

**TOWN AND COUNTRY PLANNING ACT 1990 (as amended)**

**APPEAL BY LW DEVELOPMENTS LTD**

**An Appeal Against the refusal of a planning application for:**

**Area 1 - New stadium with capacity for up to 2,000 spectators. 53 no. 1 bedroom apartments, 62 no. 2 bedroom apartments, 26 no. 3 bedroom houses and 22 no. 4 bedroom houses, (163 residential dwellings) highway access works, internal roads and supporting infrastructure.**

**Area 2 - Northern block - New facilities for Cheshunt Football Club in use classes D1, D2 and sui generis - matters relating to internal layout and appearance reserved.**

**Area 3 - Western block - New sports, community, leisure and commercial uses in use classes A1, A3, A4, A5, B1, D1 and D2 - matters relating to internal layout reserved.**

**Land at Cheshunt Football Club, Theobold's Lane, Cheshunt, Herts, EN8 8RU**

**PINS REFERENCE: APP/W1905/W/21/3271027**

**PLANNING APPLICATION REF: 07/18/0514/F**

**ROLAND BOLTON PROOF OF EVIDENCE:**

**CORE DOCUMENT: 2.9 APPEAL DECISION APP/R3650/W/19/3227970**

**PARAGRAPHS 10 to 27**

**Prepared by**

**Strategic Planning Research Unit**

**DLP Planning Ltd**

**Sheffield**

**June 2021**



## Appeal Decision

Inquiry Held on 20-23 August 2019

Site visits made on 19 and 22 August 2019

**by John Felgate BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16<sup>th</sup> September 2019**

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**Appeal Ref: APP/R3650/W/19/3227970**

**Land to the south of Cox Green Road, Rudgwick, Surrey**

- 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 Parkes Limited against the decision of Waverley Borough Council.
  - The application Ref WA/2018/1109, dated 25 April 2018, was refused by notice dated 7 November 2018.
  - The development proposed is the erection of 53 dwellings with associated access, car parking, open space and drainage ponds.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appeal proposal seeks outline permission, with all details reserved except for access. In so far as the submitted plans include other details, I have treated these as illustrative.
3. Prior to, or during the inquiry, the appellants tabled a revised illustrative layout plan, a landscape and ecology master plan, a parameters plan, a proposed footway plan, a revised drainage strategy, and an updated reptile survey. No objections have been received to these additional documents, and I have taken them into account in my decision.
4. During the inquiry, the appellants entered into a Section 106 agreement with Waverley Borough Council (WBC) and Surrey County Council (SCC), and unilateral undertakings with WBC and West Sussex County Council (WSCC). In summary, these provide for: 30% affordable housing, a play area, a sustainable drainage system, vehicular access, a new footway along Cox Green Road, a crossing point on Church Street, improvements to off-site footpaths to the west, travel vouchers, a travel pan, and ecological mitigation.
5. In the light of these amended submissions and planning obligations, the Council withdrew a number of its original Refusal Reasons (RRs). These were RR4 which related to housing tenure and mix, RR6 relating to development north of Cox Green Road, RR7 relating to children's play space, RR8 regarding pedestrian access, RR9 relating to impacts on wildlife, and RR14 which related to sustainable travel.
6. Prior to the inquiry, the Council also accepted that a number of its other RRs should be withdrawn, because they related to matters that were already

covered by the Community Infrastructure Levy, which had been introduced in October 2018. These were RR11 which sought a contribution to education, and RRs 10 and 13, which in any event duplicated each other in seeking contributions to recreation and leisure facilities.

7. RR12, which sought a contribution in respect of waste and recycling, was also withdrawn, in favour of dealing with the matter by means of a condition.
8. As a result of these withdrawals, the remaining RRs are Nos 1, 2, 3 and 5, relating to planning policy, character and appearance, and heritage impact.

### **Main Issues**

9. In the light of all the submissions before me, the main issues in the appeal are:
  - whether the Borough of Waverley has an adequate supply of land for housing;
  - whether the proposed development would accord with the WBLP's policies for the location of new housing;
  - the development's effects on the character and appearance of the area and its landscape;
  - and the effects on the setting of the listed building 'Crouchers'.

### **Reasons for Decision**

#### ***Supply of land for housing***

10. The Council's view of the housing land supply, for the 5-year period 2019-24, is set out in the Position Statement published in July 2019. The requirement figure of 5,501 dwellings, is agreed between the parties, and is derived from the housing policies of the Waverley Borough Local Plan Part 1 (the WBLP), adopted in February 2018. Against this figure, the Position Statement shows a maximum supply of 5,720 units. In subsequent correspondence, the Council has conceded an adjustment of minus 12 units. The adjusted supply is therefore now 5,708 units, or a surplus of 207 units. In terms of years' supply, this equates to just under 5.2 years.
11. The requirement in the National Planning Policy Framework (the NPPF) is for a supply of sites that are deliverable. The meaning of 'deliverable' in this context is set out in the NPPF's Glossary, and further clarified in the Planning Practice Guidance (the PPG). Following the changes made to the NPPF in July 2018, sites for more than minor development, which do not have detailed planning permission, can only be considered deliverable where there is clear evidence that housing completions will be achieved within the relevant 5-year period. In the present case, the sites that are disputed between the parties<sup>1</sup> all come within this category.

#### ***Dunsfold***

12. The former aerodrome site now known as Dunsfold Park is allocated for 2,600 dwellings, and has outline permission for 1,800 dwellings plus other uses<sup>2</sup>. Out of this total, the Council's 5-year supply relies on 463 units being delivered by

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<sup>1</sup> As listed in the schedule of disputed sites, jointly tabled at the inquiry

<sup>2</sup> The permission is described as a hybrid, but with the detailed elements relating to matters of roads and infrastructure only

April 2024, with the first 50 completed dwellings coming in the year 2021/22, and the build rate accelerating significantly thereafter. The dispute between the parties centres on the length of the lead-in period, prior to those first house completions.

13. The Council's assumptions rest principally on a pro-forma return from the site's lead developer, but the details contained in that document are scant. Although estimated numbers and dates are presented, there is no explanation of how the timing is to be achieved. There is no indication of the intended timescales for submitting and approving reserved matters, including any further public consultation. Neither is there any breakdown of the advance works that are likely to be needed on-site, for discharging conditions, site preparation, and installing infrastructure. On a development of this scale, the planning and programming of these stages is likely to be more complex than on smaller sites, but the evidence contains none of these important details. There is therefore no evidence that house completions can realistically be achieved by 2021/22.
14. I have had regard to the WBLP Examination report<sup>3</sup>, and to the Dunsfold delivery report<sup>4</sup>, but these clearly cannot reflect the up-to-date position now. I note that a Planning Performance Agreement (PPA) has been entered into, but this deals only with the approval stages, and anyway does not appear to set out any overall programme. There is no evidence that the award of Garden Village status will have any effect on the timescale. I also note that an application has recently been made to vary the outline permission, in respect of the site access, and there is no indication as to how this may affect the programme which was drawn up prior to that.
15. Having regard to the NPPF's revised definition of deliverability, I can see little if anything that amounts to clear evidence that any completions will be achieved on the site within the relevant 5-year period. Although the PPG refers to PPAs and information from developers, it seems to me that the evidential value of these must be dependant on their content. In this case there is no clear evidence of any real progress since the granting of the outline permission in March 2018.
16. To my mind, having regard to the presumptive effect of the NPPF definition, these circumstances would justify excluding Dunsfold from the current supply in its entirety. But nevertheless, the evidence before me challenges the numbers rather than the principle of the site's inclusion. The appellants, somewhat generously, accept a realistic prospect in respect of a reduced figure of 232 units within the relevant period, and in the circumstances I consider this an appropriate number to adopt for my calculations too. This reduces the Council's supply by 225 dwellings.

#### *Milford and Coxbridge sites*

17. The land opposite Milford Golf Course has outline permission for 200 dwellings, and some progress has been made on submitting reserved matters and discharging conditions. The Council envisages the whole site being built-out within the relevant 5-year period. However, the Council relies principally on a pro-forma sheet dating from 2017, and even that information seems to offer

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<sup>3</sup> The WBLP Examination Inspector's report dated 1 February 2018, based on hearings held in June and July 2017

<sup>4</sup> 'Dunsfold Aerodrome Delivery Rates Assessment', Troy Associates, Nov 2016

limited support for the Council's current assumptions. There is no evidence from the site's current developer, and no evidence of any dialogue with that company. The Council's evidence to the present inquiry is contradictory as to whether the first completions are expected in 2021/22 or 2022/23<sup>5</sup>. The latter programme would depend on a build rate of 100 units per annum, from the start, and the Council agrees that this could only be achieved with two outlets throughout. None of these assumptions are corroborated. There is further uncertainty regarding a restrictive covenant, which may need reference to the Lands Tribunal. The Council's assumptions are not necessarily unrealistic, but neither have they been shown to be clearly realistic; for the site to be deliverable, the evidence would need to be more convincing and more up to date. But again there is a measure of agreement between the parties with regard to at least some completions, 130 units in this case. In the circumstances, I accept that this figure should replace the Council's.

18. Coxbridge Farm is an allocated site and has a current outline application for 350 dwellings. The Council has included 200 units in its 5-year supply, with the first of these coming in 2021/22. There is a programme from the developer, but this is acknowledged to be over-optimistic, and is stated to be subject to the outcome of Section 106 negotiations. The Council has substituted its own more conservative assumptions as to the lead-in time and the annual build rate, based again on evidence prepared for the Local Plan examination<sup>6</sup>. I accept that this report is based on research specific to the local housing market, but even so, it does not look at the specific circumstances of individual sites. It is therefore not a substitute for site-specific information and knowledge. In the absence of a reliable programme from the site's own developer, and in view of the early stage of the planning process, the current evidence does not clearly show the Council's assumptions to have a realistic prospect of being achieved. For similar reasons to those applying to the Dunsfold and Milford sites, I consider the appellants' estimate, which again is 130 units, to be more realistic than the Council's figure.
19. In the remainder of the first section of the 'disputed sites' schedule, the nature of the disputed matters is such that the differences do not affect the outcome of the 5-year supply calculation, and I have therefore not considered these six sites further.
20. The effect of the two adjustments that I have identified, for the Milford and Coxbridge sites, is to reduce the Council's deliverable supply by a further 140 dwellings.

*Other disputed sites*

21. In view of my findings on the above, it is clear that the Council's 5-year supply must fall below the number that is required within that period. However, it remains necessary for me to get an approximate view of the shortfall's likely full extent. In the light of this, I have considered the other 24 disputed sites, in the second part of the joint schedule, more briefly.
22. None of the other disputed sites has any planning permission. Twelve of the sites are proposed allocations in emerging plans, but this does not ensure that they will be confirmed. About four others are on the Brownfield Register, which

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<sup>5</sup> Shown as 2021/22 in the July 2019 Position Statement, and 2022/23 in the joint schedule of disputed sites

<sup>6</sup> 'Housing Land Supply and Housing Trajectory Contextual Note', Troy Associates, May 2017

indicates their suitability in principle, but not their capacity, nor their viability. Two sites are identified only in the SHLAA<sup>7</sup>, and this does not guarantee that permission would be granted. Three sites have no planning status at all. Seven of the sites have previously been refused permission, including five on appeal, and one other has an appeal outstanding. Four sites are in the Green Belt, and one in the AONB. At least two others are subject to other unresolved planning objections. At least three sites are currently occupied by existing uses, and are therefore not yet available. Two of these are dependant on new premises being built for their relocation. Several of the sites form extensions to sites that are already included, and thus their timing is contingent on that of the larger site. Some sites are dependent on agreements yet to be reached between two or more landowners.

23. None of these circumstances make it impossible that these sites could contribute to the housing land supply, but that is not the test of deliverability. To justify including sites of these types it would be necessary to produce clear and specific evidence, in sufficient detail, to show that the sites were available, suitable, and achievable, with a realistic prospect of delivery within the required timescale. I appreciate that this would be a large task, but self-evidently the size of that task is related to the number of sites without full planning permission that the Council seeks to rely on. On the evidence before me now, none of the sites in the second section of the schedule can currently justify being included in the 5-year supply.
24. I therefore consider that all 24 of these sites, in the second part of the disputed sites schedule, should be deleted. The result of this is to reduce the deliverable land supply by a further 563 units.

#### *Lapse rate*

25. I accept that, even with the above adjustments, the actual housing delivery over the next five years may well prove to be less than what is envisaged. But the exercise is not meant to be a forecast, it is simply a means of identifying sites that are capable of delivering the required numbers. Provided the assumptions and evidence are robust on a site-by-site basis, I see no need for the application of a lapse rate to achieve that purpose.

#### *Conclusion on land supply*

26. With the necessary deductions that I have identified, totalling 928 units, the Council's deliverable supply is reduced to 4,780. Against the agreed requirement figure of 5,501 units, this amounts to a supply of around 4.3 years.
27. It follows that the benefit of providing 53 dwellings, including 16 affordable, carries particular weight in the planning balance.

#### ***Accordance with the Local Plan's locational policies for housing***

28. The principal policy for the location of housing is WBLP Policy SP2, which sets out the spatial strategy for the district. The policy's aims are to maintain the area's character and to meet development needs in a sustainable manner. To that end, the policy defines a settlement hierarchy, in which development is to be focussed at the four largest settlements, with moderate and limited levels of

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<sup>7</sup> Strategic Housing Land Availability Assessment

development at the second and third-tier villages respectively. After these, the fourth and final tier of the hierarchy is 'all other villages', where only modest growth is allowed, to meet local needs.

29. In the present case, Rudgwick is not identified as a settlement for development in any of the first, second or third tiers of the WBLP's settlement hierarchy (Sections 2, 3, and 4 of Policy SP2). Nor is the appeal site located at, or related to, any of the other settlements thus identified in any of these tiers. With regard to the third tier, the site does fall within the parish of Ewhurst, but it was accepted at the inquiry that the provisions in Policy SP2's Section 4 are intended to apply only to the named villages themselves, and not to whole parishes. I agree with that interpretation. In this case the appeal site is well away from Ewhurst village, and as such, it clearly does not benefit from the provisions of Section 4.
30. The site therefore falls to be considered, at best, within the bottom tier of Policy SP2's settlement hierarchy, where Section 5 of the policy permits modest growth, for local needs. In this context, the WBLP's text at 5.18 also refers to extremely limited, small scale development. Having regard to both the policy and the text, I can see no basis on which the expression 'modest growth' could be taken to include a development of 53 dwellings such as that now proposed. Nor is there any indication that this development would serve only local, as opposed to general, housing needs. It follows that the proposed scheme does not fall within the type or scale of development that Policy SP2 permits in locations such as this. Policy SP2 as a whole therefore offers no support to this proposed development.
31. In addition, the WBLP's housing policies also include Policy ALH1, which sets out the broad distribution of development. This includes 100 dwellings in Ewhurst, and in the context of this particular policy it is agreed that the distribution is based on parishes. However, it is not disputed that Ewhurst's requirement has now been met, through planning permissions granted on other sites. Policies SS1 – SS9 allocate strategic sites throughout the District, but the appeal site is not included in any of these. Again therefore, none of these housing policies supports the appeal proposal. Nor has any such support been identified in any other development plan policy.
32. I accept that Policy SP2 is permissively worded, and does not expressly presume against development in other locations. I also agree that Policy ALH1 is primarily a plan-making, rather than a decision-taking, type of policy. But together these two policies, together with the strategic allocations, represent the WBLP's housing strategy. There are no other policies relevant to housing location. The plan therefore does not provide for development at sites like the appeal site. There is nothing in these policies with which the appeal proposal can be said to accord, and the scheme therefore conflicts with the most relevant policies in this respect.
33. Having regard to the shortfall in the District's land supply, I agree that there is an urgent need to find additional sites. There is no certainty that sufficient numbers can be found without some degree of compromise, particularly in respect of the locational elements of policies such as SP2 and ALH1. But in these kind of circumstances, the way that the NPPF envisages that matters should be resolved is by adjusting the relative weight given to those policies, not by stretching their meaning. For the reasons already explained, I consider

that the relevant policies are not designed to accommodate the appeal proposal.

34. I also agree that alongside these matters, it will be relevant to consider the site's suitability, its sustainability credentials, and its relationship the WBLP's underlying aims. In the context of the appeal as a whole, these are material considerations. But that does not make them relevant to determining whether or not there is compliance with the particular policies that I have identified. I will return to these other material considerations later in my decision.
35. For the reasons stated, I conclude that the appeal proposal conflicts with the WBLP's strategy for housing location, and in particular with Policy SP2.

### ***Effects on the character and appearance of the area and its landscape***

#### *The existing situation*

36. The appeal site is part of a larger parcel of farmland which, in the appellants' LVIA<sup>8</sup> report, is given the descriptive name 'Rudgwick Park Fields'. This distinct landscape compartment comprises primarily open grass pasture, used for sheep grazing. The topography shelves gently at first, and then more steeply, away from the village, and towards Cox Green Road and the lower-lying fields beyond. Within the site, the grassland is punctuated by scattered tree groups and individual trees, mainly of oak, ash, hornbeam and other native broadleaved species, and these give the land a parkland quality. The small pond on the northern boundary is an attractive natural feature. Although the northern boundary is partly open, the other edges are strongly contained by tree belts and rear gardens, creating an enclosed, intimate character. Together, these ingredients combine to create an attractive and highly distinctive, small-scale, pastoral landscape, of considerable scenic quality. The appeal site itself forms an integral part of this landscape.
37. The appeal site is seen mainly from Footpath No 448 and from Cox Green Road. Approaching along the footpath, from the south-west, the path crosses the western part of the Rudgwick Park Fields, passes through a line of trees, and arrives at the south-western corner of the appeal site itself. From this relative high point there is a sweeping vista, down across the whole of the site. From this point, the undulating slope, the irregular-shaped partial enclosures of the tree groups, and the contrasting textures of the trees and grassland, form a striking composition. As the footpath continues north-westwards across the site, the view changes subtly, with different angles opening up, and new glimpses appearing through and beyond the trees. As I saw on my visits, the morning and evening shadows, from both the trees and the undulations, add a further dramatic visual element at these times of day. In addition, from the upper parts of the path, the site is framed by distant views of the Surrey Hills AONB<sup>9</sup>. Although the backs of some of the houses in Church Street are visible, the views from the Footpath 448 are focussed in the opposite direction, and thus the presence of this existing development does not detract from the site's rural tranquillity.
38. Seen from Cox Green Road, the site is viewed in the context of a quiet rural lane. On my visit I saw that, in summer, views are filtered by the boundary

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<sup>8</sup> Landscape and Visual Impact Assessment

<sup>9</sup> Area of Outstanding Natural Beauty



hedge and occasional trees, but nevertheless, the site can be clearly seen, and its park-like nature is clearly evident. In winter, it seems likely that these views will be more open and its landscape qualities even more readily appreciated. Approaching from the west, the historic building 'Crouchers' is glimpsed, but there are no other signs of any nearby settlement, and thus the appeal site appears in a context that is almost entirely rural and undeveloped.

39. In addition, from the direction of Church Street, although the appeal site cannot be directly seen from here, there is an evident sense of the openness which exists behind the houses on the road frontage, including Crouchers and the adjoining properties. This openness is discernible from the absence of buildings, roofs, or other artefacts, and from the resulting glimpses of sky and more distant landscape features, as seen through the occasional gaps between the frontage development. Again, in winter these would be more readily perceived than at the time of my visit. The openness to the rear of the frontage buildings in this part of Church Street contributes to its distinctive character, as a transition zone between the village and the countryside.
40. To sum up with regard to the site as it currently exists, it seems to me that the appeal site embodies and exemplifies those qualities of intrinsic countryside character and beauty that are referred to in the NPPF, and which national policy requires to be recognised in planning decisions. I accept that public views of the site are largely confined to those that I have identified, and the site does not have any significant wider visibility. But nevertheless, in this case the site's value lies in its own intrinsic qualities, and in its contribution to the rural character and appearance of this particular part of the countryside.
41. In addition, in this case the appeal site is included within an Area of Great Landscape Value (AGLV), which is a designation originating at County level, and thus indicating its landscape importance in the context of the county of Surrey as a whole. As such, the site falls within the scope of the NPPF's advice relating to 'valued landscapes', which are to be protected and enhanced in a manner commensurate with their quality. In the light of the appeal site's own intrinsic qualities that I have identified, I see no reason to question its inclusion in the AGLV. It therefore seems to me that the designation reinforces the value that attaches to the site's landscape, and its contribution to the character and appearance of the area.

#### *The impact of the development*

42. The development now proposed would introduce onto the site 53 dwellings, roadways, gardens, fences, vehicles, lighting, a play area, and associated residential paraphernalia. Although the submitted plans are illustrative, they show that such a development could be attractively designed and laid out, and could create a pleasant residential environment. To my mind however, they do not suggest any way in which such a development could avoid completely changing the site's character from what exists now. I have no doubt that most of the existing trees could be retained, together with the pond, and indeed it might be that these features could be enhanced to a degree, by means of better and more active management. The development would also potentially have sufficient space for substantial new planting and landscaping. But the inclusion of positive elements such as these would not alter the fact that the site's present rural character and landscape quality would inevitably be lost,

and would be subsumed within the very different character that would result from any new residential development on this scale.

43. Seen from Cox Green Road, the development would involve physical changes both within the site and outside it. The existing views of open parkland, albeit partial and glimpsed, would be lost, irrespective of any new planting. The proposed new vehicular access would open up additional views into the development. There is no evidence that these views could be effectively screened. The access itself would have a 6m-radius bellmouth, a 5.5m roadway, and visibility splays, accompanied by road widening on the southern side. In addition, there would be a new footway along a 100m stretch of Cox Green Road, and into Church Street, replacing part of the existing verge, and further road widening on the opposite side. All of these would be urbanising features, on a largely undeveloped rural lane. Moreover, the new access would be sited more than 200m from the junction with Church Street, and thus well outside the perceived threshold of the village. The whole development would therefore appear as an isolated and incongruous incursion into an otherwise wholly rural environment.
44. For users of Footpath 448, the effect would be that the section of that path that runs through the appeal site would be urbanised. Instead of running through open fields, the path would run between houses and managed spaces, the surface itself would necessarily have to be made more durable, and the rural ambience would be lost. The experience of walking this route via Footpath 448 would thus be completely changed.
45. With regard to views from Church Street, although the development would not be prominent from this direction, it is likely that roofs, chimneys, lighting columns, or other taller elements would be visible from some view points. Although the submitted plans seek to show how development immediately behind Crouchers might be minimised, it seems unlikely that views from Church Street could be avoided altogether. The visible presence of built development in the background would erode the semi-rural character of this part of the village fringe.
46. I accept that the density proposed is not excessive, and that the illustrative scheme does not appear noticeably cramped. Judged on its own merits, the style of development and the overall approach shown in the submitted plans seems to me generally appropriate for many semi-rural locations. In this respect I find no conflict with WBLP Policy TD1. But these considerations do not outweigh the harmful impact that any residential development on this particular site would have, due to the loss of the existing valued landscape.
47. I conclude that the proposed development would have a seriously adverse effect on the character and appearance of the area and its landscape. As a result, the scheme conflicts with WBLP Policies RE1 and RE3, which seek to protect the intrinsic character and beauty of the countryside beyond the Green Belt, and the distinctive landscape of the AGLV.

***Effects on the setting of the listed building 'Crouchers'***

48. The property known as Crouchers comprises a timber-framed house in the form of two parallel ranges. The front range faces Church Street, and the rear looks out towards what is now the appeal site. The building dates from at least the 17<sup>th</sup> century. It was re-fronted in the 18<sup>th</sup> century, and further alterations

occurred in the 19<sup>th</sup>. The house originally had a smaller curtilage, which has been extended over time. From its earliest days, the property formed part of the small hamlet of Cox Green, which also included the surviving properties Dukes Cottage and Trade Winds. All three are listed, and form a recognisable group.

49. The significance of Crouchers as a heritage asset lies partly in the evidential value of its historic fabric, but also in the building's illustrative value with regard to the social history of the locality, and its aesthetic value as a charming and characterful structure in its own right.
50. The appeal site lies directly to the rear of the present day curtilage, and forms the dominant element in outward views from the listed building's first floor windows, and from its rear garden. From within the site, there are clear and unobstructed views of the building's rear elevation, including public views from Footpath 448. The appeal site is also seen in the foreground of views towards Crouchers from Cox Green Road, and forms the background to the important frontal views from Church Street. Consequently, the site is a major visual element in the listed building's setting.
51. Although there is no evidence of any functional or ownership connection between Crouchers and the appeal site, the physical proximity and visual relationship are not in doubt. In all of the available views, the appeal site contributes a sense of the openness, space and rural tranquillity of the surroundings, that the dwelling would have enjoyed up to the mid-20<sup>th</sup> century. Despite the changes that have occurred in field patterns and boundaries, the site's continued agricultural use reflects the role that it has had throughout the building's lifetime. Thus the appeal site, in its present use and undeveloped condition, helps to preserve a sense of timelessness and a connection to the past which contributes to the listed building's heritage significance.
52. As has already been set out above, the development now proposed would change the nature and character of the appeal site dramatically. Instead of looking out over a scene of agricultural pasture land, the view would be of a housing development. I accept that the central part of the site could be left free of buildings, as shown on the amended plans tabled at the inquiry, and that its treatment could be geared towards a more naturalistic appearance. But this would be little more than a corridor between areas of built development, which would still have to accommodate a play area and drainage basin, and would be crossed by roads and vehicles. The change in the site's character would therefore be immediately obvious in all of the relevant views, either to, from, or around the listed building. The adverse nature of this change would not be diminished by any attempt to recreate former field boundaries, as the new housing would be by far the most dominant element.
53. The loss of the appeal site's openness and agricultural character would therefore cause permanent and irreversible harm to the listed building's setting. In view of the duty imposed by the relevant legislation<sup>10</sup>, this harm carries considerable weight in the final planning balance.
54. Given the importance of the setting, it follows that the harm caused to it would also result in a loss of the building's significance. Although this harm to its significance would be 'less than substantial', the NPPF advises that the

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<sup>10</sup> Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

conservation of designated heritage assets should be given great weight. This reinforces my view as to the weight in the present case. I will consider the relative weight of this harm against the scheme's benefits, later in my decision.

55. In the light of the above, I conclude that due to the harm that it would cause to the setting of the listed building Crouchers, the proposed development would conflict with Policy HA1 of the WBLP, and saved Policy HE3 of the Waverley Local Plan 2002.

## **Other Matters**

### *Sustainability of the location*

56. Rudgwick has a range of facilities broadly on a par with some of the WBLP's third-tier settlements. Had it been located within the Borough of Waverley, it is possible that the village might have been included in that category, although this is somewhat hypothetical. In the equivalent settlement policy for Horsham District<sup>11</sup>, it is classified as a medium village, where the level of local facilities is described as moderate. Although there is no evidence that any relevant Horsham policies would allow a development of the size now proposed, I accept that in principle Rudgwick is the type of settlement where opportunities for sustainable rural development on some level might be found. I also agree that a development of 53 dwellings could potentially provide support for existing services, both in the village itself and in the wider area.
57. However, the appeal site is at the furthest end of the village from most of the main facilities. It is beyond reasonable or regular walking distance from the local shops, schools, nursery, and village hall. The shortest route to these facilities, southwards via Footpath 448, is across open fields and a muddy track. The alternative of going east on the same path, to Church Street, involves climbing over a brick stile. Although the appellants are willing to pay for improvements to these routes, some sections are in other ownerships. The proposed new footway via Cox Green Road would be more user-friendly, but longer. Although buses can be hailed close to the site, there is no shelter and the service is limited.
58. Waverley is a predominantly rural Borough, and much of its new housing is therefore likely to be in locations that are at least partly dependent on car travel. But that does not mean that locational sustainability is irrelevant. In this case the appeal site is poorly integrated with the village, and the development would therefore not be well located to take advantage of the facilities that Rudgwick has to offer. The site is therefore not one which meets the aim of WBLP Policy ST1, to locate development where the opportunities for sustainable transport are maximised.
59. I note the contents of the Statement of Common Ground agreed between the appellants and SCC as Highway Authority. But for the reasons given, I do not necessarily agree with all the opinions expressed in that statement, particularly with regard to pedestrian accessibility. Since SCC was not represented at the inquiry, I have been unable to explore their reasoning further. Instead I have formed my own view, taking account of all the evidence before me.
60. I appreciate that the appeal site is outside the Green Belt and AONB, which together cover a good deal of the District. But this does not change the fact

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<sup>11</sup> Policy 3 of the Horsham District Planning Framework, adopted November 2015

that, despite its proximity to Rudgwick, the site is poorly related to the village. Overall, I consider that the site's location in relation to Rudgwick adds no material weight in favour of the proposal.

#### *Planning obligations*

61. The obligations contained in the S.106 agreement and undertakings are summarised on the first page of this decision. In the light of the evidence presented, I agree that these obligations are necessary, directly related to the development, and reasonable in scale and kind. I have therefore taken them all into account in the overall planning balance.
62. The obligations in respect of the affordable housing, the play area, the crossing point on Church Street, and the provision of kissing-gates in place of stiles on some off-site public rights of way, would all have potential benefits for the general public. However, in the case of the crossing, that benefit would be very limited, as the likely level of usage by the public would be low. All of the other obligations are essentially mitigatory in nature, and their effect on the planning balance would therefore be neutral.

#### *Other benefits of the development*

63. In addition to the benefits already noted elsewhere in this decision, the proposed development would generate benefits to the local and national economy, in the form of capital investment, construction employment, local spending, and tax revenues. I have taken these into account in my decision.

### **Planning Balance and Conclusions**

64. For the reasons set out in this decision, I have found that the proposed development would conflict with WBLP Policy SP2 with regard to the Local Plan's housing strategy. It would also conflict with Policies RE1 and RE3 due to its impact on the landscape and countryside, and with WBLP Policy HA1 and saved Policy HE3 because of its impact on the setting and significance of the listed building Crouchers. There are no development plan policies that weigh positively in favour of any development, on this site. The appeal proposal therefore fails to accord with the development plan as a whole.
65. In addressing the planning balance, WBLP Policy SP1 requires a presumption in favour of sustainable development, similar though not identical to that in paragraph 11 of the NPPF. Where relevant policies are out of date, this includes the application of a 'tilted balance'. In the present case, since there is less than a 5-year supply of housing land, it follows that Policy SP2 must be considered out of date. All other policies relevant to the appeal remain up to date. My attention has been drawn to a recent High Court judgement<sup>12</sup> in which it was held that the out-datedness of a single policy did not necessarily trigger the tilted balance. But that case turned on NPPF paragraph 11, whereas Policy SP1 differs slightly in that regard, in that it refers to 'relevant policies' rather than the 'most important' policies. I have therefore applied the tilted balance provisions of Policy SP1, on a precautionary basis.
66. I now turn to the proposed scheme's planning benefits. In view of my finding that the housing land supply only amounts to 4.3 years' worth, the addition of 53 dwellings to the housing stock commands substantial weight in favour of the

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<sup>12</sup> Wavendon Properties Limited v SoS and Milton Keynes DC [2019] EWHC 1524 (Admin)

appeal. In addition I note that there is a very high level of need in the affordable housing sector, including a long waiting list for properties specifically at Rudgwick. I therefore give particular weight to the 16 proposed units that would be affordable. With regard to the other benefits, I consider that the economic effects carry moderate weight; the play area and the kissing gates have modest weight; and the crossing point on Church Street has negligible weight.

67. Having regard to the heritage balance required by NPPF paragraph 196, if the less than substantial harm to the listed building were considered on its own, then on balance I consider that the benefits identified above would outweigh that impact. It follows from this that the tilted balance is not dis-applied on the basis of specific NPPF policies relating to heritage assets.
68. However, the overall planning balance requires consideration of the scheme's benefits against the totality of the harm. When the heritage harm is weighed together with the serious harm that I have found to the character and appearance of the area, then my view is that the position is reversed, and the benefits are significantly and demonstrably outweighed by the combination of these two adverse impacts.
69. The scheme therefore does not constitute sustainable development. It follows that the conflict with the development plan is not outweighed by the other material considerations.
70. I have had regard to all the other matters raised, but none leads me to any other conclusion than that planning permission should be refused. The appeal is therefore dismissed.

*J Felgate*

INSPECTOR

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### OTHER INTERESTED PERSONS:

Craig Thomson

Paul Kornycky

Michael Ellis

Local resident

Local resident

Local resident

## DOCUMENTS TABLED DURING THE INQUIRY

### DOCUMENTS TABLED BY THE COUNCIL

|     |  |
|-----|--|
| C/1 | Council's opening remarks  |
| C/2 | St Modwen Developments Ltd v SoS and Others: [2017] EWCA Civ 1643                |
| C/3 | Nathaniel Lichfield & Ptnrs: 'Start to Finish', Nov 2016                         |
| C/4 | Bus timetable – service 63 and 63X   |
| C/5 | Table: planning permissions alleged to have lapsed                               |
| C/6 | Closing submissions  |
| C/7 | Wavendon Properties Limited v SoS and Milton Keynes DC: [2019] EWHC 1524 (Admin) |

### DOCUMENTS TABLED BY THE APPELLANTS

|       |   |
|-------|---|
| AP/1  | Revised Location and Illustrative Layout Plan, No 2140/01               |
| AP/2  | Landscape and Ecology Masterplan, No. P19-1670-05                       |
| AP/3  | Opening submissions   |
| AP/4  | Reptile survey report, August 2019                                      |
| AP/5  | 'Dunsfold Aerodrome: Delivery rates Assessment', Nov 2016               |
| AP/6  | Ecological Addendum, 22 August 2019                                     |
| AP/7  | GCN and Reptile Mitigation Plan   |
| AP/8  | Proposed footway plan, No 2016/3244/008                                 |
| AP/9  | Extracts from 2002 Proposals Map  |
| AP/10 | Table comparing village services  |
| AP/11 | List of witnesses' qualifications                                       |
| AP/12 | Unilateral undertaking to Waverley Borough Council                      |
| AP/13 | Unilateral undertaking to West Sussex County Council                    |
| AP/14 | S.106 agreement with Waverley Borough Council and Surrey County Council |
| AP/15 | Closing submissions   |

### OTHER PARTICIPANTS' DOCUMENTS

|      |   |
|------|---|
| OP/1 | Mr Thomson's statement/speaking notes   |
| OP/2 | Appeal Ref. T/APP/Z3825/A/98/292135/P8 – 'Timberley', Cox Green (tabled by Mr Thomson)                      |
| OP/3 | Refusal notice Ref. WA01/1753 – 3 dwellings, land at Horsham Rd/Church Rd, Cox Green (tabled by Mr Thomson) |
| OP/4 | Refusal notice Ref. WA01/1754 – 1 dwelling, land at Horsham Rd/Church Rd, Cox Green (tabled by Mr Thomson)  |
| OP/5 | Mr Kornycky's statement/speaking notes  |

### GENERAL DOCUMENTS

|       |  |
|-------|--|
| GEN/1 | Jointly prepared summary table of disputed sites                                 |
| GEN/2 | 'Housing Land Supply and Housing Trajectory Contextual Note', May 2017           |
| GEN/3 | Final list of draft conditions, with parties' comments (tabled jointly on day 3) |