

7. The NPPF requires local authorities to identify and update annually a supply of deliverable sites sufficient to provide a supply five year's worth of housing (paragraph 77). Where the strategic policies of a plan are more than five year's old (as is the case in LDC) that five year's supply of housing needs to be measured against local housing need, which uses the standard method. I understand the housing delivery figure produced by the standard method for LDC is currently 777 dwellings per annum.
8. The effect of the above is that LDC can no longer demonstrate a five year housing land supply. In the most recent statement published on the website (1 April 2023) the housing land supply was 3.02¹ years outside the National Park. As LDC do not have a five year housing land supply, the tilted balance in paragraph 11 of the NPPF is applicable. This means:

“granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed [FN7]; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

FN7 The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 187) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable

¹ I note that appellants at appeal have argued it is actually lower. This advice is written on the assumption that it can be demonstrated it is 3.02 years. If the supply is lower it would make the conclusions as to the prospects of defending an appeal in this case slightly stronger.

habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 72); and areas at risk of flooding or coastal change”

9. LDC is working towards adoption of a new plan. From November 2023 to February 2024 they carried out a regulation 18 consultation. Before any new plan is adopted there will need to be a regulation 19 consultation, submission to the Secretary of State, examination and adoption. The local development scheme identifies that regulation 19 consultation will take place in winter 2024 and submission will take place in Spring 2025. Assuming that timetable is met, it will therefore be some time before any emerging plan can be adopted that could address the issues raised above.

10. In order to seek to address some of the above issues LDC has published an Interim Statement for Housing Delivery March 2020. This is not adopted policy but provides some guidance to ensure a consistent approach to applications. The ISHD recognises that settlement boundaries in the adopted local plan were defined on the basis of accommodating a housing requirement of 345 dwellings per annum and that “it is acknowledged that the planning boundaries may need to be breached in order to help meet local housing needs” (§3.1). At §4.1 it says that the council will take a positive approach to planning applications for the provision of housing outside of the adopted settlement planning boundaries subject to compliance with all appropriate development plan policies and the following criteria. The criteria (as relevant) are:
 - a. The site boundary is contiguous with an adopted settlement planning boundary;
 - b. The scale of development is appropriate to the size, character and role of the adjacent settlement, having regard to the settlement hierarchy.... In deciding whether the scale is appropriate, the Council will take account of the cumulative impact of extant unimplemented permissions in the relevant settlement.

- c. The proposed development will provide safe and convenient pedestrian and cycle access to key community facilities and services within the adjacent settlement.
 - d. The proposed development, individually or cumulatively, will not result in the actual or perceived coalescence of settlements.
 - e. An ecological impact assessment is undertaken and appropriate measures identified and implemented accordingly to mitigate any potential adverse impacts of the development on biodiversity and secure biodiversity net gain in accordance with the Council's Biodiversity Net Gain Technical Advice Note (February 2021).
 - f. The proposed development will make the best and most efficient use of the land, whilst responding sympathetically to the existing character and distinctiveness of the adjoining settlement and surrounding rural area.
 - g. It can be demonstrated that the proposed development is deliverable and viable, having regard to the provision of necessary on-site infrastructure, including affordable housing, green infrastructure and other requirements.
11. Following from some of the issues identified above, LDC experienced a period of reduced success in defending appeals. Therefore they are currently designated under section 62A of the Town and Country Planning Act 1990 for the quality of its decision making. This means that applications for planning permission for major development can be made directly to the Secretary of State, although in practice none have been. Understandably LDC are keen for the designation to be reversed as soon as possible.

The Site

12. The Site falls outside of the settlement boundary to Ringmer, but partially flanks it. It falls to the north of Lewes Road. To the east of the site separated by further fields is the smaller settlement of Broyle Side. There is some development to the north of Lewes Road between Ringmer and Broyle Side, including a public house.

13. In the hierarchy set out in the LPP1 Ringmer is identified as a rural service centre, and Broyle Side is identified as a local village.
14. On the south side of Lewes Road is Broyle Gate Farmhouse and Former Farm Buildings to the north and northeast of Broyle Gate Farmhouse, both of which are Grade II listed buildings.

The application

15. The application layout was subject to significant amendment in the planning process. In its final form the proposed layout focusses development to the west of the Site, with the area to the east of the Site comprising an attenuation basin, a LEAP and other green infrastructure.
16. The application was accompanied by a suite of documents including heritage statement, a landscape and visual impact assessment and a flood risk assessment.

Landscape

17. The landscape and visual impact assessment concluded that the site is assessed as being of medium landscape sensitivity with a reasonably good ability to accommodate residential development. It concluded that the proposed development was well related to existing development and Ringmer and will not visually or physically encroach on the existing separation between Ringmer and Broyle Side. The new houses would be visible in a number of near and middle distance views however where visible it will generally be seen as a continuation of the existing built up area. Views will become increasingly filtered and screened as new structural planting within the open spaces and along the Site boundaries matures.

18. The East Sussex County Council landscape officer did not entirely agree with those conclusions recommending refusal as the proposed development would have an unacceptable effect on landscape character and views. She said:

2.0 The site and immediate surroundings would not be considered valued landscape in the context of the NPPF. The site is outside the village boundaries and is within the countryside. The site forms part of an open countryside gap between the built-up edge of Ringmer and the settlement at Broyleside.

3.0 The Lewes District Landscape Capacity Study 2012 concluded that the site and surrounding area could have medium capacity for change. This assessment emphasised the importance of retaining the visual gap between the settlements of Ringmer and Broyleside and in this context the area was assessed as being of medium to high visual sensitivity. The Lewes District Sensitivity Assessment (AECOM 2023) considered the site to be of medium sensitivity to small scale development and medium to high sensitivity for large scale development. This study emphasised the importance of: a) Protecting the landscape settings of Ringmer and Broyleside b) Protecting existing recreational routes and public rights of way c) Protecting the visual value of the gap between the 2 settlements

4.0 Preapplication advice was sought by the applicant and the feedback from this regarding the landscape was that the site could have some potential for development. However, the erosion of the green buffer between Ringmer and Broyleside is a serious concern. Possible adverse effects on views from the SDNP was also a concern, it is noted that the SDNP Authority have not raised any objections due to the distance of the site from the elevated areas of the park. The preapplication advice suggested that any development proposals would need to reinforce the character and perception of a gap between the settlements and the site would need to be fully integrated with the village. The response also highlighted the risk of cumulative effects on the gap in the light of other recent permissions.

[She then cited from the Broyle Gate Farm decision before continuing]

6.0 The application is accompanied by a Landscape and Visual Impact Assessment (LVIA). The LVIA provides an accurate description of the baseline

landscape and visual context for the site. It also outlines the planning policy context for the site. The LVIA concludes that with proposed mitigation the impact on the landscape character of the site of the proposed development would be moderate adverse on completion, reducing to moderate to slight adverse once the proposed mitigation planting has matured. The LVIA identifies that there would be some long term moderate adverse effects on views from the surrounding footpath networks.

7.0 The LVA concludes that the visual impacts would be localised to the immediate surroundings and that the proposed landscape buffers around the site boundaries would help to mitigate for these impacts.

8.0 The proposal would require the removal of the hedge along the site frontage, this would be replaced with a new hedge and tree planting. The impact of the built form on this frontage would be quite stark until the hedge and trees mature. The landscape strategy also proposes a new hedge and tree and thicket planting on the boundary with the countryside to the north. It is difficult to assess the width of this proposed planting from the pdf documents but it would need to be a minimum of 15- 20m wide with woodland and understorey planting in order to adequately mitigate the adverse effects of the development of views from the countryside to the north.

9.0 Despite the proposed landscape buffers the roofs of the houses would be perceived from surrounding areas. The loss of the open countryside gap between settlements to this large-scale development would be a permanent impact. The clear sense of separation between Ringmer and Broyleside in this location would be lost. The design and layout of any proposals for this area would need to retain the perception of a gap between the settlements. The scale and extent of the proposed development would not achieve this aim and particularly when viewed from the public footpath network and the B2192.

10.0 It is recommended that the proposed development is not supported as it would have an unacceptable impact on local landscape character and views.

19. The South Downs National Park authority did not object to the proposal.

Heritage

20. The applicant has produced a heritage statement which concluded that there would be a moderate level of less than substantial harm to the Grade II listed Broyle Gate Farmhouse.
21. The conservation officer agreed with the conclusion that the scheme caused less than substantial harm to the setting of the heritage asset although he did not identify where in the scale of less than substantial harm that lay. He made a number of design points in relation to the Application. In subsequent comments he accepted that the amendments to design and layout had improved the impact of the application. He then said:

It should be noted in heritage terms the significance of the nearby farmhouse is derived from its agricultural use and thus the setting of open fields contributes greatly to that significance. There can be no doubt that removing that contextual association causes harm to the legibility and appreciation of the asset. The proposed has been altered to include some open space that aligns generally with the open space seen to the south within another area approved for development, thus creating some form of separation from Broyleside. The design reasonably reflects traditional detailing albeit absence of chimneys is noted. In conclusion the NPPF allows for mitigation of harm through public benefit. The development of further, much needed, housing is indeed a public benefit which should be taken as part of a wider planning balance in reaching a conclusion.

Flooding.

22. The Flood Risk Assessment and Surface Water Strategy noted that the site was in Flood Zone 1. It was not subject to significant or unmanageable flooding from other sources. Surface water runoff would be discharged to the boundary watercourse at the man annual greenfield rate of 5.7 l/s/ha. The proposed surface water management scheme provides sufficient on-site storage to manage the 1 in

100 annual probability storm plus 45% climate change allowance and had been tested for 10% urban creep.

23. The lead local flood authority raised a number of queries which the applicant responded to. Ultimately they did not object to the development subject to the imposition of conditions.

Relevant appeal decisions

24. There have been a number of appeal decisions on the eastern side of Ringmer in the gap between Ringmer and Broyle Side. Two are of particular importance to the issues in this case:

- a. Land at Broyle Gate Farm (APP/P1425/W/22/3298993).
- b. Land south of Lewes Road and Laughton Road (APP/P1425/W/22/3299940)

Land at Broyle Gate Farm

25. Land at Broyle Gate Farm is situated broadly opposite to the Site on Lewes Road, albeit it stretches further east towards Broyle Side.
26. In Land at Broyle Gate Farm the site was allocated in the Ringmer Neighbourhood Plan for sports and recreational facilities. The proposal for a mix of sport and recreational facilities and houses. The Inspector found the sports facilities would be of significant benefit but that it had not been clearly made out that the rest of the site would not subsequently be required for sport and recreation provision.
27. The Inspector recognised that Ringmer Neighbourhood Plan policy 6.3 required all proposals for development within or extending the village to respect the scale of the village. Noted that at 100 dwellings the proposal would represent a 'fairly considerable addition' to the settlement beyond the scale of development

envisaged by policy 6.3. However he said that “to meet the housing needs of the district, it is likely that more considerable developments beyond the range envisaged in policies such as this need consideration” [12]. This reduced the weight to be attributed to conflict with policy 6.3.

28. In respect of the gap between Ringmer and Broyle Side the Inspector said at [15]:

The land to the north of the appeal site and beyond is largely open and of a rural character. The Green Man public house with adjacent cottages, including Little Thatch Cottage, are situated on the north side of Lewes Road immediately opposite the appeal site. In spite of this and some other nearby development, the site and the area between the two settlement boundaries has a generally rural character which contributes positively to the wider area. The presence of traditional buildings at Broyle Side Farm and Little Thatch Cottage contributes to this character.

29. He then went on at [22]-[25]:

22. In spite of there being no specific ‘gap’ policy within the development plan, the effect of the appeal scheme on the existing visual separation is very reasonably a matter to be taken into consideration in determining the overall effect of the scheme upon the landscape character and appearance of the area, including the setting of the SDNP.

23. Notwithstanding the existing development between the two settlement boundaries, there is a clear separation between the settlements that is particularly apparent when travelling along Lewes Road. The appeal site, with its absence of development, contributes to this as does the agricultural land to the north of Lewes Road. The potential for setting development back from the Lewes Road frontage, would reduce though not remove the effect of the proposals in this context.

24. Nevertheless, the extent of the development as a whole, would materially reduce the existing sense of separation between the two settlements. In views in the vicinity of the Glyndbourne wind turbine, within the SDNP, the site also contributes towards the sense of separation between Ringmer and Broyle Side, although as noted above, the presence of existing development adjacent to Broyle Lane dilutes the harm resulting in views from the SDNP. In longer distance views from the SDNP any effect on the sense of separation is negligible. The potential for proposed landscaping and open spaces within the site could help to mitigate and minimise the effects but would be unlikely to remove it.

25. I consider, therefore, that the proposed development would lead to some erosion of the sense of separation that currently exists between Ringmer and Broyle Side and that this is a matter which needs to be taken into account in assessing the overall impact of the development on the landscape, character and appearance of the area.

30. In balancing that harm the Inspector said:

With regard to landscape and visual harm, including the minor harm to the setting of and views from the SDNP, the proposal would also not accord with Core Policy 10 of the Joint Core Strategy and Policies DM1 and DM25 of the Local Plan Part 2. Taking into account the moderate landscape and visual harm, there would also be some moderate harm arising from the conflict with Policy 6.3 of the RNP in respect of the setting of Ringmer and Broyle Side. This should to be set in the context of the Council's acute housing shortfall, where it is apparent that more considerably sized developments such as this adjacent to settlement boundaries need consideration in order to improve the housing supply position, limiting the weight to be given to the conflict.

31. In relation to the impact on the listed buildings, the Inspector found that the significance of those buildings is “primarily derived from their historic interest as

former agricultural buildings with some more limited architectural interest” [32]. He analysed the setting of the listed buildings as follows:

33. The setting of all these buildings, insofar as it relates to this appeal, includes the fields within the appeal site to the south, east and southeast of the listed buildings. The two northerly field parcels appear to have the most direct historic functional link with Broyle Gate Farm, the evidence indicating that these fields were under the same ownership (earl of Liverpool) as the Farmhouse and were occupied by Benjamin Morris. The southern field parcels being under separate historic ownership. There also appears to be a functional relationship between the Farmhouse and the farmland to the north of Lewes Road outside of the appeal site which also forms part of the setting of both the Farmhouse and the farm building. Whilst the functional link no longer exists, this part of its setting comprising open fields still contributes positively to the historic interest of the listed buildings as a former farmhouse and farm buildings and therefore their significance as designated heritage assets.

32. In respect of the effect of that scheme on the listed buildings he said:

35. These effects on the land use and open rural form of land within the setting of the listed building would harmfully affect the historic interest of the listed buildings. To a much lesser degree, views from the buildings towards the site would be affected, noting existing screening, along with views looking from the appeal site to the buildings. Overall, and in both cases, whilst the significance of the listed buildings has already been affected by the residential conversion works and development on adjacent land, the additional changes arising from the appeal proposals would be likely to further detract from their setting and significance.

33. He found that the harm to the significance would be less than substantial and “at most, broadly in the middle of the ‘low level’ argued by the appellant and the ‘higher end’ argued by the Council” [37]. He concluded that the harm to the

designated heritage assets was outweighed by the benefits of the scheme and therefore there was no clear reason for refusing the proposed development under paragraph 11(d)(i) NPPF.

34. The Inspector found that in all other respects (including highways, accessibility, flood risk, sewage, drainage, impact on education provision, biodiversity and other infrastructure) the proposal was acceptable, or those matters did not weigh against the development.

35. The Inspector attributed substantial weight to the provision of 100 new dwellings in the context of the large housing shortfall. He also attributed substantial weight to the benefits of affordable housing in light of cumulative underprovision and uncertainty around future provision. The provision of the sports facilities carried significant weight. He concluded that the harms identified did not significantly and demonstrably outweigh the benefits when assessed against the policies in the framework taken as a whole.

Land South of Lewes Road and Laughton Road

36. The site in this case is situated to the east of the Land at Broyle Gate Farm (on the opposite side of Chamberlaines Lane), also to the south of Lewes Road. The proposal was for an outline planning application with all matters reserved for up to 68 residential units.

37. The Inspector accepted that the proposal was contrary to the spatial strategy of the local plan [DL11].

38. In relation to landscape the Inspector said:

14. The largely undeveloped nature of the site and the mature vegetation firstly assist in preserving a clear form of separation between Ringmer and Broyle Side. In terms of its wider landscape setting, the appeal site forms part of an area of

pastoral land and thus maintains a strong association with its rural surroundings, which is typically made of a geometry of largely level fields, with occasional areas of woodland, that is characteristic of the Eastern Low Weald.

15.....It is a matter of agreement between the parties that the site falls within the setting of the National Park. Whilst it may not be prominent, the appeal site nevertheless contributes to the setting of the National Park, as it maintains a degree of separation between Ringmer and Broyle Side, and forms part of expansive views from the scarp foothills and open downs across the Low Weald.

16. The contribution which the site makes to its rural surroundings would however be greatly diminished as a result of the proposal.

39. The Inspector considered the relationship with the Broyle Gate Farm scheme at [DL21]:

21. I must also have regard to the fact that a large mixed use scheme has recently been granted outline planning permission on land at Broyle Gate Farm, which is located on the opposite side of Chamberlaines Lane. This means that the construction of the proposal before me would, in combination with the approved scheme at Broyle Gate Farm, would harmfully consolidate development on the southern side of Lewes Road and lead to the loss of the important green gap which presently contributes to the rural settings of Ringmer and Broyle Side. The resulting loss of this gap between the villages, which would be evident in views from the National Park, would add to the negative impact which the development would have upon the landscape and settlement pattern of this rural area.

40. In terms of heritage the Inspector concluded that there would be less than substantial harm to the Grade II listed Southdown Hunt Kennel Complex [DL30]. However she noted:

31. There is no dispute between the main parties that the harm caused to the special interest of the listed building would in this instance be outweighed by the public benefits associated with the proposal, which include the provision of market and affordable homes. Having regard to the available evidence, I see no reasons to reach an alternative view.

41. In the planning balance the Inspector ascribed significant weight to the provision of market and affordable houses given the under supply, and given the site was partially brownfield and in an accessible location. Other benefits of the scheme carried reduced weight. She ascribed very significant weight to the impact on the character and appearance of the surrounding countryside and the setting of South Downs National Park, concluding that substantially and demonstrably outweighed the benefits of the proposal. The appellant challenged the Inspector's decision in the High Court, but that challenge was dismissed in **Bedford Park Developments v SSLUHC** [2024] EWHC 2337.

Other appeal decisions

42. Although not situated along Lewes Road, also of relevance is Land Opposite Bishop's Close, Ringmer. The location of this appeal decision was shown on a slide at the PAC It is located to the west of the appeal Site and is close to the Site but not contiguous with it. This was an application for 68 dwellings outside Ringmer's settlement boundary. It was initially refused by LDC on the grounds of landscape, highways and design. By the time of the inquiry LDC were only pursuing design as a reason for refusal. In respect of landscape the inspector concluded that "no evidence of landscape harm from both the Council and the R6 party is before me". He concluded that the landscape harm from the scheme could be adequately mitigated.

43. In relation to the design concerns raised by LDC and third parties the Inspector rejected those concerns or found that they were outweighed by the benefits of the scheme. In terms of the benefits the Inspector particularly noted:

[79] This is a highly constrained district with around 56% of its land area included in the South Down National Park and with other areas designated as an AONB or SINCS and SSSI. Within this context it is clear that housing sites are at a premium with few alternative sites for housing. This is further demonstrated with reference to the SHLAA30.

[80] Furthermore, Ringmer is a RSC designated for growth. In this context the Interim Housing strategy is an important material consideration having been adopted by the Council in response to the revised housing targets which exceed those referred to in Policies LLP1 SP1 and SP2. All eight criteria included in the Statement would be met by this appeal scheme31.

[81] Whilst the Framework supports the plan led process the Council acknowledges that adoption of a new plan is several years away32. In these circumstances the chronic state of housing need will only be met through the development of sites such as that before me.

LEGAL BACKGROUND

44. Another inspector's decision is capable of being a material decision on an appeal:

DLA Delivery Ltd v Baroness Cumberlege of Newick [2018] EWCA Civ 1305. The classic statement of that principle was set out in **North Wiltshire District Council v SSE** (1993) 65 P&CR 137, where Mann J said:

"... It was not disputed in argument that a previous appeal decision is capable of being a material consideration. The proposition is in my judgment indisputable. One important reason why previous decisions are capable of being material is that like cases should be decided in a like manner so that there is consistency in the appellate process. Consistency is self-evidently important to both developers and development control authorities. But it is also important for the purpose of securing public confidence in the operation of the development control system. I do not suggest and it would be wrong to do so, that like cases must be decided alike. An inspector must always exercise his own judgment. He is therefore free

upon consideration to disagree with the judgment of another but before doing so he ought to have regard to the importance of consistency and to give his reasons for departure from the previous decision.

To state that like cases should be decided alike presupposes that the earlier case is alike and is not distinguishable in some relevant respect. If it is distinguishable then it usually will lack materiality by reference to consistency although it may be material in some other way. Where it is indistinguishable then ordinarily it must be a material consideration. A practical test for the inspector is to ask himself whether, if I decide this case in a particular way am I necessarily agreeing or disagreeing with some critical aspect of the decision in the previous case? The areas for possible agreement or disagreement cannot be defined but they would include interpretation of policies, aesthetic judgments and assessment of need. Where there is disagreement then the inspector must weigh the previous decision and give his reasons for departure from it. These can on occasion be short, for example in the case of disagreement on aesthetics. On other occasions they may have to be elaborate."

DISCUSSION

45. I will address in turn each of the four issues that have been put forwards as potential reasons for refusal. I recognise that ultimately the decision on any appeal will be a matter for the Inspector exercising their own planning judgment. Nevertheless it is possible to predict how the planning judgment is likely to be exercised in light of the available evidence relating to this proposal, local and national policy, and other inspector's decisions in the vicinity which are likely to be material considerations in any appeal.

Landscape

46. I consider that if any objection to this scheme were to be pursued, an objection based on landscape concerns would have the greatest prospects of succeeding.

However judged overall I do not think it is likely to succeed. That is for the following reasons.

47. The application site does not have any landscape protection and is acknowledged by the County Landscape Architect not to be a valued landscape. It falls within the setting of South Downs National Park, but there is no objection based on the impact on South Downs National Park from the SDNPA, and that is not the basis of the landscape officer's objection.
48. I accept that lack of objection from the SDNPA is not conclusive, as is shown by the Land South of Lewes Road and Loughton Road appeal decision. However it would be difficult for LDC to pursue an objection based on harm to the national park without some expert evidence to support that conclusion.
49. Therefore, while it is acknowledged by the applicant that there would be some landscape and visual harm from development of this site, given the lack of landscape designation and that it is not a valued landscape that harm is likely to be of limited weight.
50. I accept that, notwithstanding the lack of specific policy support for retaining a gap between Ringmer and Broyle Side, that the impact of the proposal on that gap is likely to be a relevant matter for any inspector on appeal. Here there is a difference of landscape opinion between the applicant and the landscape officer on the extent of harm to that gap as I have set out above.
51. Even assuming that the landscape officer is right and the applicant is wrong and that it can be shown that the proposal would have a significant effect on the gap between Ringmer and Broyle Side, I still think it is likely that the applicant would succeed at appeal. That is because (unlike at Land South of Lewes Road and Loughton Road) it has not been suggested that this development would close the gap between Ringmer and Broyle Side. It can be seen from aerial photographs and the description in the various application documents that there would still be a

section of fields separating Ringmer from Broyle Side, as well as the effect of retaining the eastern part of the development site as open.

52. Even if an inspector on appeal accepted there was significant harm to the gap between Ringmer and Broyle Side, they would still have to weigh that harm against the benefits of the proposal. Given the application of the tilted balance it would have to be shown that the harm significantly and demonstrably outweighed the benefits of the proposal. In the case of Land at Broyle Gate Farm the weighing of that harm came down in favour of a grant of permission. I accept that there were further benefits to weigh into the balance at Broyle Gate Farm given the sports facilities. However I consider that the benefits of providing housing and affordable housing in the context of the situation in LDC are substantial. I think it is unlikely that an Inspector will accept that the harm caused by reducing the gap between Ringmer and Broyleside significantly and demonstrably outweighs those benefits.

Heritage

53. It appears to be a matter of agreement between LDC's conservation officer and the applicant that there will be less than substantial harm at a moderate level to Broyle Gate Farmhouse and the other listed buildings near to that farmhouse. That is similar to the findings in the Broyle Gate Farm appeal. I have not seen any expert evidence which suggests that harm has been underestimated.
54. No doubt an inspector on appeal will accord that harm significant weight and will weigh that harm against the benefits of the appeal on a flat not a tilted balance in accordance with paragraph 208 of the NPPF. While I accept that would be a matter of planning judgment for the inspector and different inspectors may strike that balance in a different way, I think that the most likely conclusion of the inspector would be that the public benefits of the scheme outweigh the harm to the listed building. I think that is the case because in two of the nearby appeal schemes I discuss above the Inspector concluded that moderate less than substantial harm to a listed building was outweighed by the public benefits of those schemes. I

accept that in the case of Land at Broyle Gate Farm the benefits of the scheme were not just the provision of houses and affordable houses but also encompassed the benefits of the sports provision. However that was not the case at Land South of Lewes Road and Laughton Road.

55. I also consider that is the likely conclusion because, for the reasons I set out above, the public benefits of the provision of housing and affordable housing in the context of the situation at LDC are so significant.

56. Therefore I do not consider that a reason for refusal based on harm to the listed building would be likely to succeed.

Impact on Ringmer from cumulative growth

57. A number of members of the committee raised concerns about the cumulative impact on Ringmer from growth that is being permitted. It seems to me that such an objection would either need to be based on evidence that this application (taken alongside other permitted development) would cause harm through exceeding the infrastructure capacity of the village, or through harm to character.

58. In terms of the ability of the village infrastructure to meet the additional growth, no objection to the application was made by East Sussex County Council in relation to the availability of school places, or by southern water in respect of foul sewerage disposal, or by the highways authority in respect of cumulative impact on highways. Therefore I cannot see that there is any evidence which would allow a reason for refusal to be pursued based on impact on infrastructure.

59. I note that one member of the committee suggested that there should be a delay to further development in Ringmer until consequences of existing development has been assessed. In my view such an argument would not succeed and would be very likely to be regarded as unreasonable behaviour leading to an award of costs at appeal. The planning system must make decisions based on evidence and the evidence does not support an objection due to impact on infrastructure.

60. I note that concerns about the ability of infrastructure to meet development were raised at the Land at Broyle Gate Farm inquiry, and the Inspector did not find there was any evidence to reject the application on that basis.

61. In terms of impact on the character of Ringmer, as has been noted by a number of inspectors policy 6.3 of the Ringmer Neighbourhood Plan provides “only developments that respect the village scales appropriate to Ringmer Village or the Broyleside will be permitted”. It is not clear from the discussion in planning committee what exactly the concern about the impact on Ringmer’s character would be. I note that even before recently permitted additional growth Ringmer was a fairly substantial village (the neighbourhood plan notes a population of 4648 for the parish in the 2011 census). Therefore I think that concerns about the impact on the character of Ringmer are not supported by evidence and it is unlikely a planning inspector would accept them.

62. In so far as there would be any harm on the character of Ringmer from the cumulative development coming forwards, as has been pointed out by inspectors in a number of decisions, that needs to be seen in the context of: the significant housing land supply deficit in LDC, the lack of an immediate solution to that deficit, the very constrained nature of LDC, and the fact that Ringmer is towards the top of the settlement hierarchy and was therefore identified in the hierarchy as being capable of taking further growth.

63. Therefore I think an objection based on the cumulative growth to Ringmer would be very unlikely to succeed at appeal. Given the lack of evidence to support such an objection I think there would be a risk of a successful application for costs against LDC if they pursued such an objection.

Surface water drainage

64. I can deal with surface water drainage relatively shortly. The applicant has put forwards evidence which they assert show that surface water drainage can be

adequately dealt with, including without increasing flood risk elsewhere. The lead local flood authority have considered that evidence and have not objected to the proposal on the basis of it. So far as I can see there is no evidence produced by someone with expertise in drainage and flooding matters to call those conclusions into question. Therefore it does not seem to me that on the evidence I have seen there would be any basis to refuse due to surface water flooding impacts.

65. It was alternatively suggested that there should be some form of Grampian condition imposed in relation to surface water flooding. Condition 10.3 of the proposed draft conditions prevents development from taking place until a surface water drainage plan has been submitted to and approved by LDC which (inter alia) shows surface water discharge rates not exceeding greenfield run-off rates for all rainfall event, provides details of on site attenuation measures, and provides information on how surface water flows exceeding the capacity of the surface water drainage features will be managed safely. The development is required to be carried out in accordance with those details. Additionally there are conditions relating to drainage maintenance and management (10.4 and 10.5). It has not been identified by the committee in what way they consider those conditions are inadequate. The conditions themselves appear to derive from those requested by the lead local flood authority.

66. In all the circumstances it has not been shown by evidence that there is any objection based on surface water flooding or that any further conditions connected with surface water flooding are necessary to make the development acceptable. Pursuing an objection without evidence on surface water flooding would put LDC at risk of a successful costs application on an appeal.

Future national policy

67. If LDC were to refuse this application and it was to go to appeal, it is likely on current forecasts that any appeal would be decided based on an amended NPPF. Given that there is no clarity on what the new NPPF will say then I consider that the committee can only place limited weight on that at this time. However, it seems to me worth noting that the direction of travel both from the draft amended NPPF and the Written Statement 'Building the Homes we Need' is that the government intends to place greater emphasis on housing delivery. Therefore in my view it is unlikely that an amended NPPF will make it any easier to defend this decision, and very likely it will be harder to defend this decision.

CONCLUSION

68. For all the reasons I have set out above, in my view a reason for refusal based on landscape or heritage is not likely to succeed. Although there are landscape and heritage harms to the proposal it is likely an inspector will regard those as being outweighed by the benefits of the provision of the supply of housing, particularly in the case of landscape where the decision would be made on the tilted balance. I think that a reason for refusal based on cumulative harm to Ringmer or on surface water harms would be very unlikely to succeed and given the lack of evidence to support such a reason for refusal would give rise to a risk of a costs award against LDC.

69. If I can be of any further assistance please do not hesitate to contact me.

CLARE PARRY

Cornerstone Barristers

21 October 2024