will be addressed. It also commits to the preparation of a SA DPD as referred to above. It is clearly relevant to the consideration of a housing proposal, but it is not a development management policy that plays a significant role in determining planning applications. It is thus not a most important policy in this case.
- Policy DP20 is included in the reasons for refusal and relates to securing infrastructure and mitigation through planning obligations or the Community Infrastructure Levy. This will be addressed through the legal Deeds and, whilst clearly relevant is not to my mind of most importance.
- Policy DP25 concerns community facilities and local services and the supporting text makes clear that specialist accommodation and care homes are included. This supports the type of development being proposed and is therefore a most important policy in this case.
- Policy DP30 relates to housing mix and the need to meet the current needs of different groups in the community, including older people. It is a most important policy to the consideration of this proposal.
- Policy ALH2 in the ANP is an allocation for 2 houses in Albourne. This is not of particular relevance to the proposal and is not a most important policy.

16. The Appellants consider the saved policies in the 2004 Local Plan and policies SSH/7 to SSH/18 in the 2008 Small Scale Housing Allocations Development Plan Document to be most important. These relate mainly to site specific matters and allocations. Both are based on an out-of-date housing requirement established in the West Sussex Structure Plan. They also do not address the need for elderly persons accommodation. However, their relevance to the current proposal is tenuous and they are not of pertinence to this application.

17. Drawing together the above points, the most important policies to the determination of this application are:

- MSDP: DP6, DP12, DP15, DP21, DP25, DP30, DP34, DP35
- ANP: ALC1, ALH1

Whether the most important policies are out-of-date

18. Whether the aforementioned policies are considered out-of-date in terms of paragraph 11d) of the Framework will depend on their degree of consistency with its policies. This was not a matter that the Council specifically addressed in its evidence, but I agree with the Appellants' assessment that policies DP21,

- DP34 and DP35 are consistent and can be considered up-to-date.
19. The Appellants' complaint regarding policies DP6, DP15, DP25 and DP30 is that they fail to address the way that extra care housing will be provided to meet identified needs as required by the Framework and Planning Practice Guidance.
 20. The assessment of need, including for older person's housing, was undertaken through the Housing and Economic Needs Assessment (HEDNA) and its Addendum and formed part of the evidence base for the MSDP. Whilst this has been strongly criticised by the Appellants on many counts it nevertheless does provide an assessment of the type and tenure of housing needed for older people. Furthermore, it is clear that the Examining Inspector considered the matter of older person's housing. Policy DP30 was found sound, subject to modifications that were subsequently incorporated.
 21. The matter of need is considered in detail later. However, policies DP25 and DP30 flow from the assessment of need in the HEDNA Addendum. Policy DP30 indicates that current and future needs of different community groups, including older people, will be met and that if there is found to be a shortfall in Class C2 housing, allocations through the SA DPD will be considered. There is an allocated site (SA 20) within that draft document for a care community. The Appellants are critical of this for various reasons, but the plan is still at an early stage and these will be considered at the examination in due course.
 22. Policy DP6 supports settlement growth, including to meet identified community needs. Bearing in mind the terms of policy DP25, this could include extra care housing. Policy DP15 addresses housing in the countryside and refers to policy DP6 as a criterion. The Planning Practice Guidance is not prescriptive as to how the housing needs of older people are addressed in planning policies. Overall, the aforementioned policies are, in my opinion, consistent with the guidance and Framework policy, including paragraph 61.
 23. Policy DP12 indicates that the countryside will be protected in recognition of its intrinsic character and beauty. It also refers to various landscape documents and evidence to be used in the assessment of the impact of development proposals. Whilst the wording could be improved, it does not seem to me to imply uncritical protection but rather a more nuanced approach that takes account of the effect on the quality and character of the landscape in question. To my mind this is consistent with the policy in both the 2012 Framework, under which the MSDP was considered, and the current version (2019). In that respect I do not agree with the Inspector in the Bolney appeal that the approach to protection has materially changed between the two documents.
 24. Policy ALC1 seeks to maintain and where possible enhance the quality of the rural and landscape character of the Parish. Overall, its terms seem to me to be similar to policy DP12.
 25. Policy ALH1 generally supports development on land immediately adjoining the built-up boundary, whereas policy DP6 permits such development if it is contiguous with an existing built-up area. Policy ALH1 also has the added requirement that other than a brownfield site the development must be infill and surrounded by existing development. These provisions are more restrictive than policy DP6 in the MSDP, which as the more recent policy in the development plan therefore takes precedence.

Whether the basket of most important policies is out-of-date

26. From the above, I have found that other than policy ALH1 in the ANP, the most important policies are not out-of-date and in the circumstances I do not consider that the basket overall is out-of-date either.

Conclusions

27. Paragraph 11 of the Framework sets out the approach to decision making within the context of the presumption in favour of sustainable development. In this case there are development plan policies relevant to the determination of this application and overall, I conclude that they are not out-of-date. Paragraph 11d)ii) is therefore not engaged.

28. In such circumstances it will be necessary to consider whether the proposal would accord with an up-to-date development plan and whether paragraph 11c) is engaged. This is a matter to which I will return in my final conclusions.

THE EFFECT OF THE PROPOSAL ON THE CHARACTER AND APPEARANCE OF THE AREA AND THE SURROUNDING LANDSCAPE, INCLUDING THE NEARBY SOUTH DOWNS NATIONAL PARK

29. The appeal site comprises about 4.4 hectares of land on the western side of London Road. Its previous longstanding use as a nursery ceased several years ago. The large glasshouses that once stood on the northern area have been demolished and all that now exists are remnant hardstandings. A small bungalow occupies the north-eastern part of the site. This building would be demolished, and the site would be redeveloped with 84 extra care dwellings within a mix of apartment buildings and bungalows. The site is outside the defined built-up boundary of Albourne and is therefore in the countryside for policy purposes.

Effect on the landscape

30. The appeal site is within the Hurstpierpoint Scarp Footslopes Landscape Character Area (the LCA) in the *Mid Sussex Landscape Character Assessment* (2005). Key characteristics include undulating sandstone ridges and clay vales; an agricultural and pastoral rural landscape; a mosaic of small and large fields; woodlands, shaws and hedgerows with woodland trees; expanded ridge line villages; traditional rural buildings and dispersed farmsteads; and a criss-cross of busy roads. In addition, views are dominated by the steep downward scarp of the South Downs.

31. The site boundaries are bordered by boundary tree and hedge lines, but in places these are patchy and their quality is diminished in places by the incursion of non-indigenous conifers. There is a small ridge running east to west across the northern part, which includes the roadways, hardstandings and bungalow along with conifer tree lines and groups. There is a narrow view of the South Downs framed by vegetation. The southern section is on the shallow valley side running down to Cutlers Brook and comprises rough grassland. From here there are open views southwards to the escarpment. Two lines of non-native hybrid black poplars cross the western section, which were grown as shelter belts for the nursery stock.

32. Unlike Albourne and the surrounding countryside, I do not consider that the

- appeal site is typical of the LCA of which it forms a part. Although it includes some characteristics such as the shallow ridge and some outward views to the escarpment, its tree and hedge lines are not particularly strong and its use as a nursery over many years has changed its character substantially. In my opinion, it is not well integrated with the wider landscape.
33. The appeal proposal is in outline, with the layout and external appearance to be considered at a later stage. However, the Parameters Plan and Sketch Layout help to establish some basic principles. The *Arboricultural Impact Assessment* indicates that a number of trees and tree groups within the site would be removed. These include the non-indigenous conifers and all those to be felled are judged by the Tree Survey to be of low quality and value. The better trees are mainly along the site boundaries and would be retained. Some of the hybrid black poplars would be removed but most would be assessed and, if necessary, there would be a phased programme of replacement with native tree stock. There would also be additional indigenous tree planting in the south-western corner in front of the incongruous conifer hedge along the boundary with Spurk Barn.
34. The built development would be within the western and eastern parts of the site with groups of cottages and apartment buildings set within landscaped gardens and interspersed with intervening belts of trees. The cottages would be one and a half storeys in height whilst the apartment buildings would be two-storeys with some higher elements incorporating accommodation in the roof. A 10m landscaped swathe between the trees along the London Road boundary and the adjacent apartment buildings is proposed. The largest building would be the two-storey clubhouse, which would be at the northern end of the site. There would be views maintained through to the South Downs escarpment, although these would be within the context of a built environment.
35. Undoubtedly the character of the site would change. The proposal would replace open and largely undeveloped land with buildings and hard surfacing within a green framework. However, as the site shares few of the features that provide this LCA with its identity and taking account of the large area that it covers, the overall impact would be small-scale and localised. In terms of the tree cover, the replacement of the non-indigenous species, especially the conifer stands, with native trees would be a landscape benefit that would increase as the new planting matures. For the reasons given below, I do not consider that the appeal scheme would be seen as an expansion of the ridgeline village. However, for the aforementioned reasons, the harm that would arise to landscape character would be relatively small and would reduce over time.

Visual effects

36. There are public footpaths close to the northern and western boundaries of the site and these run west and south into the open countryside. They appear to be well used and provide attractive routes that link up with a wider network of paths for informal recreation. Walkers are likely to particularly value the rural nature of these paths and the attractive views of the South Downs escarpment and Wolstonbury Hill. These people will be attuned to the environment through which they pass and thus highly sensitive to change. However, it is important to remember that this will be a kinetic experience, which will continually

- change as the receptor moves through the countryside.
37. During my visits to the area, I walked along the adjoining footpaths and to my mind the place where the impact of the new development would be greatest would be from the stretch of Footpath 19/1AI that runs adjacent to the northern boundary. From the direction of London Road, the site is on the left. At present there are intermittent inward views between trees and vegetation, with a framed view of the escarpment about half-way along. However, this corridor is not altogether rural in character and the inward view includes the hard standings, roadway and bungalow as well as tall stands of conifer trees. In addition, on the other side of the footpath is the large, hard surfaced car park of the Brethren's Meeting Hall. Whilst this is relatively well screened by the mixed indigenous hedge along the boundary, there are glimpses through the green wire fence and a full view through the metal gate. In addition, the managed appearance of the hedge and tall lighting columns that project above it further detract from the rural ambience. Further along the path, the large barrel roofed building itself comes into view.
38. Nevertheless, the appeal development would result in a considerable change on the southern side of the footpath. Whilst the Sketch Layout shows some tree retention and a belt of new planting, the new buildings would be evident to the observer and most particularly the long rear elevation of the clubhouse. Whilst a view of the South Downs would be maintained this would be framed by built development rather than vegetation. The existing user experience would therefore be considerably diminished although the adverse effects would be reduced over time as the new planting matures. Furthermore, these effects would be experienced over a relatively small section of the walk. Once past the site the footpath emerges into open farmland.
39. Approaching the site along Footpath 19/1AI from the other direction, there is a wide panorama. At various points this includes the Brethren's Meeting Hall building, the houses in the village amongst trees, the vineyard and the roof of Spurk Barn with Wolstonbury Hill behind. There are glimpses through the trees along the western site boundary of the bungalow and the conifers along the London Road frontage. The understorey is variable, and following development I have little doubt that filtered views of the new buildings would be seen, especially during the winter months. Whilst reinforcement planting with species such as holly would provide more screening, I am doubtful that it would be wholly effective in the longer term. Although there would be large gaps between the clusters of new buildings, the context of Spurk Barn as a lone rural outlier would also be compromised.
40. Footpath 18AI runs close to the western site boundary but when moving southwards the walker's attention is likely to be particularly drawn to the open panoramic view of attractive countryside and the dramatic form of the South Downs escarpment in the background. Views into the site would be to one side and secondary in the overall experience. In the other direction, Spurk Barn is the first building to come into view on the right-hand side. With its relatively open frontage and domesticised curtilage, the effect of the new development behind the trees would not be particularly pronounced.
41. Along the eastern site boundary, the bank with trees and understorey vegetation provides a relatively good screen to London Road. However, in

- places the cover is patchier and there are filtered views into the site, which will be more pronounced in winter. Motorists would be concentrating on the road ahead and so would have a lower awareness of changes to the peripheral view. There is a footway along the eastern side of the road, and I was told that this is relatively well used by dog walkers and those working in the businesses further to the south. For these people there would be a change, but it would be on one side and within the context of a relatively busy road and the existing built development along the eastern side of London Road.
42. The north-eastern corner of the site would be opened up with a new section of footway along the frontage and a new engineered access. This would entail some frontage tree removal, although the higher value oak tree is shown to be retained. From this point there would be a considerable change with views of the new clubhouse, cottages and apartments. New landscaping would provide some mitigation and the change would be experienced within the context of other urbanising influences. These include the wide green metal gates and entrance to the Brethren's Meeting Hall adjacent and the relatively prominent historic stuccoed houses opposite.
43. I observed the site from more distant footpaths, approaching along London Road in both directions and from various points in Church Lane. However, taking account of the undulating topography and the benefit of distance, I judged that the visual impact would be largely benign. I walked up Wolstonbury Hill and to the Devil's Dyke but was unable to identify the site from these more distant locations due to the vegetation cover. It may be that there would more visibility following development and in winter. However, this would be within the context of a wide panorama that includes built development.
44. In the circumstances, even if it were to be seen, I do not consider that the appeal scheme would materially detract from the enjoyment of these panoramic views. The site is not within the Dark Skies zone of the South Downs National Park and whilst the development would introduce new lighting this could be controlled. In addition, it would be seen within the context of lights in other villages, towns and roadways. In the circumstances there would be no conflict with policy ALC2 or the dark skies initiative in the ANP.
45. For all of these reasons I consider that there would be some adverse visual impacts, particularly for footpath users and at the site entrance on London Road. However, these would be limited and localised. The adverse effects would be reduced but not eliminated as new landscaping and tree planting matures.

Effect on the character of the settlement of Albourne

46. Albourne is a ridgeline village and its main historic core is around The Street and Church Lane with a smaller historic group of houses to the north at Albourne Green. By the mid-20th century the space between these two areas had been infilled and later still the village expanded eastwards. The village therefore has a mixed character with the older parts in particular being defined by their wooded setting. The village boundary is quite tightly defined for policy purposes. However, as often happens, there is a more dispersed settlement pattern with linear development radiating outwards along the road frontages,

- including along the eastern side of London Road as far as Cutlers Brook. The built-up area is therefore more extensive than the policy boundary.
47. The agrarian landscape provides the setting for this Downland village, but for the reasons I have given above the appeal site is not representative of its rural surroundings. Whilst it is largely undeveloped, in my opinion it contributes little to the context of the village. On the other hand, the proposed development would not appear as a natural expansion of the built-up area either. I appreciate that it would not extend it further to the west or south, but this is a factor of little consequence. The dispersed nature of the settlement is mainly due to frontage development, which the appeal proposal could not claim to be.
48. The Brethren's Meeting Hall is a development that physically, functionally and visually stands outside the village. The appeal scheme would be further to the south and appear as an outlier that would not conform to the prevailing pattern of development described above. On the other hand, it would share some of the features of the village. For example, the site benefits from a local ridgeline and over time the new buildings would stand within a well treed environment. Furthermore, the *Design Commitment Statement* indicates that the design approach is to create a development that reflects the surrounding architecture and landscape. The appearance of the new buildings is a matter that can be controlled by the Council at reserved matters stage.
49. There has been a great deal of local concern about the size of the development relative to the existing village. The Parish Council indicate that Albourne has about 250 households and some 650 residents. It therefore points to an increase in size of over 30%. For the reasons I have already given, I do not consider that this development would appear as a natural extension to the village. However, the proposed shop, lockers, electric charging points and workshops, which I discuss later, would allow a degree of community integration. The village itself has grown incrementally and cannot be viewed as a set piece that has not changed over time. There may be harmful impacts from an increasing population in terms of highway safety and insufficient infrastructure, for example and I consider these later. However, the size of the development in itself would cause little harm to the character of the village, in my judgement.

Effect on agricultural land

50. Paragraph 170 of the Framework seeks to recognise the benefits of protecting the best and most versatile agricultural land, which is classified as Grades 1, 2, and 3a. The appeal site is shown on the *Provisional Agricultural Land Classification Maps* as being within an area of Grade 2, which denotes very good quality farmland. However, these maps were not based on physical surveys. They were intended to provide strategic guidance for planners on a small-scale map base. Natural England in its *Technical Information Note TIN049*, advises that they are outdated and should not be relied on for individual site assessments.
51. The Appellants commissioned an *Agricultural Land Classification Report*, which was based on a site survey carried out in February 2020, including examination of 5 auger samples and a trial pit. This concluded that the land was grade 3b with shallow soils over a depth of dense clay subsoil. This is the best available

evidence and I am satisfied that the development would not result in the unacceptable loss of high value agricultural land.

Overall conclusions

52. The appeal site is located within the open countryside, outside the built-up area and not contiguous with its boundaries. There would be some residual adverse landscape and visual impact, although this would be localised and limited in nature. There would also be a small adverse effect on the character of the village of Albourne because the development would not be seen as an expansion to the main built-up area of the village nor reflect the frontage development along the peripheral roads. There would be no adverse impact on the South Downs National Park or views from within it. Nevertheless, there would be conflict with policy DP6, DP12 and DP15 in the MSDP and policies ALC1 and ALH1 in the ANP.

THE EFFECT OF THE PROPOSAL ON HERITAGE ASSETS

53. There is no dispute that the designated heritage assets affected would be the four Grade II listed houses on the eastern side of London Road. The effect would derive from changes to their setting and it is agreed that any harm would be less than substantial in nature and that paragraph 196 of the Framework would be engaged whereby harm is to be weighed against public benefits. Unlike the setting of the listed buildings, the setting of the Albourne Conservation Area is not protected by statute. Nevertheless, the same considerations will apply as a matter of policy in terms of weighing harm to significance against benefits. Spurk Barn is adjacent to the south-western corner of the appeal site and is a non-designated heritage asset. Paragraph 197 of the Framework makes clear that a balanced judgement should be made, having regard to the scale of any harm and the significance of the asset.

The listed buildings

54. There was much discussion at the inquiry about the contribution of the appeal site to the significance of the listed buildings. Elm House, Tipnoaks and Hillbrook House are two-storey stuccoed villas built in the early 19th century. These were modest country houses, which demonstrated their owners' aspirations for elegant country living with their classical, well-proportioned facades and convenient roadside location outside the main village. The immediate setting is provided by the gardens in which they stood but the wider rural environment, including the fields to the front and rear would have contributed to the pastoral context and significance of these houses. It can be seen on the 1874 Ordnance Survey Map that there are 4 subdivisions on the appeal site. This suggests that by this time the land was being used as a market garden or commercial nursery.

55. Mole Manor was of earlier construction and the 1839 Tithe Map shows it standing in an isolated position on the eastern side of London Road. It is a rare example of a modest Sussex cottage with a red brick and clay tile construction and an isolated countryside setting and these factors contributed to its significance. In my opinion its setting was significantly compromised by the building of Elm House and Tipnoaks. These more substantial houses overpower the cottage as they not only join it on either side but also stand well forward of its front elevation.

56. There is also significance derived from the listed buildings as a group. In this respect, Mole Manor makes a contribution through its style and character, which is in contrast to the classical form and proportions of the stuccoed villas.
57. The appeal site was clearly part of the countryside setting when these buildings were built and thus contributed to their significance. There is no indication on the 1874 map that there was tree planting at this stage and it is reasonable to surmise that originally the dwellings faced a relatively open landscape, which would have allowed the owners attractive views from the front of their houses. In any event, by 1910 the Ordnance Survey map shows a tree belt along the eastern boundary and some tree planting within the site itself. Whilst the context is therefore likely to have changed somewhat, the westerly outlook would still have been essentially green and rural with likely views through the trees into the site.
58. More substantial changes occurred in the mid-20th century as Albourne expanded and the London Road was re-engineered and widened. More recently still there has been further development along London Road, including to the south of Hillbrook House and the Brethren's Meeting Hall. The latter appears to have been on land formerly used as part of Hazeldens Nursery. The wider pastoral environment has thus been considerably eroded over time, which has diminished the historical understanding provided by the wider setting of these listed buildings. Their individual and group significance is now mainly derived from their fabric and the immediate setting of their garden plots.
59. Following development, the views towards the appeal site would change through the introduction of a new access, a footway along the London Road frontage and views towards a built environment. The effect would be greatest in respect of Tipnoaks, due to its position opposite the site entrance. Hillbrook House stands further back from the road in an elevated position and there would be filtered views of the new buildings from within its site through and above the roadside vegetation. There would therefore be some further change to the context in which the listed buildings would be appreciated but, for the reasons I have given, I consider that the effect on significance would be relatively small.
60. With respect of Elm House and Mole Manor the harm would be at the lower end of the scale of less than substantial harm. With respect of Tipnoaks and Hillbrook House it would be slightly higher but still lower than moderate, with a similar effect on the significance of these houses as a group. Whilst the choice of materials, design and landscaping of the new development would be controlled through reserved matters, the impacts I have identified are unlikely to be materially reduced over time.

Spurk Barn

61. This agricultural building is a non-designated heritage asset probably dating back to the 19th century. Its primary interest is in its form and fabric with flint and brick construction and the retention of many original features. The boundary lines on historic maps suggest that Spurk Barn was not functionally connected to the appeal site. Indeed, with no obvious connection to any local farms it was probably an isolated field barn associated with the agricultural land to the west.

62. Spurk Barn has been converted to residential use and windows have been added along with an extension. Its immediate setting is now a domestic garden and parking area. Along its boundaries with the appeal site is a thick conifer hedge. Although this could be removed it would seem unlikely due to the privacy it affords. The significance derived from the wider setting is mainly across the open agricultural land to the west. Nevertheless, the largely undeveloped nature of the appeal site does contribute to the sense of isolation of the building, particularly in views from Church Lane and sequentially when walking east along Footpath 19/1AI and south along Footpath 18AI.
63. As I have already concluded above, the proposed buildings would be seen, especially in the winter months, through gaps in the trees and understorey along the western site boundary. Whilst the effect would be to have an adverse effect on the appreciation of the barn as an isolated entity, its value as a field barn is now diminished on account of its residential conversion and the domestication of its grounds. To my mind this undesignated heritage asset has a relatively low level of significance. The small degree of harm that would arise from the appeal proposal would also be further reduced over time as reinforcement planting matures, including the band of new trees between the conifer hedge and built development.

Albourne Conservation Area

64. This comprises the original historic core of the village at the southern end of The Street and along a section of Church Lane. The only appraisal is found in *The Conservation Areas in Mid Sussex* (August 2018), which notes five features that contribute to its character. These include the trees and hedges; the sunken road relative to many of the houses with attractive retaining walls; the cottage style houses with small windows; the lack of a set building line or footway with varying road widths and a meandering rural character; and the attractive countryside views to the west and south. The latter is the only one relevant to setting.
65. At one time no doubt the appeal site, because of its relatively open and undeveloped character, would have played some part in this respect. However, modern housing on the south side of Church Lane and the construction of the Brethren's Meeting Hall building and car park has provided a visual intervention that has meant that it no longer contributes in this way. The main southerly aspect is provided by the fields beyond its western boundary. Even if there were glimpses of the new development through the trees from the southern part of the conservation area, which is doubtful, they would be peripheral and oblique.
66. It is also the case that the Council did not consider that the proposed development of the Brethren's Hall site would have any adverse impact on the conservation area, notwithstanding that the large building with its incongruous design would be in close proximity to the southern edge. I appreciate that this development was built on exceptional grounds of need but that does not negate the requirement to consider the effects on the setting of the heritage asset. Furthermore, the Council's *Strategic and Economic Land Availability Assessment* (2018) did not consider that a potential yield of 132 houses on the appeal site would negatively impact on the heritage asset. The Council's objection now in terms of harm to setting therefore seems to me to be

inconsistent.

67. It is likely that Albourne depended on farming and market gardening for its growth. However, in the absence of a detailed appraisal the only evidence of the features that contribute to its character are those in the aforementioned 2018 document. There is nothing to say that the tree nursery financed buildings in the village and even if it did this use has long ceased. This was certainly not a matter referred to in respect of the development of the land to the north, which was also part of the nursery at one time.
68. For all of the above reasons I do not consider that the appeal site provides part of the setting of the Albourne Conservation Area. It follows that the appeal development would have no effect on the significance of the designated heritage asset.

Overall conclusion

69. Drawing together all of the above points it is concluded that the appeal proposal would cause less than substantial harm to the significance of the Grade II listed buildings, Elm House, Mole Manor, Tipnoaks and Hillbrook House. This would be at the low end of the scale but nevertheless is a matter to which considerable weight and importance should be ascribed. There would be a small degree of harm to Spurk Barn, but this will need to be considered against the relatively low significance of the building. The relevant balancing exercise will be undertaken later in the decision and a conclusion reached as to whether the appeal proposal would conflict with policy DP34 in the MSDP. The Albourne Conservation Area and its setting would remain unaffected by the appeal scheme. The appeal proposal would therefore comply with policy DP35 in the MSDP.

WHETHER THE SITE IS WITHIN AN ACCESSIBLE LOCATION, GIVING NEW OCCUPIERS THE OPPORTUNITY TO TRAVEL BY MODES OTHER THAN THE PRIVATE CAR

70. There is an age restriction of 65 years for primary occupiers of the proposed development, although younger partners would not be excluded. Nevertheless, I was told that the average age of Retirement Villages' occupants is 82 years and that only about 25% are couples. Bearing in mind the nature of the scheme with its care component, it is reasonable to surmise that most people living there would be in the older cohort. That does not mean to say that some residents would not still drive but it is unsurprising that the evidence indicates a lower level of car ownership than general purpose housing and that car sharing is popular on other Retirement Villages' developments.
71. Residents living in the proposed development would occupy a self-contained cottage or apartment. The purpose, unlike a care home, is to maintain independence although the degree will vary depending on the care needs of the individual. Nevertheless, each dwelling is fitted with a kitchen and although there is also a restaurant within the communal building on the site, it is anticipated that many will also wish to cook for themselves. Albourne is a Category 3 village and has no shops or facilities apart from a village hall and primary school. There is a volunteer run community shop in Sayers Green, but other than that, the nearest shops are in Hurstpierpoint, where there is also a health centre, post office and pharmacy.

72. It seems unlikely that residents, even those with good mobility, would walk to Sayers Common or Hurstpierpoint. although a few may undertake the relatively short cycle ride. The nearest bus stops are some 85m from the site travelling north and 250m from the site travelling south. These serve the 100 bus to Burgess Hill, which is a Category 1 settlement with higher order shops, services and facilities. A bus journey would take about 11 minutes, although the bus only runs hourly and not on Sundays. Nevertheless, residents would not be making regular work journeys and it seems to me that the bus may be a viable choice for some trips such as visits to the supermarket or bank, for example.
73. The bus stops for the 273 service are some 560m away, north of the Albourne Road traffic lights. This service runs through Hurstpierpoint, which is a bus journey of about 5 minutes. However, the bus runs only every 120-160 minutes and, again, not on a Sunday. The journey would therefore need to be carefully planned and would be most likely to take the form of an outing rather than a trip for a dedicated purpose.
74. The proposal is that there would be a shift pattern for staff, with about 15 being on site at any time. The information from the Retirement Villages' other sites is that staff are in general drawn from the local area, with over half living within 5 miles and 82% living within 10 miles. The analysis indicates that most staff living within 5 miles are likely to come from Burgess Hill. This would be within cycling distance and the 100 service would also be an option for some shifts. However, the bus only runs until the early evening and not at all on a Sunday. There may well be some flexibility in terms of shift patterns, but the bus would not be an option for late evening, early morning or Sunday travel.
75. The Framework indicates that the opportunities to maximise transport solutions will vary between rural and urban areas and this should be taken into account in decision-making. It also says that significant development should be focused on locations which are or *can be made* sustainable. In this case the Appellants have included a number of provisions to improve the accessibility credentials of the proposed development.
76. A dedicated non-profit making minibus would be provided for use by residents and staff. The S106 Agreement includes a covenant for its provision and the evidence indicated that it could be used for shopping trips, GP and health related appointments and day outings. It would also be available for staff travel, subject to the payment of subsidised charges. I was told that this could be used for late evening shifts when the bus has stopped running or for pick-ups from bus stops or the railway station in Hassocks. Whilst some staff, especially those on a late shift or working on a Sunday may prefer the convenience of a car, the existence of this option would extend the available modal choice for staff, provided the subsidised charges are reasonably priced.
77. The proposed development would be subject to a Final Travel Plan before the development is first occupied. This would be based on the *Travel Plan* submitted with the planning application, which includes various targets to increase public transport, cycle and pedestrian trips. Measures include the provision of a length of new footway along the western side of London Road to link the site to the northbound bus stop; cycle parking facilities with changing and washing facilities for staff and discounts on bicycles and cycle equipment; and the minibus. In addition, the traffic calming measures would include an

uncontrolled crossing and pedestrian refuge. Along with the introduction of a 30mph speed limit, this measure would provide those residents wishing to cross London Road, for example on the way back from the bus stop, with a safe means of doing so.

78. The on-site facilities in the communal building are also a relevant factor. This includes a small shop to provide fresh products and basic groceries. I saw the shop at Charters, which had quite a good range of everyday goods including fresh fruit and vegetables, dairy products, tinned items and toiletries. The clubhouse would also have a small library, hair salon, therapy room, bar and restaurant. Clearly providing these facilities on the site would have the potential to reduce the number of external journeys that residents would have to make. I was told that the various facilities are not intended to be profit making and the UU includes a covenant that they would be operated and managed by the Owner or the Management Company. That they could not be leased to a commercial operator gives some comfort that they would continue to operate effectively in the longer term in accommodate daily needs of residents.
79. It seems to me that the appeal proposal has done what it can to enhance accessibility. Residents and staff would have genuine choices available to undertake journeys by modes other than the private car. This is a rural area where it is to be expected that travel options are more limited than in a town and the car would undoubtedly be used for some trips. Every decision turns on its own circumstances but, insofar as there are similarities, I have not reached the same conclusion as the Bolney Inspector for the reasons I have given. I consider that the appeal scheme would be relatively sustainable in terms of location to minimise the need to travel. Overall it would not conflict with policy DP21 in the MSDP.

THE BENEFITS OF THE PROPOSAL

80. For the avoidance of doubt, in ascribing weight to the benefits I have used the following scale: limited, significant and substantial.

The need for extra care housing

81. Paragraph 61 of the Framework requires that the size, type and tenure of housing needs for different groups in the community, including older people, should be assessed and reflected in planning policies. The glossary indicates that these are people over or approaching retirement age. They will include the active elderly at one end of the scale and the very frail elderly at the other. There will be a range of housing needs from adapted and accessible general needs housing to specialised accommodation with support or care.
82. The June 2019 version of the *Planning Practice Guidance* includes its own expanded section on housing for older and disabled people. It makes the point that the need to provide housing for this group is critical in view of the rising numbers in the overall population. Furthermore, it considers that older people should be offered a better choice of accommodation to suit their changing needs in order that they can live independently for longer and feel connected to their communities. Extra care housing is recognised by the Government as providing such benefits.

83. The Council's consideration of the housing needs of elderly people can be found in the *Housing and Economic Development Assessment Addendum* (the HEDNA Addendum) published in August 2016. This provided part of the evidence base to the MSDP and uses the 2014-based population and household projections (released in 2016). Amongst other things the HEDNA Addendum considers the need for specialist housing for older people, including extra care housing, using the *Strategic Housing for Older People Analysis Tool* (SHOP@), This is given as an example of an online toolkit for assessment in the *Planning Practice Guidance* but the document neither endorses its use nor precludes the use of other methodologies. It is important to bear in mind that whichever model is used, its output will be determined by the assumptions on which it relies.
84. The SHOP@ toolkit is preset with the number of units required per 1,000 of the population over 75 years old at 25 or 2.5%. This I shall refer to as the "provision rate" and it has been derived from *More Choice Greater Voice* (2008), which is a document that seeks to provide a strategy for housing with care for older people. It is important to have in mind that the provision rate is an assumption and is not evidence based. The Council pointed out that a provision rate of 25 is roughly double that for extra care housing nationally. However, that reflects the critical need across the country and is not particularly helpful in the consideration of how need should be met in Mid Sussex.
85. In December 2012 *Housing in later life: planning ahead for specialist housing for older people* sought to update *More Choice Greater Voice*. It recognises that extra care housing was becoming better known as an alternative choice for older people who do not necessarily want or need to move to a residential care home. Furthermore, it recognises a prevalence for home ownership in the elderly population and predicts that demand for extra care housing for sale will be twice that of extra care housing for rent¹. It provides a toolkit for use by local authorities in their planning for and delivery of specialist housing for older people. It seeks to improve housing choice for a growing ageing population and increases the provision rate to 45 or 4.5% per 1,000 of the population over 75 years old. Whilst a worked example is given for Bury Metropolitan Council, it seems apparent from the information provided that this provision rate is one that is more generally applicable. That said, it is important to understand that this is an aspirational figure and is also not evidence based.
86. The assessment in the HEDNA Addendum relies on population data that is now out-of-date. Its conclusions on elderly care needs justify reconsideration using the 2016-based population data. The only such assessment has been provided by the Appellants and, on the basis of a provision rate of 2.5%, this indicates a demand for extra care units of 386 in 2020. On the basis of a 4.5% provision rate the equivalent figure is 694 units.
87. In the Council's assessment the tenure split of extra care housing has been set at 73% rent and 27% purchase. In Mid Sussex private leasehold extra care provision is limited to a single development at Corbett Court in Burgess Hill. In terms of extra care units for rent, the database is out-of-date because since 2014, 68 units have been demolished. The Council conceded at the inquiry that the figures in the HEDNA Addendum for extra care provision are thus out-of-

¹ Extra care housing for sale is generally on the basis of a leasehold tenure.

- date. The current (2020) supply is lower, the need is higher, and the tenure split, based on existing provision and the corrected supply, would therefore be about 60% rent and 40% purchase.
88. In Mid Sussex the evidence indicates that the vast majority of older people are owner occupiers. Many of these people will be able to continue to live in their own homes through old age with the necessary adaptations and care support. However, not all homes are suitable. In such cases a homeowner may be attracted to an extra care facility where they can continue to own their own home and maintain a degree of independence whilst enjoying support and care within a secure environment. Within Mid Sussex such choice is largely unavailable.
89. The Appellants have used a tenure split of 33% rent and 67% purchase in their modelling. Whilst this is recognised as favouring an owner-occupied solution it nonetheless reflects the local housing market in Mid Sussex. Furthermore, it aligns with national policy insofar as it redresses the balance towards greater flexibility and choice in how older people are able to live. It is to be noted that the SHOP@ toolkit itself recognises that the percentage of leasehold tenures will increase in the future and that areas of affluence will see a higher percentage increase by 2035. In such areas, which includes Mid Sussex, it suggests a tenure split more redolent of the Appellants' modelling.
90. The Council argued that the tenure split is of less importance than the headline figure. However, the evidence indicates that the extra care properties for rent in this District are managed by Housing Associations and therefore an existing homeowner would be unlikely to qualify for occupation. It also appears that the pipeline supply of extra care housing is all social rented tenure. It is therefore reasonable to assume that maintaining a tenure split that favours rental units would be unlikely to allow realistic alternative options to the majority of older people who are currently homeowners. In the circumstances and based on the specific evidence I have been given, I consider that the Appellants' assessment of demand in terms of tenure is more credible and thus to be preferred.
91. The existing supply, taking account of the aforementioned demolitions, is 142 extra care units. If need is defined as the difference between supply and demand, then even on the Council's favoured provision rate it currently stands at 244 extra care units. The information indicates that there are planning permissions for some 132 additional extra care units in the pipeline, including 60 on the Burgess Hill strategic site. Whilst there is no national policy imperative to maintain a 5 year supply of older person's housing as is the case with housing generally, this nonetheless signals a significant residual unmet need regardless of tenure. On the basis of the Appellants' higher provision rate it would be even greater at 552 units. Either way it would rely on the permitted units being built expeditiously. Using the tenure split favouring leasehold provision, the Council's assessment would be of a current need for 163 leasehold units whilst the Appellants' assessment would be for 368 leasehold units. The evidence indicates none in the pipeline supply.
92. Whilst there is no requirement in national policy or guidance to specifically allocate sites for specialist housing for older people, the *Planning Practice Guidance* does indicate that this may be appropriate where there is an unmet need. The response in Mid Sussex is to apply a flexible approach through policy

DP30 and the Council pointed out that the strategic allocations include provision for a range of housing, including for older people. Policy DP30 also indicates that further allocations may be made in the SA DPD if a shortfall is identified. Policy DP25 has a similar provision to meet local needs for community facilities, which include care homes and specialist housing. In the SA DPD there is a single residential allocation in East Grinstead that includes a "care community". There is though no detail as to the number or type of units and, in any event, the emerging status of the document means that very little weight can be given to it at the present time.

93. In the circumstances I consider that the evidence indicates a significant level of current unmet need, in particular for extra care leasehold housing, whichever provision rate is adopted. Furthermore, this will significantly increase over the local plan period. This situation has not been helped by the slow progress on the SA DPD and the failure to recognise an unmet need that is clearly evident. The Council's riposte that it is not being inundated by enquiries or applications for this type of development does not seem to me to be a very robust or objective yardstick on which to rely. For all of these reasons I consider that the provision of extra care units by the appeal development to be a matter of substantial weight.

Freeing up family sized homes

94. As has already been said, in Mid Sussex a large proportion of those people 65 years of age and above are owner occupiers. Furthermore, the evidence indicates that a considerable number of older householders under occupy their homes. Indeed, the MSDP indicates in the supporting text to policy DP30 that providing suitable and alternative housing for this cohort can free up houses that are under occupied. It also records that a significant proportion of future household growth will generate a need for family sized homes, including those with over 3 bedrooms. This is reflective of the national picture.
95. There is though insufficient evidence to determine the proportion of new occupiers that would necessarily derive from the local area. Whilst Retirement Villages' analysis indicates that a third of moves to its developments have been from a 5 miles radius it also indicates that about 40% come from further than 20 miles. There is therefore likely to be some benefit to the local housing market as well as a contribution made in terms of the national housing crisis. Overall, I give this benefit significant weight.

On site facilities for use by the public

96. The appeal development would include some facilities that would be available for use by those living outside the development. Albourne has no village shop and whilst the proposed unit would be relatively small with a limited range of goods it would stock day-to-day staples as I have already indicated. Residents in the village could walk or cycle to the shop and it would, in my opinion, provide a useful facility for those living nearby. I give this benefit significant weight.
97. The lockers would allow those living nearby a point from which to collect online deliveries. This would provide a convenient option if the person who ordered the goods was not going to be at home. However, many delivery companies offer specific time slots or the opportunity to nominate a safe place at home

where the package could be left. These options would clearly be more convenient and, although the availability of the lockers could be useful in some circumstances, I give the benefit limited weight.

98. The two workshops would be available for local artisans as well as residents. However, I am not convinced that there is evidence of a demand for such facilities. In the circumstances, I give this benefit limited weight.
99. Three rapid electric charging points would be available for use by the general public as well as by residents. I am not aware of any similar facilities for public use in the vicinity. This would therefore provide an opportunity to those who wish to take advantage of a fast charge, perhaps combining it with a visit to the shop. I therefore give this benefit significant weight.

Highway safety and traffic calming

100. There was local concern that the appeal proposal would be harmful to highway safety. I am satisfied from my observations that lines of sight and the geometry of the new access would be satisfactory to allow for safe entry and exit. West Sussex County Council has a statutory responsibility to ensure the safety of the local highway network. It has not raised objections to the scheme on these grounds and this is a matter of considerable importance. The forecast trip generation would be relatively small and there is no evidence that London Road would have insufficient capacity to accommodate the additional vehicles safely. The proposed parking provision would exceed the Council's minimum standards. There is therefore no reason why there should be any overspill parking onto London Road.
101. The application drawing no: 1701-56 SK08 Rev B shows a number of measures to improve road safety within the vicinity of the appeal site. These include gateway features with kerb build outs and pinch points and a new 30 mph speed restriction between a point south of the limit of the built development on the eastern side of London Road and a point between the junction with Church Lane and the junction with Albourne Road. In the vicinity of the site entrance the road width would be narrowed and to the south of this would be an uncontrolled crossing with a refuge island and dropped kerbs.
102. These measures would be controlled by a planning condition. For the reasons I have given I consider them necessary to encourage reduced traffic speeds and allow residents to cross safely from the bus stop on the eastern side of London Road. However, it also seems to me that there would be some wider benefit due to decreased traffic speeds in the vicinity of the Church Lane junction, which is one of the main entrances into the village. I note that the ANP includes an aim to develop a scheme to improve the safety of road users utilising the local stretches of London Road and Albourne Road. It seems to me that this proposal would play some part towards achieving this objective. This benefit is attributed significant weight.

Economic and social benefits

103. There would be employment benefits in terms of the provision of jobs during the construction phase and also longer term in connection with the operation of the site. There would also be some further spending within local shops and facilities by the new population.

104. There is evidence to indicate that elderly people who live in an extra care environment, with all that it offers, benefit in terms of health and wellbeing. The secure community environment and sense of independence can reduce social isolation and encourage greater fitness and healthy lifestyles. It is reasonable to surmise that these factors are likely to result in a lower number of visits to the GP, reduced hospital admissions and overall savings to the National Health Service. The social and economic benefits are matters to which I give significant weight.

OTHER MATTERS

Ashdown Forest

105. The appeal site is outside the 7km zone of influence of Ashdown Forest Special Protection Area and therefore the issue of potential recreational disturbance would not be of concern. It is though necessary to consider whether there would be any effect on the Ashdown Forest Special Area of Conservation as a result of increased nitrogen deposition from vehicle emissions. The Council's Screening Report indicated that the in-combination transport model that supported the District Plan showed no overall traffic impact in terms of its strategy for housing and employment growth. The County Council considered that there would be about 4.6 additional daily trips that would travel to or through the Forest. I am satisfied with the conclusion of the Council that this would not result in a significant in-combination effect.

Ecology

106. There have been a number of local representations relating to the ecological interest of the site. The Appellants' *Ecological Assessment* records the site as having relatively low value with much of its central area comprising managed semi-improved grassland. The most important areas for wildlife comprise the boundary trees and hedgerows, which are to be retained and protected during the construction period. The assessment includes a programme of mitigation prior to site clearance to take account of reptiles and in the unlikely event that Great Crested Newts are found to be present. These are protected species and it is an offence to undertake development that would cause them harm. Similarly, there is a requirement to protect birds during the nesting season.
107. There is no evidence that bats are using the bungalow as a roost. If that were found to be the case during demolition, work would have to cease to allow the proper licence protocols to be followed. Bats will use the site for commuting and foraging, especially along the retained hedgerow lines. A condition is therefore required to control the level and type of lighting to ensure habitats are not disturbed. Overall, I am satisfied that the development would not give rise to unacceptable harm to ecological interests.
108. There are also proposed enhancements to biodiversity including introducing species rich grassland, new hedgerows, a wild flower meadow and a new pond. Swift bricks and bat boxes would also be provided.

Local healthcare services

109. There was local concern that the local healthcare facilities would be inadequate to serve the new residents. It is appreciated that existing residents often have to wait a considerable time to get a doctor's appointment

but that unfortunately is a much wider issue and applies to many places. Inevitably new residents will need medical care from time to time. However, there have been no representations from the local NHS Foundation Trust or local doctors objecting to the scheme or indicating an issue with capacity.

Residential amenity

110. Objections have been raised that the proposed development would result in overlooking and loss of privacy, particularly to properties on the eastern side of London Road. However, the Parameters Plan indicates a 10m inset of new development from the boundary treeline. Furthermore, the outline form of the proposal means that matters such as window positions would be determined at a later stage. In the circumstances, I am satisfied that there would be no unacceptable harm to the living conditions of existing residential occupiers.

Other appeal decisions

111. My attention was drawn to a number of appeal decisions, including some relating to other Retirement Villages' developments. A number were cited in relation to the Use Class matter, which is no longer an issue in this appeal. Most concerned other local authority areas and turned on their own evidence.
112. The appeals relating to Bolney were the subject of a recent decision in Mid Sussex District. One appeal was for a care home and the other for a care home and 40 age-restricted dwellings. The latter were classed as a C3 use. The conclusions of my colleague on need seem to relate to the care home (Class C2) element of the scheme rather than the extra care dwellings. In any event, I do not know what evidence was presented in respect of that scheme or whether tenure was a particular issue. I have commented on my colleague's conclusion on accessibility above. Overall, I do not consider that this decision is of particular assistance or relevance to the present appeal.

PLANNING OBLIGATIONS

113. The S106 Agreement and UU were considered in detail at the inquiry. They were each engrossed on 20 August 2020. I have considered the various obligations with regards to the statutory requirements in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations and the policy tests in paragraph 56 of the Framework. It should be noted that the Deeds contain a "blue pencil" clause in the event I do not consider a particular obligation to be justified in these terms. In reaching my conclusions I have had regard to the supplementary planning document: *Development Infrastructure and Contributions Supplementary Planning Document* (2018) (the SPD) and development plan policies, including policy DP20 in the MSDP, which relates to securing infrastructure.

The S106 Agreement

114. This is made between the Council, West Sussex County Council, the Owner (Notcutts Ltd) and the Developer (Retirement Villages Developments Ltd). The library contribution is based on a formula set out in the SPD and a worked example is provided in the First Schedule. This cannot be definitive at this stage as the final housing mix is not yet determined. In addition, the cost multiplier will change annually. Although the clubhouse would include a library, no details have been provided. The one I saw at Charters was very

limited in terms of its size and breadth of reading material. I consider that residents of the development would be likely to use the public library in Hurstpierpoint. The County Council indicates that its facilities would require expanding to cope with the additional population. In the circumstances I consider that the library contribution would be justified.

115. The TRO Contribution would be used to promote and advertise a Traffic Regulation Order to reduce the speed limit from 40 mph to 30 mph in the vicinity of the site. This would be part of the traffic calming measures, which have been referred to above. I was told that £7,500 reflected the fixed cost to West Sussex County Council of consultation and review and it therefore seems reasonable and proportionate.
116. The dedicated minibus would be provided prior to the occupation of any dwelling and the covenant includes its use for residents and staff in accordance with the Travel Plan. This is necessary to enhance the accessibility of the development as I have explained above.
117. For all these reasons I am satisfied that all of the obligations are necessary, directly related to the development and fairly related in scale and kind. They comply with Regulation 122 of the CIL Regulations and paragraph 56 of the Framework. They can be taken into account in any grant of planning permission.

The UU

118. A primary resident is a person who is 65 years or older and is in need of at least 2 hours of personal care a week. The basic care package, which it is obligatory to take, is defined to include a range of services that are needed by reason of old age or disablement following a health assessment. The health assessment is to be undertaken by the partner domiciliary care agency who must be registered by the Care Quality Commission. There is also provision for a periodic review of the health assessment to establish whether a greater level of care has become necessary. The domiciliary care agency would also provide a 24-hour monitored emergency call system.
119. The Communal Facilities would be provided in the clubhouse on the northern part of the site. They would include a number of facilities such as a restaurant, bar, lounge, library, therapy and exercise room, hair salon, function room, shop and collection facility. The covenants also require construction of the clubhouse prior to the occupation of any dwelling and all residents and their guests would have access to it. The shop and collection facility would also be accessible to non-residents. Restrictions on the operation of the communal facilities may be imposed by the Management Company, including in respect of the hours of opening of the shop.
120. The scheme would include 2 workshops within the clubhouse with details to be approved at reserved matters stage. These would be made available for use before more than 50% of the dwellings are occupied. They would be made available for use by residents and local businesses and subject to restrictions by the Management Company, including hours of operation and the nature of the use.
121. The Management Company would be established prior to the occupation of

any dwelling as a non-profit making legal entity. It or the Owner would manage the sustainable drainage system (SuDS). It or the Owner would also operate the workshops, shop and collection facility. Any profit received by the Management Company from operating the Communal Facilities and workshops would be used to offset against the annual service charge payable by each homeowner. There is also a restriction on the disposal of the communal facilities or workshops.

122. The Covenants by the Owner to the Council are contained within the First Schedule to the Deed. They are required to ensure that the development would operate effectively as an extra care facility within Use Class C2, which formed the basis of the planning application and on which it has been assessed. They would ensure that the communal facilities are operated and managed for the long-term benefit of the residents living on the site and that the drainage system remains effective and fit for purpose during the lifetime of the development. I consider that all of the obligations are necessary, directly related to the development and fairly related in scale and kind. They comply with Regulation 122 of the CIL Regulations and paragraph 56 of the Framework. They can be taken into account in any grant of planning permission.

PLANNING CONDITIONS

123. A list of planning conditions was drawn up by the main parties and these were discussed at the inquiry. My consideration has taken account of paragraph 55 of the Framework and advice in the Planning Practice Guidance. In particular I have had regard to the Government's intention that planning conditions should be kept to a minimum and that pre-commencement conditions should be avoided unless there is clear justification. The Appellants have confirmed acceptance in writing of those pre-commencement conditions that have been imposed. I have changed the suggested wording in some cases to ensure that the conditions are precise, focused, comprehensible and enforceable.
124. The Appellants have agreed to a shorter implementation period in this case to reflect the case that it has put forward about the scale of the current unmet need. I was told that Retirement Villages will be developing the site itself and thereafter managing the development as part of its extra care portfolio. Much store was set on the high quality of the development and the way the proposed layout had been designed to respect the existing landscape and views. In order to ensure that this is carried forward into the scheme that eventually materialises it is necessary to require compliance with the Parameter Plan and Sketch Layout. For similar reasons and to ensure that the development fulfils its intended purpose, a condition limiting the number of dwellings to 84 is required.
125. A relatively recent *Ecological Impact Assessment* has already been submitted and so I consider it unnecessary to require further details to be submitted. A condition is though necessary to ensure that the mitigation and enhancement measures are implemented in order to protect ecological interests and improve biodiversity. The suggested condition on ecological management requires details that have already been submitted in the above assessment. I have therefore reworded the suggested condition accordingly. Although landscaping is a reserved matter, it is appropriate at this stage to ensure that

protective measures for retained trees and hedgerows are provided during construction in order to protect wildlife and visual amenity. I have reworded this to take account of arboricultural information that has already been submitted. For similar reasons a condition requiring the arrangements for the management and maintenance of the landscaped areas is required.

126. The landscaped grounds would be communal areas and individual dwellings would not have amenity space other than a small patio area for sitting out. The erection of individual private enclosures would not fit in with this ethos or the open character of the site. In the circumstances a condition is necessary to remove permitted development rights for the erection of such features and to retain the gardens as places for all residents to enjoy.
127. The construction period would inevitably cause some disturbance and inconvenience to those living and working in the area as well as to road users. A Demolition and Construction Management Plan is therefore required to help minimise adverse impacts. Separate conditions have been suggested to prevent the burning of waste material and restrict working hours. This is unnecessary as both of these matters would be covered by the provisions of the Plan.
128. A desk-based assessment submitted with the planning application concluded that the archaeological potential of the site was low. It recommends further investigation in the form of trial trenching. The County Archaeological Officer commented that there was nothing to indicate that remains were of a standard that would require preservation in situ. A condition is therefore appropriate to require a written scheme of investigation. There are significant gradient changes across the site. In order to ensure that the development would be visually acceptable, details of ground and floor levels are required.
129. The site has been previously used as a tree nursery with various buildings and glasshouses. The evidence suggests that contamination risks would be generally low. A precautionary but proportionate response is justified with a sequence of conditions that would require actions depending on whether contamination is found to be present.
130. Separate conditions are necessary for foul and surface water drainage. The *Flood Risk and Drainage Strategy* submitted with the application indicated that the site has a low flood risk and that surface water would be satisfactorily disposed by means of a sustainable drainage system (SuDS). In order to ensure this operates effectively in the longer terms it is necessary to require details of the management and maintenance of the system. The UU includes a covenant that the Owner or Management Company would be responsible for the SuDS, but it is not unreasonable to require that information be submitted of any adoption arrangements going forward. With these safeguards in place there is no evidence that there would be a flooding risk either on the site or elsewhere as a result of the appeal proposal.
131. A *Travel Plan* was submitted at application stage and its objectives include reducing the need for staff, residents and visitors to travel by car. It also contains targets to increase pedestrian, bus and cycle trips with milestones over a 5 year period. Various measures are included to encourage sustainable travel choices as already discussed above. A Final Travel Plan will be required

to be submitted based on the already submitted document before the site is first occupied.

132. In order to encourage sustainable solutions and comply with the Government's objective of moving towards zero emission road transport, the provision of electric charging points is necessary. These would include the three rapid active charging points in the communal parking area. Parking for residents is not assigned and it is understood that the use of the private parking spaces would be subject to a separate agreement. In such circumstances these spaces would be provided with passive provision, which can be activated by a socket as and when required.
133. Means of access is not a reserved matter and the details of this along with the new footway and traffic calming measures are shown on drawing no: 1701-56 SK08 Rev B. In order to ensure the safety of road users and pedestrians it is necessary to require the details to be implemented prior to the occupation of the development. I have reworded the condition to be comprehensive and concise. It is also important that before a dwelling is first occupied it is served by a pedestrian and vehicular access in order to ensure a safe and secure residential environment.
134. External lighting, especially along roadways and within public areas, can be intrusive and detrimental to ecological interests as well as the visual amenity of neighbouring residents. I have amended the wording to make the condition more concise bearing in mind that the approval of the relevant details is within the control of the Council. In order to meet the requirements of the Water Framework Directive and policy DP42 in the MSDP a condition is necessary to restrict water usage to that set out in the optional requirement in Part G of the Building Regulations.
135. Conditions relating to materials and landscaping are unnecessary as these will be considered at reserved matters stage.

PLANNING BALANCE AND OVERALL CONCLUSIONS

136. I consider that the development plan is up-to-date and that the basket of most important policies for determining this application are not out-of-date. The development would conflict with policies DP6, DP12, DP15 and DP34 in the MSDP and ALC1 and ALH1 in the ANP and in my judgement it would be contrary to the development plan when taken as a whole. The "tilted balance" and the presumption in favour of sustainable development in paragraph 11 of the Framework would therefore not apply.
137. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations determine otherwise. The MSDP was adopted relatively recently and the Framework makes clear that the planning system should be genuinely plan-led. Nevertheless, in this case there are a number of material considerations to be taken into account. The provision of extra care leasehold housing to meet a considerable level of unmet need is of particular importance, but there would also be various other benefits. I have explained why I consider them of pertinence and the reason for the varying degree of weight that I have attributed to them. Overall, I consider that the package of

benefits delivered by this appeal development is a matter of very substantial weight in the planning balance.

138. There would be harm to the landscape and the character and appearance of the area, including the village of Albourne. For the reasons I have given this would be relatively limited and localised.
139. There would be harm to the significance of designated and undesignated heritage assets by virtue of development proposed within their setting. In terms of the listed buildings the less than substantial harm identified in each case would be relatively low on the scale but nevertheless these are irreplaceable assets and the harm should be given considerable importance and weight. Nevertheless, in my judgement the harm would be outweighed by the very substantial public benefits I have identified. Spurk Barn is an undesignated heritage asset and the scale of harm relative to its significance would be low. The balance in that case is also that the benefits would outweigh the harm.
140. Drawing all of these matters together my overall conclusion is that this particular development would result in benefits of such importance that they would outweigh the harm that I have identified and the conflict with the development plan. In such circumstances, material considerations indicate that planning permission should be granted otherwise than in accordance with the development plan.
141. I have taken account of all other matters raised in the representations and in the oral evidence to the inquiry but have found nothing to alter my conclusion that, on the particular circumstances of this case, the appeal should succeed.

Christina Downes

INSPECTOR

ANNEX A: APPEARANCES

FOR THE APPELLANTS:

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|---|--|
| Mr Christopher Young | Of Queen's Counsel |
| Ms Leanne Buckley-Thomson | Of Counsel, both instructed by Ms L Wilford, Barton Willmore |
| <i>They called:</i> | |
| Mr G Flintoft BA(Hons) DipTP DipUD MRTPI | Planning Director of Retirement Villages Ltd |
| Mrs L Wilford BA(Hons) DipTP MRTPI | Planning Associate of Barton Willmore |
| Mr J Donagh BA(Hons) MCD MIED | Development Economics Director of Barton Willmore |
| Mr P Clark BA MALscArch CMLI | Landscape Associate of Barton Willmore |
| Mr J Darrell BSc(Hons) CMILT MCIHT | Associate Director of Transport Planning Associates |
| Richard Garside MRICS | Director and Head of Newsteer |
| Mr J Smith BA(Hons) MA PGCE DGDip MCIfA IHBC | Deputy Operational Director of Heritage at RPS |
| Mr T Kernon BSc(Hons) MRAC MRICS FBIAC | Director of Kernon Countryside Consultants Ltd |
| *Ms J Burgess LLB Law(Hons) | Solicitor with Aardvark Planning Law |

*Participated in the Planning Obligations session

FOR THE LOCAL PLANNING AUTHORITY:

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|--|--|
| Mr Jack Parker | Of Counsel, instructed by Mr T Clark, Solicitor and Head of Regulatory Services, Mid Sussex District Council |
| <i>He called:</i> | |
| Mr D McCallum BA(Hons) MPhil MRTPI | Project Director of DPDS Ltd |
| Mr W Harley BSc(Hons) CMLI | Director of WH Landscape Consultancy Ltd |
| Mr C Tunnell BSc(Hons) MPhil FRTPI FAcSS FRSA | Director of Arup and Leader of the London Planning Group |
| Ms E Wade MA MSc | Conservation Officer at Mid Sussex District Council |

FOR THE RULE 6 PARTY:

| | |
|---------------|---------------------------------------|
| Ms N Ernest | Councillor of Albourne Parish Council |
| Mr G Stafford | Chair of Albourne Parish Council |
| Mr J Butler | Vice Chair of Albourne Parish Council |
| Mr J Drew | Councillor of Albourne Parish Council |

INTERESTED PERSON:

Mr P Holding

Local resident of Church Lane, Albourne

ANNEX B: DOCUMENTS AND PLANS

DOCUMENTS

- 1 Planning for Retirement, ARCO and CNN (June 2020), submitted by Mr Young
- 2 The health and social care cost-benefits of housing for older people, the Mears Group (June 2019), submitted by Mr Young
- 3 Inquiry Note submitted by the Appellants explaining the reason for submitting Documents 1 and 2
- 4 Specialist housing need, alternative assessments, prepared by Mr Donagh
- 5 Tables of supply of specialist housing for older people, prepared by Mr Donagh
- 6 Understanding local demand from older people for housing, care and support, submitted by Mr Young
- 7/1 Committee Report relating to development including an extra care facility at Sayers Common, submitted by Mr Parker
- 7/2 Location plan of the Sayers Common development site submitted by Mr Young
- 7/3 Policy C1 of the Mid Sussex Local Plan (2004), submitted by Mr Parker
- 8/1 Secretary of State's decision on development at Wheatley Campus, Oxford Brookes University (APP/Q3115/W/19/3230827) dated 23 April 2020, submitted by Mr Young
- 8/2 Inspector's Report on the above appeal, submitted by Mr Young
- 9 Correspondence with Housing LIN concerning the use of the SHOP@ tool, submitted by Mr Young
- 10 Planning Obligation by Agreement between Mid Sussex District Council, West Sussex County Council and Eldon Housing Association Ltd relating to redevelopment for an extra care housing scheme at Lingfield Lodge, East Grinstead
- 11 Decision by the High Court relating to a planning appeal for extra care housing at The Elms, Upper High Street, Thame (31 July 2020), submitted by Mr Young
- 12/1 Representations on behalf of the Appellants to the Council's Strategic Housing and Economic Land Availability Assessment, submitted by Mr Young
- 12/2 Correspondence between the Parish Council and the Appellants regarding when the above was submitted
- 13/1 Schedule of draft conditions
- 13/2 Agreement by the Appellants to the pre-commencement conditions
- 13/3 Appellants' suggested additional conditions regarding electric charging and water usage
- 13/4 Appellants' suggested additional condition regarding the communal gardens
- 14/1 Site visit itinerary and map

- 14/2 Suggested viewpoint and map from Wolstonbury Hill, submitted by the Parish Council
- 15 Amendments to Document 4 and the proof of evidence of Mr Donagh, submitted by Mr Young
- 16 Agreed position on the Mid Sussex extra care housing supply, submitted by Mr Young
- 17/1 Costs application by Mr Young on behalf of the Appellants
- 17/2 Costs response by Mr Parker on behalf of the Council
- 18 Correspondence by the Council and Appellants regarding the Use Class of the proposed development
- 19 Planning Obligation by Agreement
- 20 Planning Obligation by Unilateral Undertaking

PLANS

- A Application plans
- B Sketch Layout Plan

ANNEX C: SCHEDULE OF PLANNING CONDITIONS

1. Details of the appearance, layout, scale and landscaping of the site (hereinafter called the "reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and development shall be carried out as approved.
2. Application of the approval of reserved matters shall be made to the local planning authority before the expiration of 2 years from the date of this permission.
3. The development hereby permitted shall take place not later than one year from the date of approval of the last of the reserved matters.
4. Any reserved matter applications made pursuant to the development hereby permitted shall demonstrate compliance with the Parameter Plan (drawing no: and RETI150215 PP-01 rev G) and Sketch Layout (drawing no: RETI150215 SKL-04 rev J).
5. No more than 84 extra care dwelling units shall be built on the site.
6. No development shall take place, including any works of demolition, until a Demolition and Construction Management Plan (DCMP) has been submitted to and approved in writing by the local planning authority. The DCMP shall provide plans and details of the following:
 - a. Location of site offices
 - b. Demolition and construction traffic routeing
 - c. Location of plant and materials storage
 - d. The area within the site reserved for the loading, unloading and turning of HGVs delivering plant and materials
 - e. The area reserved within the site for parking for site staff and operatives
 - f. Wheel washing facilities

- g. A scheme to minimise dust emissions from the site
- h. Measures to control noise affecting nearby residents. This should be in accordance with *BS5228:2014 Code of practice for noise and vibration control on construction and open sites*, with particular regard to the noisiest activities such as piling, earthmoving, concreting, vibrational rollers and concrete breaking
- i. A scheme for recycling and disposal of waste resulting from the demolition and construction works
- j. Delivery, demolition and construction working hours
- k. Erection and maintenance of security hoarding, including decorative displays and facilities for public viewing where appropriate
- l. Site contact details

The approved DCMP shall be adhered to throughout the demolition and construction period for the development.

- 7. No development shall take place until an archaeological written scheme of investigation and programme of works has been submitted to and approved in writing by the local planning authority. The investigation and works shall be carried out as approved
- 8. The development shall be carried out in accordance with the mitigation and enhancement measures in the *Ecological Impact Assessment* by Lloyd Bore dated 7 March 2019.
- 9. No residential occupation shall take place until an Ecological Management Plan has been submitted to and approved in writing by the local planning authority. This shall include the arrangements for the maintenance and management of the biodiversity measures carried out in accordance with Condition 8. The development shall be carried out in accordance with approved Ecological Management Plan.
- 10. No development shall take place, including works of demolition, until an Arboricultural Method Statement has been submitted to and approved in writing by the local planning authority. This shall detail protective measures for trees and hedgerows to be retained in accordance with the principles outlined in the *Arboricultural Impact Assessment* and *Arboricultural Report*, both by Lloyd Bore Ltd (26 February 2019 Rev P05 and 22 November 2018 Rev P02, respectively).
- 11. Before the development is first occupied a Landscape Management Plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the local planning authority. The Landscape Management Plan shall be carried out as approved.
- 12. The landscaped grounds of the development hereby permitted shall be provided and managed as communal shared spaces. Notwithstanding the *Town and Country Planning (General Permitted Development) Order 1995* (as amended) or any subsequent Order revoking or re-enacting that order, no fences, gates, walls or other means of enclosure shall be erected for the purpose of creating an enclosed garden or private space for the benefit of any extra care dwelling unit.

13. No development shall take place, other than works of demolition, until details of existing and proposed site levels and proposed ground floor slab levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
14. No development shall take place, including works of demolition, until an assessment of any risks posed by contamination has been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken to remediate the site and render it suitable for the development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and a verification report shall be submitted to and approved in writing by the local planning authority. The assessment and any necessary remediation measures and verification shall be undertaken in accordance with a timescale that has been first submitted to and approved in writing by the local planning authority.
15. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended on the site and additional measures for remediation shall be submitted to and approved in writing by the local planning authority. The remediation shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed. It shall thereafter be approved in writing by the local planning authority and carried out as approved before any further work on the site recommences.
16. Before the development is first occupied details of the foul drainage system for the site shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
17. Before the development is first occupied details of the sustainable drainage system (SuDS) for the site, which shall be in general accordance with the *Flood Risk and Drainage Strategy* by Quad Consult dated May 2017, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
18. Before the development is first occupied details of the implementation of the SuDS approved under condition 17 shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - a. A timetable for implementation;
 - b. A management and maintenance plan for the lifetime of the development;
 - c. Arrangements for adoption by any public body or statutory undertaker or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime.

The sustainable drainage system shall be implemented and thereafter managed and maintained in accordance with the approved details.

19. Before the development is first occupied a Final Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Final Travel Plan shall be in accordance with the *Travel Plan* by TPA Consulting, dated March 2019. The development shall be carried out in accordance with the approved Final Travel Plan.
20. Before the development is first occupied, three rapid active electric charging points shall be provided in the communal parking area serving the shop for use by the general public and residents of the development. The electric charging points shall be retained for their intended purpose for the lifetime of the development.
21. No more than 75% of the extra care dwelling units shall be occupied until no less than 84 parking spaces have been equipped for passive vehicle charging, to allow for the integration of future charging points. Once the charging points have been provided, they shall be retained for their intended purpose for the lifetime of the development.
22. Before the development is first occupied:
 - a. The site vehicular access shall be constructed and open to traffic
 - b. The new section of footway along London Road shall be constructed and available for pedestrian use
 - c. The off-site traffic calming scheme shall be completedIn accordance with the general arrangement shown on drawing no: 1701-56 SK08 rev B.
23. Before a dwelling is first occupied the internal access roads and footways serving that dwelling shall have been laid out and constructed in accordance with details that have first been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
24. No above ground development shall take place until details of external lighting, including light intensity, spread and shielding, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
25. The extra care units shall include water efficiency measures in order to meet the optional requirement of Building Regulations part G to limit the water usage of each extra care dwelling unit to 110 litres of water per person per day.

End of conditions 1-25.