



**OFFICE OF THE  
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Our Ref: APP/Y3805/V/02/1100397 &  
APP/Z3825/A/02/1095343

10 September 2003

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77 AND SECTION 78  
LAND AT SHOREHAM QUARRY, STEYNING ROAD, UPPER BEEDING  
APPLICATION AND APPEAL BY CALLSTONE LTD  
APPLICATION NOS. SU/124/02 & UB/43/0**

1. I am directed by the First Secretary of State to say that consideration has been given to the report of the Inspector, Mr Geoff Salter, BA, MRTPI, who held a public inquiry on 8-10, 15-16, 23-25, 29-30 April and 1-2, 7 May into your client's application for planning permission to Adur District Council and appeal against the failure of Horsham District Council to give notice within the prescribed period of their decision on an application for planning permission, for development of a major mixed-use development comprising residential, office, industrial, storage and distribution, hotel and other uses, landscaping, open space and highway works.

2. The Inspector, whose conclusions are reproduced in the annex to this letter, recommended that the application be refused and the appeal dismissed. A copy of his report is enclosed. For the reasons given below the Secretary of State agrees with the Inspector's recommendation. All paragraph references, unless otherwise stated, refer to the Inspector's report

**Policy Considerations**

3. Section 54A of the Town and Country Planning Act 1990 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan is the Horsham District Local Plan (1997), the Adur District Local Plan (1996) and the West Sussex County Structure Plan (1993). The emerging West Sussex Structure Plan Deposit Draft has recently been the subject of a panel report. Although it is a material consideration, at this stage in its progress towards adoption its policies can be given comparatively limited weight. The West Sussex Deposit Waste Local Plan 2001-2016 has been approved by the County Council, and though a material consideration, at this early stage in its progress, it can only be given limited weight. The Secretary of State agrees that the relevant development plan policies are those set out by the Inspector in paragraphs 4.1-4.6.



4. Other material considerations include; Planning Policy Guidance Note (PPG) 3 "Housing", PPG4 "Industrial and Commercial Development and Small Firms", PPG6 Town Centres and Retail Developments, PPG7 "The Countryside", PPG9 "Nature Conservation" and PPG13 "Transport".

5. In reaching his decision the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999 and the further information provided under Regulation 19. The Secretary of State is content that the Environmental Statement and further information comply with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the application.

6. The Secretary of State has also taken into account the Parliamentary Statement on planning for housing, made on 17 July 2003. The Statement has not provided any new material which would affect his decision on this case. He has not therefore considered it necessary to refer back to the inquiry parties prior to making his decision.

### **Main Issues**

7. The Secretary of State agrees with the Inspector that the main considerations are those identified in paragraph 12.2 of his report:-

- (i) The effect of the proposals on the AONB, having regard to local and national policy for its protection.
- (ii) The acceptability of the mix of uses proposed, having regard to the Development Plan and national policy in PPGs 3,4 and 6.
- (iii) Whether the scheme would conflict with the relevant local and national policies to direct new development to locations accessible in safety by a variety of means of transport, and, in particular, to reduce travel by private car and vehicle emissions.
- (iv) The effect of the scheme on the efficiency of the strategic highway network.
- (v) The effect of the proposals on the ecology of the site.
- (vi) Whether the proposals are premature with regard to the Waste Local Plan.

The effect of the proposals on the AONB, having regard to local and national policy for its protection.

8. The Secretary of State agrees with the Inspector's conclusions on the effect of the proposals on the AONB, having regard to local and national policy for its protection, for the reasons set out in paragraphs 12.3-12.5.

The acceptability of the mix of uses proposed, having regard to the Development Plan and national policy in PPGs 3,4 and 6.

9. The Secretary of State agrees with the Inspector's conclusions on the acceptability of the mix of uses proposed, having regard to the Development Plan and national policy in PPGs 3,4 and 6, for the reasons set out in paragraphs 12.6-12.46.



Whether the scheme would conflict with the relevant local and national policies to direct new development to locations accessible in safety by a variety of means of transport, and, in particular, to reduce travel by private car and vehicle emissions.

10. The Secretary of State agrees with the Inspector's conclusions on whether the scheme would conflict with the relevant local and national policies to direct new development to locations accessible in safety by a variety of means of transport, and, in particular, to reduce travel by private car and vehicle emissions, for the reasons set out in paragraphs 12.47-12.56, subject to the following qualifications. The Secretary of State wishes to add that in relation to the Inspector's comments in 12.48, all sites, including those which are previously-developed, should also be assessed against the criteria set out in paragraph 31 of PPG3. With regard to the affordable housing issues addressed at 12.55, the Secretary of State considers that had the site been otherwise acceptable for housing, he would have expected to see all affordable housing provided on site rather than by way of commuted sum, given the presumption in paragraph 17 of PPG3 that such housing should be provided as part of the proposed development.

The effect of the scheme on the efficiency of the strategic highway network.

11. The Secretary of State agrees with the Inspector's conclusions on the effect of the scheme on the efficiency of the strategic highway network for the reasons set out in paragraphs 12.57-12.58.

The effect of the proposals on the ecology of the site.

12. The Secretary of State agrees with the Inspector's conclusions on the effect of the proposals on the ecology of the site for the reasons set out in paragraphs 12.59-12.61.

Whether the proposals are premature with regard to the Waste Local Plan.

13. The Secretary of State agrees with the Inspector's conclusions on whether the proposals are premature with regard to the Waste Local Plan for the reasons set out in paragraphs 12.62-12.69.

### **Overall Conclusion**

14. The Secretary of State agrees with the Inspector's overall conclusions set out in 12.77-12.83. The Secretary of State considers that the proposal is contrary to the development plan and to PPG3 and PPG7 and that there are no other material considerations of sufficient weight as to indicate that he should determine the appeal other than in accordance with the development plan and policy guidance.

### **Formal Decision**

15. Accordingly for the reasons given above, the Secretary of State accepts the Inspector's recommendation. He hereby refuses planning permission and dismisses your client's appeal for development of a major mixed-use development comprising residential, office, industrial, storage and distribution, hotel and other uses, landscaping, open space and highway works at Shoreham Quarry, Upper Beeding in accordance with application nos. SU/124/02 & UB/43/0.



16. This letter serves as the Secretary of State's statement under Regulation 21(2) of the Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999.

**Right to challenge the decision**

17. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

18. A copy of this letter has been sent to Adur District Council and Horsham District Council and those who appeared at the inquiry.

Yours faithfully

A handwritten signature in black ink that reads "Rebecca Carpenter". The signature is written in a cursive style with a large initial 'R'.

Rebecca Carpenter  
Authorised by the First Secretary of State  
to sign in that behalf







# Report to the First Secretary of State

The Planning Inspectorate  
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by **Geoff Salter** BA MRTPI

an Inspector appointed by the First Secretary of State

Date:

14 July 2003

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Town and Country Planning Act 1990

Horsham District Council

Adur District Council

Inquiry held on 8-10, 15-16, 23-25, 29-30 April, 1-2, 7 May 2003

Shoreham Quarry, Upper Beeding

File Refs: Z3825/A/02/1095343 & Y3805/V/02/1100397

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The following abbreviations are used in the report:

ADC	Adur District Council
AONB	Area of Outstanding Natural Beauty
CD	Core Document
CPRE	Council for the Protection of Rural England
EIA	Environmental Impact Assessment
EN	English Nature
ES	Environmental Statement
EH	English Heritage
FSS	First Secretary of State
HDA	Hankinson Duckett Associates
HDC	Horsham District Council
HDLP	Horsham District Local Plan 1997
LPA	Local Planning Authority
LP	Local Plan
PAER	Priority Area for Economic Regeneration
PCD	Public Consultation Draft
PPG	Planning Policy Guidance note
RIGS	Regionally Important Geological Site
ROMP	Review of Old Minerals Permission
RSL	Registered Social Landlord
SEEDA	South East Economic Development Agency
SELCHP	South East London Combined Heat and Power
SNCI	Site of nature Conservation Interest
SWT	Sussex Wildlife Trust
WLP	Waste Local Plan
WSCC	West Sussex County Council
SDCB	Sussex Downs Conservation Board
SSSI	Site of Special Scientific Interest
ZVI	Zone of visual influence
#	paragraph
dph	dwellings per hectare
p	page
vph	vehicles per hour

## Preamble

Appellants: **Callstone Ltd**

Site: Shoreham Quarry, Steyning Road, Upper Beeding

File Refs: Adur DC SU/124/02 APP/Y3805/V/02/1100397  
Horsham DC UB/43/0 APP/Z3825/A/02/1095343

Dates: Applications made on 31 May 2002  
Appeal against non-determination by Horsham DC: 24 July 2002  
Call in date: 17 September 2002

Development: A major mixed-use development comprising residential, office, industrial, storage and distribution, hotel and other uses, landscaping, open space and highway works.

### Summary of Recommendation: refuse planning permission

- The proposal for the redevelopment of Shoreham Quarry is described more fully in the revised planning statement submitted by the appellants in January 2003. The application site falls within the administrative boundaries of both Horsham and Adur District Councils. The application to Horsham DC was the subject of an appeal against the failure of the Council to make a decision within the prescribed period. This appeal and the application to Adur DC were recovered by the First Secretary of State for his own determination by letters dated 17 September 2002. Henceforth Callstone Ltd are referred to as the appellants in the report.
- On the information available at the time of making the direction the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the proposal:-
  - (i) The extent to which the proposed development conflicts with published policies in PPG7 with particular regard to the following points:
    - Given that the proposal is in the AONB, whether it would conserve the natural beauty of the landscape
    - What impact it would have on the social well-being of the area
    - The extent to which it is in the public interest
    - The extent to which there is evidence of need for the proposed development, in terms of national considerations, and the impact of permitting or refusing it on the local economy
    - The cost and scope for providing the development elsewhere outside the AONB, or meeting it in some other way, and
    - The extent to which the proposal might have a detrimental effect on the environment and the landscape and the extent to which that could be moderated

- (ii) The extent to which the proposed development conflicts with published policies in PPG3 with particular regard to the following points:
- Whether the proposal makes the best use of land
  - Whether residents would have access by public transport, walking and cycling to jobs, education and health facilities, shops, leisure and local services
  - Whether the proposal would help to meet the requirements of the whole community, including those in need of affordable housing
  - Whether it would provide a mix of types and sizes of dwellings, and
  - Whether the level of parking is likely to reflect the Government's emphasis on securing sustainable residential environments
- (iii) Whether the proposal complies with PPG6 'Town Centres and Retail Development'. In particular whether the scheme includes any 'key town centre uses' such as offices, which might attract a lot of people, and whether a sequential approach has been adopted in selecting the site.
- (iv) The extent to which the proposed development complies with policies in PPG 13 'Transport'. In particular the extent to which the proposal offers a realistic choice of access by public transport, walking and cycling and promotes sustainable transport choices.
- (v) The extent to which the proposed development complies with policies in PPG 4 'Industrial and Commercial Development and Small Firms'.
- (vi) The extent to which the proposed development accords with approved and emerging development plan policies
- (vii) The environmental effects of the proposal, including traffic, on the area
- (viii) Whether any planning permission should be granted subject to conditions and, if so, the form they should take
- (ix) Any other matter material to the determination of the applications.

## 1 Procedural Matters

- 1.1 This report deals with the appeal and called in application together as one scheme. The proposals were accompanied by an Environmental Statement (ES). Following the PIM additional information was requested in accordance with Regulation 19 of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 by a letter dated 4 February 2003. At the inquiry all parties accepted that the information contained within the Environmental Statement, including the amendments dated January 2003 was complete and required no further additions.
- 1.2 The inquiry sat for 14 days, during which I viewed the site from a number of external locations. I made an accompanied pre-inquiry site visit on 7 April and another visit, including inspections of the quarry buildings, on 1 May 2003. After the inquiry I made unaccompanied visits to look at the site from various public viewpoints and to view landscape restoration projects at Whipsnade and Kensworth quarries, Barton-le-Clay and Twyford Down.
- 1.3 The report contains descriptions of the application sites and their surroundings, the gist of the representations made at the inquiry, and my conclusions and recommendations. Lists of appearances, documents (referred to in brackets), plans and photographs are attached.

## 2 Background facts

### The Site and Surroundings

#### *General*

- 2.1 The site comprises 44.6ha of land formerly used as a quarry, located either side of the A283 where the river Adur cuts through a gap in the South Downs. It lies about 2 km south of Upper Beeding, 2.5 km north of the junction of the A283 with the A27, and about 4 km from Shoreham town centre and the main bus and railway stations. The lowest area of the site, alongside the river, is some 8-9 m AOD but the quarry extends in deep cutting to the east of the main road for some 800m and to a height of 120m.
- 2.2 The site comprises a number of different parcels, as described in Doc 4 and shown on the Masterplan. The majority of the land lies to the east of the A283. Detailed site descriptions are contained in Docs 4, CA9/B&C, HDC11 and HDC23, AppII, where a number of photographs can be found. The ES contains a wealth of other information about the site. A report by Llewelyn-Davies, published in January 2001 also provides a site appraisal in Section 3 (CD33).

#### *West of A283*

- 2.3 The western section of the site, Area A, is a flat area of made-up ground above the flood level between the river and the A283. Apart from a planted area between the old and realigned main road, most of the area comprises hardstandings and a number of buildings, including the former offices and packing plant. A full schedule of all buildings on the site, and their floor areas, which extend to some 50,000 m<sup>2</sup> is contained in HDC23. The Coastal Link cycleway and footpath runs alongside the western boundary, which is lined by deciduous trees.

*East of A283*

- 2.4 To the east of the A283, the parcel closest to the road, Area B on the Plans, contains the largest of the buildings previously used in the manufacture of cement. These include a coal store of cathedral-like proportions, a drying kiln building of similar size containing massive iron tubes used for drying cement, two factory buildings, water treatment works and a number of other structures. There is a single access from the A283 and access via an underpass from Area A.
- 2.5 Area C is partly separated from Areas B and D by old quarry faces. The floor of this primarily open area of former circular quarry contains considerable amounts of spoil at different levels. A haul road along the north face of the area leads to the former chalk crusher standing high above Area B.
- 2.6 Area D comprises the most recent quarry area, a substantial rectilinear cutting separated from Area C by a series of old quarry faces and benches. The floor of this area stands some 25-30m above Area C, and has steep faces around the southern, eastern and northern sides. This part of the site includes a strip of grassland above the eastern edge of the quarry.

Planning History

- 2.7 A schedule of the planning history of the site, largely comprising its use as a quarry and cement works, which ceased in 1991, is set out in Doc 4. The schedule sets out approval dates for all the main structures on the site, including the chimney and main works on both sides of the A283. Of most significance, an application for registration of an old mining permission for the quarry (ROMP), relating to Area D, was permitted/granted subject to conditions. The permission allows for chalk extraction up to 2042. It would allow for an extra 7.5m tonnes of chalk to be extracted from below the current base level of 47-65m AOD down to 7.5m AOD, with finished quarry face angles of 60 and 70 degrees.[CD51]
- 2.8 In September 1999 Horsham DC granted permission for the use of buildings in Area B for the storage of vehicles. An appeal against a condition prohibiting use of open areas was allowed in April 2000 (CD36). Within Adur District, temporary permissions have been granted for use of former vehicle repair workshops for commercial use and for other workshops and hardstandings for the repair, maintenance and storage of vehicles, including buses.

### 3 The Proposals

- 3.1 A detailed description of the scheme is set out in the planning statement and a schedule of documents comprising the application as amended (including revised plans) is contained in the Statement of Common Ground (Doc 4). The application was submitted in outline, but with only the design and external appearance of buildings reserved. In summary, it is proposed to divide the site into 4 areas with different development components to comprise in total what is described as the Adur Valley Park.
- 3.2 To the west of the A283, Area A, the appellants propose to build 84 houses, to layout areas of open space and to provide associated infrastructure and landscaping. The houses would be served by a new spine road running north from the existing access (CA9/B,PRV2). Illustrative details of proposed house designs and materials were submitted as evidence to the inquiry (PRV Figs 8-14A). It is intended that most of the houses would be 2 storey, with a terrace of 3 storey facing the river at the northern end of the site.
- 3.3 The major part of the site lies to the east of the A283. Area B, nearest the road, would be developed with 12,000 m<sup>2</sup> of Class B1 business floorspace in 4 units, a 1,500 m<sup>2</sup> restaurant/public house, a 50 bedroom hotel together with ancillary roads, parking areas, a bus turning and waiting facility and landscaping.
- 3.4 Area C would comprise up to 26,500 m<sup>2</sup> of Class B2 industrial or Class B8 warehouse buildings, in 6 units, with associated infrastructure and landscaping.
- 3.5 The proposals include engineering and landscape restoration works in Area D, primarily the creation of an area of chalk grassland at the foot of retained quarry slopes.
- 3.6 Proposed phasing arrangements are also set out in detail in the Planning Statement, summarised in a critical path flowchart. In essence, following initial demolition and clearance, it is intended to begin development by constructing the housing on site A. Clearance and site works in Areas B, C and D would take place before development on A, but the main construction works on the land east of the A283 would start later. The programme shows that landscaping of Area D would be complete before the industrial development on Area C starts.
- 3.7 The proposals are accompanied by a Section 106 planning obligation which provides for a number of measures to secure the implementation of the scheme (Doc 6). These include provision of a children's play area in Area A and a payment of £131,600 for maintenance, and commitments concerning phasing details, including the timing of access construction. The obligation is intended to ensure the provision of 13 affordable dwellings for Horsham DC and offers a commuted sum of £696,000 for affordable housing within Adur District. Other undertakings concern the demolition of all buildings and the remediation of the landscape in Area D, within 5 years of the first dwelling occupation. Permission to quarry chalk would be given up, without compensation. The final section of the obligation provides for the implementation of highway works, principally through a series of payments to W Sussex CC. These include a sum of £120,000 to improve safety on the A283, £324,563 to secure an improved bus service between Shoreham and Upper Beeding and £190,000 to improve the Downs Link cycleway between Shoreham and Steyning. The obligation also provides for the preparation and implementation of a green travel plan, with penalties if agreed targets for car driver mode share fail to be met.



## 4 Planning Policy

### *The Development Plan*

- 4.1 The West Sussex Structure Plan (CD1) was approved in 1993. Policy C2 sets out the policies for AONBs which reflect the national guidance in PPG7 concerning protection of the landscape. It also states that opportunities will be sought to maintain or re-instate the natural beauty or distinctive character of AONBs. A range of other relevant policies, which include G3, the location of development, T14, concerning access requirements, E4 and E5 which set out criteria for the location of employment development and C14, which seeks to protect landscape and wildlife habitats.
- 4.2 The Horsham District Local Plan (HDLP) was adopted in November 1997 (CDs 1&3). Policy UB1 relates specifically to the site and is permissive of comprehensive redevelopment of the site, subject to a number of criteria. These require, among other things:
- i. The scale of development to be no more than that necessary to provide adequate funding to secure the demolition of all the buildings and structures on site as well as enabling appropriate landscape works
  - ii. The development to conform with other requirements to be included in a Development Brief and Masterplan. These include: the redevelopment being predominantly for business and leisure purposes; 'substantial land forming and landscaping measures to reduce the impact of the site in local and distant views'; proposals for the area west of the A283 to be based on the principle of a significant reduction in the mass of buildings, so that the area of open space to be created can contribute towards the leisure and recreational needs of the Adur Valley and the AONB.

Policies E3 and TM2 cross-reference to back to Policy UB1 with regard to the employment and leisure uses, but without setting any floorspace limits.

- 4.3 A raft of other policies of the HDLP have some relevance for the proposals, as identified in Doc 4. Those in contention include HS3 - Location of Housing Development and CS2 - AONBs.
- 4.4 The Adur Local Plan was adopted in 1996. Policy DP.AR4 relates to Area A, and states that the use of this part of the site for leisure and recreational purposes will be permitted, subject to a number of criteria concerning landscape enhancement and the reduction of the mass and bulk of buildings currently on the site. Policy AE1 identifies the whole site as a potential source of employment floorspace needed within the District. Policy AT2 seeks to prevent any adverse effect on the AONB from major road improvements to the A283 specifically associated with the redevelopment of the site. The plan also has various other policies of relevance to the scheme.

### *Emerging Plans*

- 4.5 The County Council published a new deposit draft Structure Plan in 2001, which has been the subject of an EiP (CD8). The Panel report was published just before the inquiry opened. The plan updates policy for control of development in the AONB and includes Policy NE6 which sets out the context for proposals at the site, requiring development to be compatible with its sensitive AONB location and to deliver major environmental and

landscape improvements. The panel report recommends that this policy should be deleted, on the grounds that it is unnecessarily detailed for a Structure Plan document.

- 4.6 The W Sussex First Deposit Draft Waste Local Plan was approved by the County Council in January 2003 and was due to be placed on deposit on 15 May 2003 (CD45). Policy A1 states that proposals for new permanent, built facilities for the collection, sorting, transfer and treatment of waste (excluding open air composting) will be permitted at a number of locations, which include the site. Policy A3 is permissive of new energy from waste facilities at three sites, in an order of preference, provided they meet the test of need set out in Policy N1(b). The former cement works is third in the list; the relevant plan shows the allocation on an area of 25haha within areas B and C of the site. Policy G11 seeks to prevent development that would prejudice the provision of sites allocated under Policies A1 and A2-4.

## 5.1 The Case for Callstone

### THE DEVELOPMENT PLAN

- 5.1.1 The development plan comprises the 1993 West Sussex Structure Plan [CD1] (which Mr Kilford acknowledged to be very out of date) and the two District Local Plans of 1996 (Adur) and 1997 (Horsham); the site straddling the district boundary. None of the plans is really up to date. The 1993 Structure Plan contains no site specific policies, probably because its preparation took place when the quarry and cement works on the site were still operating, as the operation of the site ceased in 1991 and various uses and operations continued for some time afterwards.
- 5.1.2 By the time of the preparation of the Adur and Horsham Plans, it appears to have been recognised that the site represented a major development opportunity. The Horsham Local Plan, [CD2,3&4] adopted in late 1997 contains not only a site specific policy UB1, which is subject to a number of criteria to be considered, but also extensive reasoned justification in Chapter 14 of the Plan. The status of this text should be considered in the light of #24 of Annex A of PPG 12 which states that 'It should not contain policies and proposals which will be used in themselves for taking decisions on planning applications.' #24 also makes it clear that the role of the text is to provide an explanation and justification of the policies.
- 5.1.3 For Horsham DC, Mr Stevens accepted that changes in national policy had taken place since the Local Plan date of adoption, in particular, and of relevance, PPG3, PPG7 (including the Raynsford statement of June 2000) and two revisions of PPG13. However he considered that the Plan policies relating to the site were sufficiently up to date to be given considerable weight. Callstone agree. No replacement Plan has yet been published.
- 5.1.4 Policy UB1 envisages that the site would be the subject of comprehensive major redevelopment. [CD3 p.50] Whilst there is no requirement that the new development itself should be of national importance, it has been accepted by HDC, ADC, WSCC and SDCB that the removal of structures and remediation of the AONB landscape is in the national interest. Therefore the appeal proposal meets that part of the test in PPG7, (paragraphs 4.5 & 4.8 and the Raynsford statement) which requires that major development in the AONB should be justified in terms of 'national considerations' and be in the 'national interest'.
- 5.1.5 From consideration of UB1 and Chapter 14 of the HDLP, a number of propositions arise, which were agreed by Mr Stevens:
- (i) The policy conceives of major development in the AONB to achieve the objective of mitigating the impact of the site on the AONB landscape which is of national importance (CD3 14.3).
  - (ii) The amount and type of development and mix of uses was to be determined by a Development Brief and subsequent Masterplan (CD3 #s 14.9; 14.12) It should be noted that:
    - The Development Brief was to be provided by the LPA (see glossary p.223 CD2) 'Masterplan' was not defined in the LP.

- To date the LPA has produced neither Development Brief nor Masterplan either in draft or otherwise.
  - There was no convincing reason for this, indicating little hope of the public sector being able to produce a viable publicly funded scheme for the site
- (iii) The predominant use on the site was to be business/commercial/employment uses [CD3 #14.9 and UB1(g)], but also envisaged are leisure and recreation, an hotel [CD3 14.7] and some limited housing [CD3 #14.1, 14.9].
- 5.1.6 Normally such development as the appeal proposals represent would be wholly contrary to policy in PPG7 concerning AONB. A similar policy framework existed in the 1992 PPG7 (and revised 1997 PPG7) at the time the HDLP was being drawn up, as exists today, so far as protection of AONB is concerned.
- 5.1.7 Mr Stevens accepted that the reasons for this are the same today as they were at the time of adoption:
- (i) This is a major brownfield site.
  - (ii) It is a landscape of national importance; mitigation of current impacts is a matter of national consideration.
  - (iii) There is no public funding identified to carry out restoration; therefore the development would have to pay for any restoration, as well as any associated improvements to the A283 [CD3 #14.10].
  - (iv) The redevelopment proposals must secure the removal of existing buildings and structures and remediation of the landscape. [CD3 #14.5; 14.3)
  - (v) The nature of the site offers the opportunity to accommodate a major business development [CD3 #14.1].
- 5.1.8 It follows from that analysis that it is not necessary to prove that the business development is of regional or even sub-regional importance (although it is); there is certainly no such requirement in the plan. Mr Stevens accepted that the proposals for employment/business purposes on Areas B and C are in accordance with the development plan. Policy E3 makes a specific allocation for employment development at the Cement Works [CD2 #6.14 page 95]. There is a presumption in favour of employment development on the site.
- 5.1.9 In the light of that agreed position it is not necessary to prove need (even though there, in fact, is a strong case of need). Indeed, while the Cement Works allocation appears to have been assumed for the employment land requirements of the HDLP [policy E1, CD2] it appears that its main contribution to employment land requirements are in the Coastal Towns Area, a PAER and recognised to suffer from high unemployment and a fragile economy [CD33]. Adur District Council strongly support this element of the proposal, in the evidence of Mr Davies. Their local plan states the importance of the contribution that the site can make to employment development to serve the Coastal Towns PAER [CD7 #10.22]

### **The Residential Component of the proposals**

- 5.1.10 The housing element of the proposals has caused the most controversy at this appeal and is the source of objection from both LPAs and WSCC (although ADC seem to accept the residential development if it is proven to be needed to enable the development). The objection has two limbs to it: (i) objection in principle to housing development on the site because such development is contrary to national and local planning policy; (ii)

objection to the scale and nature of the development on area A. It is clear from the text of the HDLP that although some housing was likely to form part of the mix, such use was secondary to the main business and commercial uses that were to predominate. [CD3 #14.9]

5.1.11 However, although the reasoned justification of the HDLP explains that the housing element of the mix of uses requires special justification, there is, in fact, no prohibition on housing development on the site in the plan policy. The supporting text refers to 'some limited housing' that should be '*specifically justified by virtue of providing the residential element of workplace units or dwellings necessary for the operation and management of leisure uses.*' [CD3 #s14.1, 14.9]

5.1.12 The appellant's justification for housing on the site as apart of the appeal proposals is clear:

- (i) Employment development of the site cannot, of itself, and within the highway and landscape constraints of the site, achieve a viable development, which Mr Stevens agreed was a fundamental and over-riding requirement. There is a need for other (ie non business) high value development to secure the viability of the development;
- (ii) that development should have a low environmental impact;
- (iii) that development should not generate high levels of traffic;
- (iv) that development should be able to provide an early receipt, to subsidise or 'enable' the rest of the development, the demolition and site remediation, the landscaping and the highway improvement works.
- (v) The extent of housing is limited to less than 2ha of the 44 ha site [CD33]

5.1.13 There is nothing in Government planning policy to indicate that housing development in the countryside is necessarily any less sustainable than employment development. Mr Stevens and Mr Davies both accepted this proposition in cross-examination and agreed that the question of whether housing or employment development is more sustainable should be treated on the merits of the proposal in question. Housing development generates less traffic than an equivalent value of business or employment uses; therefore there would be less pressure on the limited highway capacity and less requirement for damaging and costly improvements.

5.1.14 There is a fundamental requirement to create a viable scheme. Without viability nothing would happen. In this case, there is a consensus that the overriding objective of plan policy relating to the comprehensive redevelopment of this site is to achieve clearance of the cement works buildings and structures, and to achieve remediation of the landscape. It is at the core of the appellant's case that this can only be achieved by allowing high value, low impact development on the site. That development also needs to take advantage of the opportunity which the site presents to contribute to employment and regeneration, particularly in the coastal towns [CD3 # 14.1]. If the proposals meet those key objectives, the housing component in the proposal does not preclude compliance of the scheme as a whole with the plan policy.

- 5.1.15 HDC has taken the text of Chapter 14 of the HDLP and applied it as if it was, itself, a statute. Their detailed examination of the supporting text has meant that they have lost sight of the primary purposes of the policy, the employment opportunity and the overriding need to mitigate the existing visual impact on the AONB, recognised in both Local Plans and the emerging Structure Plan. There is clear case law which supports a purposive approach to understanding of planning policy.<sup>1</sup> And development plan policy should be given a broad interpretation.<sup>2</sup>
- 5.1.16 In this case, to take the view that the housing component of the scheme necessarily conflicts with the plan purposes because it is not expressly provided for in the text of the policy is to miss the point of the policies. It is particularly misconceived at this point in time, several years after adoption, for to do so is to ignore the information which has emerged from studies. The application and interpretation of policies now 6 years old (or more) should be informed by subsequent information.
- 5.1.17 There is a further and very important point which needs to be considered in relation to the key development plan policies in HB1 of Horsham Local Plan and AR4 of Adur Local Plan.
- 5.1.18 The Horsham Local Plan sets out the basis on which planning permission may be granted for the comprehensive redevelopment of the site. The first line of the policy starts '*In order to facilitate environmental improvements...*' [CD3 p.50] The Plan requires that a Development Brief and Masterplan are to be prepared to reflect a number of requirements. The purpose of those requirements are concerned, principally, with '*the need to enhance*' (a) or to '*reduce the impact of the site in local and distant views*' (c) or '*to ensure the overall environment of the area is enhanced ...*' No party to the inquiry and, in particular, none of the planning authorities, has suggested that the appeal proposals do not enhance the environment, improve views into the site and reduce the impact of the site. The proposals are a massive and dramatic improvement on what is on the site currently.
- 5.1.19 It is extraordinary that HDC (and others) should object to a proposal which:
- (i) achieves major environmental enhancement to the most damaging site in an area which is of national importance for its landscape character;
  - (ii) achieves a major boost to the local economy by providing a major new employment development in the form of a high quality mixed use business park;
  - (iii) makes a major contribution to enhancement of the safety of the A283 (part of the strategic road network) as well as adding to the general provision of sustainable transport choices for the local rural community;
  - (iv) provides new public open space and recreational facilities where currently there are none;

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<sup>1</sup> See *Petter & Harris v Secretary of State* (CA) (2000) 79 P&CR 214

<sup>2</sup> see *R. on application of Laura Cummins and London Borough of Camden, SSETR and Barratt Homes* [2001] EWHC Admin 116 Ousley J. citing (inter alia) *R. v. Rochdale MBC Ex parte Milne* (2001) 81 P&CR 365

- (v) dedicates, in perpetuity an area of over 10ha of quarry which has existing and valuable quarrying rights to recreating scarce chalk grassland and securing habitats for statutory protected and other locally important species of wildlife and which adds to the overall landscape and visual enhancement.
- 5.1.20 The normal position is that proposals for development which do not cause harm to interests of acknowledged importance should be permitted. In this case objectors identify no significant harm and overwhelming and diverse benefits local, regional, as well as in the national interest, would result.
- 5.1.21 The existing condition of the site and the lawful and permitted uses to which it can be and is being put are the benchmark against which this appeal should be considered. When considered in that way, the arguments in favour of the scheme are overwhelming.
- 5.1.22 A fundamental flaw in HDC's case has been to assume an idealised notional baseline, against which they have assessed the redevelopment proposals. The site is currently capable of beneficial and productive commercial use. Redevelopment proposals should be judged against what is there now, instead of against this idealised notional baseline. Their approach is wrong in law, fails to apply the government policy in relation to development and is wholly unrealistic.

#### Adur District Local Plan 1996

- 5.1.23 Policy DP.AR4 of the Adur Local Plan, which deals only with the part of Area A that falls within Adur, refers only to redevelopment for 'predominantly leisure and recreational purposes'. The text of the Plan] broadly endorse the Horsham Local Plan approach to the areas within Horsham (CD7 p134 #10.22 to 10.30). The proposals for the entire site need to be considered as a whole. In area A the scheme proposes significant areas devoted to open space, leisure and recreation, although the site is also substantially proposed to be developed for residential uses.
- 5.1.24 On the other side of the road the pub and restaurant are proposed within land within Horsham. When considering the site as a whole, and looking at both District Local Plans, it is not appropriate to determine land use within the site on the basis of administrative boundaries; this was agreed by Mr Davies for Adur in cross examination. When the proposals as a whole are considered in the context of the site as a whole, it can be seen that the overall proposals provide for substantial leisure and recreational uses and areas of open space, as well as enhancement to the recreational and amenity value of the AONB. Accordingly, the proposals do not conflict with the objectives of the Adur District Local Plan 1997.

#### The Emerging West Sussex Structure Plan

- 5.1.25 The emerging West Sussex Structure Plan, a material consideration in this appeal, contains a site specific policy in policy NE6 and the supporting text. This envisages '*...a comprehensive scheme for the whole site which delivers major development...*'.[CD8 #153] The plan envisages that the scheme could include employment, leisure or tourism. It proposes that '*...ancillary development for such uses such as homes, restaurants,*

*hotels or retailing may be acceptable provided they form only a small part of the overall scheme...'. The proposals for housing which cover less than 2 hectares of the site which has an overall area of 44 hectares fully complies with this requirement, as does the hotel/pub/ restaurant element of the scheme.*

- 5.1.26 The EiP panel have suggested the policy should be deleted, as it is a site specific policy, rather than a strategic policy. However, Mr Kilford, the County Planning Officer, gave evidence that the County Council would be unlikely to follow this recommendation and that the policy was likely to remain in substantially its current form. The policy has been the subject of public consultation, and there are no outstanding objections to it. The policy should be given considerable weight in accordance with paragraph 48 of PPG1. The proposals accord with the objectives and terms of the policy.

## 5.2 OTHER MATERIAL CONSIDERATIONS

### The Fall Back Position

- 5.2.1 In this case, those activities and uses which can lawfully take place on the site without the need for further planning permission are relevant for 2 reasons:

- a) to assist in determining whether the purchase price paid was reasonable so as to establish the value of the site for Policy UB1 purposes; and
- b) to evaluate the likely continuing impact which the site is likely to have if the redevelopment does not proceed.

- 5.2.2 A number of points bear consideration:

- 1) Firstly, across the site there is a lawful B2 use (agreed by Mr Stevens) that can take place in either open areas or within buildings.
- 2) Secondly, there is no reason why the site should not be divided into a number of smaller sites. Such sub division would not affect the lawful use rights.
- 3) Thirdly, the lawful use being within use class B2 means that intensification of use can take place without further planning permission and that any use falling within that Use Class can take place without the need for planning permission. Permitted development rights accompany such use, including internal modification of the buildings, permission to use part of the site for B8 uses and to use any or all of the buildings for B1 uses<sup>3</sup>. There is an existing temporary permission for B8 uses on Area A and no reason has been given by anyone why it should not be renewed indefinitely or extended onto other parts of the appeal site.

- 5.2.3 There also exists the right to recommence quarrying for chalk and 14 day permitted development rights – eg 4 wheel drive sports in area D. There is no requirement to carry out any reinstatement of the landscape until 2042 and then only to the limited extent in the ROMP. [CD51]

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<sup>3</sup> Sch 2, Part 3, Use Classes Order



- 5.2.4 Thus it is readily apparent that there are valuable existing use rights which could be further exploited, if this project fails. These include Class B2 rights over parts of the site as confirmed by the appeal decision in April 2000 [CD36]. The cement works itself is a Class B2 use, which the Council accepted. The exploitation of those rights, together with the continuing unmitigated effect of the site on its landscape would be likely to continue for the foreseeable future unless an alternative scheme was to come forward. The existing use rights are not restricted by conditions. There are no controls over noise, lighting, traffic generation, dust or smell other than by application of the Environment Acts and the law of nuisance.
- 5.2.5 The materiality of the fall back position is well recognised in planning law: [Vol 2 of Encyclopedia, #2.32.85] The above fallback position is the only reasonably likely alternative to the appeal proposal. The late attempt by the District Council to generate some kind of alternative proposal has been demonstrated to be entirely without substance.
- 5.2.6 Firstly, there is no alternative vision; in the 12 years since the Cement works ceased production, the appeal scheme is the only viable project to come forward. Between them, the LPAs and the various other parties – the SDCB, SWT etc have been unable to come forward with any practicable or even agreed scheme. Despite the requirements of policy UB1, no Development Brief or Masterplan has ever been produced by any of them. That failure is of very considerable significance in this appeal. It underlines the very considerable challenges that this site presents; challenges of viability, environment and infrastructure. It also casts very serious doubt over the proposition that the public authorities in the area of this site are capable of promoting a public sector driven alternative.
- 5.2.7 Not only is there no alternative vision, there is no means of funding an alternative which does not 'wash its own face' commercially, as does the appeal scheme. SEEDA are not able to provide gap funding, even if they had the intention to do so, which they do not. [HDC4] As Mr Boulter pointed out, by reference to the Interim and Final reports by Llewelyn Davies, [CD33] SEEDA are not going to fund a scheme where there is a viable self-financing private sector scheme, when there are other regeneration projects which need major public investment in infrastructure in order to achieve viability. For example the Shoreham Maritime scheme requires over £100m of forward investment for highway and reclamation costs alone [CD67 p28].
- 5.2.8 In summary:
- (i) The viability of the appeal proposals is not disputed.
  - (ii) It is the only viable proposal to have come forward since the cement works closed in 1991.
  - (iii) No public funding, whether gap funding or otherwise, has been identified to assist in the delivery of any alternative scheme for the site.
  - (iv) There is no substance to any public funded partnership to progress this scheme. The two LPAs cannot even agree what form the development should take.
  - (v) SEEDA is not interested in acquiring the site and have made no offer for it.

- (vi) There is no serious prospect of compulsory acquisition of the site by public authorities.
- (vii) No party at this Inquiry has been able to point to any genuine course of action which could deliver any future for the site other than the appeal proposals or the 'fall back' position which the Appellants have described.

### 5.3 LEVEL OF DEVELOPMENT ALLOWED BY POLICY UB1

#### Existing Value of the site

5.3.1 In considering the extent of development necessary to fund the restoration of the site, the first question is whether the development to be permitted should reimburse the appellant for the cost of acquisition of the site. The appellants have based the existing value of the site on the purchase price paid in 1998 and have included that figure in their calculations. [RHS2 page 6] This figure has been validated by an assessment of the value of the land based upon capitalisation of the potential income from the site on the basis of current lawful and permitted uses. [CA 10/F].

5.3.2 Mr Haynes for HDC has valued the entirety of the site at £275,000 (the cost of a small cottage in Bramber or Upper Beeding). It was not entirely clear how he has reached that figure, because he has produced no calculations. He described it as being calculated on the basis of the annual income from the site for the residue of the temporary planning permission which permits B8 uses on Area 'A'. That calculation, which is not set out in his evidence, must necessarily be predicated upon the following propositions:

- (i) The only valuable lawful use is the residue of the temporary permissions for use of Area A (he appears to have capitalised the rent from the residue of the temporary permissions).
- (ii) The limits of the period of that use is only the remaining period of the temporary permissions.
- (iii) The temporary permission would not be renewed
- (iv) All the buildings on the site have a limited life span of 5 or 6 years.
- (v) All the buildings on the site are beyond economic repair.
- (vi) No value should attach to Areas B, C and D
- (vii) The other uses for which the site may lawfully be used make no contribution at all to the value of the site.
- (viii) No other valuable permissions would be granted for the continued use of the site.
- (ix) No hope value has been attributed to the site, even if the development for which the hope springs is in accordance with the development plan.

5.3.3 Further, a number of points were clear from Mr Haynes' answers in cross examination:

- (i) He admitted that his figure does not represent '*open market value*'. Mr Haynes accepted that open market value would be higher, but had not reached any conclusion as to what that figure might be.
- (ii) Mr Haynes had not actually considered what the alternative lawful uses might be. He had not carried out a survey of any of the buildings. He had been inside only one building (Building A2). There was no evidence of a proper assessment of the buildings. He was misinformed about their structure and their structural condition.
- (iii) He was unaware of the substance of the appeal decision [CD 36] and had not been informed as to the lawful use rights which attached to the site. He seemed unaware of the use rights which extend to the open areas and was confused and unsure as to the permitted use rights which the site enjoyed (such as those for B1 uses).

5.3.4 This approach to such valuation is wholly inadequate, misconceived and unconvincing. It is not clear what relevance his figure would have in any case. There is no prospect of the owner of the site developing it, if he was to receive less than open market value and even if some kind of compulsory acquisition were to be pursued, the owner would be entitled to at least the open market value. In reality the only basis on which the site will, for practical purposes, be developed, is if the owner sees that he will achieve what he considered to be a fair price for his land, having regard to the money and time that he has invested in the site and in the light of the alternative uses to which it can be put.

5.3.5 By contrast the approach of Mr Stapleton is compelling and authoritative. His starting point was what the willing buyer has bought from the willing seller. He has then considered the factors which existed at the time of purchase (in the light of the same local plan policies and the meetings of 18<sup>th</sup> and 23<sup>rd</sup> December 1997 [CD 53]). He then went on to assess what the site would make on the basis that its existing lawful (and likely uncontroversial permitted) uses were to be exploited. He considered the question of sub-division.

5.3.6 HDC accept that the site has a lawful use for B2 purposes across the entire planning unit(s). The analysis of the appellant's evidence leads to a position that the entire site, both buildings and open areas, can be used for either B2 or B1 uses. The appeal decision in relation to the temporary uses CD 36 makes it clear that there is no amenity or AONB harm caused by B8 uses.

5.3.7 Paragraph 109 of Circular 11/95 makes it clear that if there are amenity impacts temporary planning permission should not be granted. It is clear that there were none considered significant by the Inspector in that appeal [CD36]. The application was for a temporary permission. There is no reason why the permission should not be granted on a permanent basis. In the light of the decision letter, further B8/ open storage uses on the site are unlikely to be controversial and would be reasonably likely to be granted permission, as would an application for permanent use of the kind currently temporarily taking place on Area A. Such applications are also reasonably likely to be permitted on Areas B&C, which are less visible.

- 5.3.8 B2 uses on open areas could be supported by portakabin facilities, where necessary. There is no limit on the extent of ancillary storage which can be associated with a B2 (or B1) use.
- 5.3.9 Mr Stapleton's evidence has been based upon a careful examination, inside and outside, of each of the buildings. He has ascertained the structure and the condition of each building and has valued each building, based upon what he believes it would cost to repair it and its likely value upon repair. He has considered the potential uses for each building and has made an assessment of the potential uses of the open spaces. In the case of Area B he has also considered the effect of clearance of some of the tanks next to building B2 and has identified circulation routes within the site.
- 5.3.10 He has considered the rental income for each building or area of land and has assessed the value on the basis of capitalisation of rents. His is the only evidence [CA10/F]. His conclusion is that the site is worth at least that which was paid for it in 1998; if you add up the parts they comfortably exceed the whole. The robust, authoritative valuation is the result of a careful consideration of the site by probably one of the most experienced agents in the Sussex commercial property field.
- 5.3.11 The developer has not sought to obtain further income from the site, because of the need to act responsibly in relation to the wildlife and ecological features of the site. Moreover, the site has simply not been marketed, as the working assumption has been that its current state is a short life use, pending redevelopment. If that were to change, then Mr Stapleton shows how, for relatively low level of investment, considerable income could be derived from the site. Cautious assumptions support the valuation, as a recent letting by the Dudman Group in excess of the predicted income for B2 open space shows [CA10/F, p10 note 2].

#### Developers' Profit

#### *The value of Commercial Development on Areas B&C*

- 5.3.12 Both valuers agreed that the appellants' valuation method was correct and robust and that the land values applied for serviced commercial land within Areas B and C having outline planning permission for B1 and B2/B8 uses respectively were appropriate. Mr Stapleton's assessment considers the first stage of the development process, which effectively starts with site acquisition and runs through to the point where outline planning permission has been obtained. All demolition, site preparation, servicing and other enabling works would have been completed (including as provided for in an onerous legal agreement) and sites would then be available for release, consistent with the aspirations of Adur District Council, Sussex Enterprise and others.
- 5.3.13 This is without doubt the most lengthy and demanding part of the overall development process and, given the potential variants, it is the part that carries the greatest risk and degree of uncertainty. Significantly, it is also that part of the project where there is greatest financial exposure with minimal prospect of an early return. This is particularly the case here given that the value of the housing land needs to be committed to deliver the remainder of the scheme.
- 5.3.14 Originally Mr Haynes accepted that a developer would be entitled to a return on his investment in the project (a profit) but stated that this would flow from the 'remunerative

development'. By this he was referring to that later part of the overall development at which buildings are actually constructed and are let to occupiers. Mr Haynes supplementary evidence indicated that a level of profit in the general order of 21% would be appropriate for a development of this nature. This is consistent with the English Heritage guidelines concerning enabling development, principally for listed buildings, where a profit of up to 20% is considered to be acceptable [CD17].

5.3.15 Those guidelines should be treated with considerable caution. The historic environment has a wholly different legislative structure for its protection. The public policy justification for taking a particularly strict approach to those who acquire listed buildings and neglect them as a lever to obtain permission for development which would not otherwise be permitted, is self-evident. However, those circumstances do not apply to this particular proposal, which has largely only positive aspects.

5.3.16 Nevertheless the document contains some good common sense and reasonable, practical advice. Mr Haynes did not apply the policy, or the general propositions of that advice, section 5 of which actually supports the approach taken by the appellants with regard to developers' profits. Mr Haynes' amended position contains the same basic error – that no profit is allowed on the first £9 million (which assumes a site value of only £275,000) of high risk preliminary work. This compares to a profit allowance of up to 20% set out in #5.8.2 of the EH Guidance and considered appropriate by Mr Stapleton in response to Inspector's questions.

5.3.17 There is no real explanation for this irrational approach. There is no authority for the proposition that this part of the development process, which bears the most significant risk, should be carried out without being profitable in its own right. Instead, Mr Haynes' supplementary evidence suggests that a massive profit made in the construction phase would compensate the developer for his unrewarded risk in the earlier stage. [HDC 28] However, this proposition defies common sense. No developer would take on the acquisition and the expensive and uncertain process of attempting to obtain planning permission for development, with the costs of EIA, the application itself, then site preparation at a cost of £9 million without being able to recover any profit when he decides to sell the plots. If there was a 33% profit to be made on the final construction phase, that would be reflected in the value of the plots, which would be worth a much higher price in the first place.

5.3.18 The proposition does not accord with the EH Guidance which provides that: *'Developers profit is normally allowable on all valid development costs, including appropriate site costs (as defined above) since all involve financing costs and risk.....Whilst enabling development is itself a form of subsidy, it is normally included in development costs, because it must be funded and bears risk.'* [CD17 #5.8.3] Moreover, there is firm evidence that nowadays the developer does not generally build speculative completed buildings for a ready market [CA7/A, CA10/A]. Both parties accepted that it would be a reasonable basis for valuation to assume that the market demands prepared plots for acquisition on a freehold basis by owner occupiers who build their own bespoke buildings. Mr Stapleton gave unchallenged evidence that there has not been a speculative B1, B2 or B8 development of over 1000sq m in Sussex since the 1980's.

5.3.19 The conversion of a derelict site like this to a genuine business site, which can be developed out by commercial occupiers, is a process which involves risk, skill and effort. There is no reason why a developer should not be entitled to a profit on that

Sale price of derelict - (purchase + costs of remediation etc) = profit on land (10%)

Sale price of plots - purchase price of derelict site = profit on derelict site (10%)

Sale price of plots - purchase + costs of remediation etc

= profit (if 10% then allow 10% for if 20% then allow 20% for)

process. Mr Stapleton's assessment shows that the developer would make a profit. It is (at about 12%) below the figure that a developer should normally be entitled to.

#### *The Value of Residential Development on Area A*

- 5.3.20 Mr Stapleton went straight to the value of land suitable for residential development at £2.47 million per ha [CA10/C.2]. By contrast, Mr Haynes took a residual valuation approach which he accepted has more uncertainty, being based on many assumptions [HDC 23 #7.1.1 & AppIII,]. Those assumptions, set out in CA10/K #5, were largely agreed in cross-examination by Mr Haynes.
- 5.3.21 The principal areas of dispute in relation to the profits on Area A are the value of the completed housing development (£185 or £225 psq ft) and the construction costs (£70 or £80). Mr Stapleton has provided detailed explanation for the figures that he has chosen [CA10/K p3]. Whilst Mr Haynes has provided a list of house prices (on a value per square foot basis) but no analysis of the data. The values were reported indiscriminately, irrespective of location and even whether or not they were comparable types of housing. He had assumed that the Area A appeal residential properties would have fine views of the River Adur (which they will not). The pioneering nature of the site, nor the down side of its location, next to the A283, opposite a business park was not considered. Mr Stapleton was familiar with each of the sites, the type of housing and its location; he has given meaningful comparisons and identified true comparables.
- 5.3.22 With regard to construction costs, Mr Stapleton took full account of the difficult site conditions. He also made the point that the costs of high quality materials would not be recoverable in the end value, even though they would be a requirement in this AONB location.
- 5.3.23 Overall, and in the circumstances, Mr Stapleton's approach to valuation and costs, both of the housing and the commercial elements of the site is a realistic and reasonable one. It is robust for the purposes of the necessary assessment of the scale of development needed to provide reliable assessments for the Policy UB1 equation, particularly given the uncertain housing market which currently prevails.

#### Timing

- 5.3.24 Both parties accepted that a decision on the application may be assumed to be at least 12 months away. It will then take a further 12 months for the demolition contract to be completed. Therefore the earliest date from which the development can commence on either Area A or B is at least two years away. Mr Haynes stated that he had assumed deferment of one year only, immediately following which profits would begin to flow [HDC 28]. This is patently not the case.

#### Costs of Area D remediation.

- 5.3.25 The principal difference here is the choice of remediation scheme (Mr Duckett (HDA) or Mr Russell-Vick (PRV)]. There were constant additions to the HDA costs, which were understated. Mr Hill's evidence added unspecified costs in the form of stabilisation of the nesting areas for the peregrines and ravens. Nevertheless, the difference between the two restoration costs estimates for Area D are in excess of £1 million.

## Demolition costs

5.3.26 The differences in the demolition costs put forward by each of the parties can be explained by two factors. The additional costs of HDC's estimates from the Andrews Partnership were:

(i) the very high costs of demolishing the main cement kilns building and adjoining store building, which was assessed on the basis of volume, even though the building is a straightforward, principally steel framed building, notwithstanding its 'cathedral' like proportions;

(ii) the high costs allowed for the handling of contaminated materials, which Mr Stapleton considered to be excessive.

Callstone are satisfied that their own contractor's estimates are correct (and it is they who would take the risk if they turned out to be higher).

## Area A in the HDC scheme

5.3.27 HDC have failed to consider the true cost to the scheme in the event that Area A is not developed as part of the enabling works. Mr Stapleton identifies costs of £861,000 required to bring forward Area A for residential development [CA10/C.RHS2, p5]. If no such development takes place at least £450,000 will still have to be spent on Area A in order to make it suitable for its intended use in accordance with the development plan. Of those expenses, the only sum that has been allowed for by Mr Haynes is the demolition costs. The remaining expenditure amounting to £330,000 has been ignored. The necessary adjustment will have to be made to Mr Haynes' valuation.

## Planning Obligation Costs

5.3.28 The costs of complying with the Conditions and Obligations have only become apparent during the latter part of the Inquiry as the demands of the Planning Authorities have become apparent. The following additional costs will fall to be funded by the scheme and will result in alterations to both Mr Stapleton's financial appraisal and Mr Haynes' calculations.

## *Provision of Nursery*

5.3.29 A planning condition requires the construction of 60 m<sup>2</sup> dedicated to this use. The developer will have to not only construct this space, but also forego the opportunity to create an equivalent amount of B1 space and generate the profit thereon.

## *Area A – Partially developed*

5.3.30 Regardless of the number of units built in Area A, all of the cost of bringing forward all of Area A for development (£861,000) will need to be included.

## *Prohibition of B2 Uses on Area C*

5.3.31 Both Mr Stapleton's and Mr Haynes' Financial Appraisals are based on B2 and B8 uses within Area C. If Area C were to be limited to B8, on highway safety grounds as requested by HDC, Mr Stapleton has advised you that a substantial revision to the Financial Appraisal will be necessary. The scheme would take longer to complete, as

the number of potential occupiers would be reduced. Detailed figures have not been submitted, nor did Mr Haynes offer any evidence on this point.

### *Valuation Conclusions*

5.3.32 HDC's entire approach to the question of what level of development is necessary for the UB1 test relies upon two points: the site valuation of £275,000 and the assessment of developers profit. The latter disentitles the developer to any real profit on the first and most risky stage of development during which the planning permission is obtained and the site is prepared. Supplementary evidence suggested that the profits would arise as a result of the construction phase [HDC28].

5.3.33 This point should be given very little weight. It is based upon not only highly unreliable assumptions, but also, ultimately takes the argument no further forward. It still fails to explain why anyone should be prepared to take the risk of acquiring this site and carrying out the high-risk permission and site preparation phases without being entitled to any profit. It still relies upon the absurdly low valuation of the site and omits numerous costs which HDC themselves have insisted upon imposing on the development.

5.3.34 The costs which had been overlooked by Mr Haynes eventually required the scale of development to be increased, up to the point where the full Area B and C development is required to cover costs, on his own basis. If the land value has been underestimated at £275,000 or any wrong assumptions been included in the commercial assessment in HDC 25 and 28, then development of Area A must follow. On the evidence, both have occurred.

5.3.35 On the other hand, Mr Stapleton's evidence provides a sound and well substantiated valuation, a reasonable (or even rather low) developer's profit, realistic costs estimates and a carefully costed landscape remediation proposal. On that basis the appeal proposals represent the scale and type of development necessary solely to achieve the remediation of the site. They are, thus in accordance with the development plan in that respect.

### 5.4 LLEWELYN DAVIES REPORT : CD 33

5.4.1 The two District Councils and the County Council commissioned urban designers Llewelyn Davies to consider options for the development of the site. Although the brief for the study was not restricted to development of the site in accordance with the development plan, it is clear from conclusions and recommendations that it was drawn up in the light of the development plan.

5.4.2 The report was presented to the Planning Committees of both Horsham and Adur in March 2001.

5.4.3 Whilst Adur merely noted the report, Horsham adopted the study for the purposes of informing the local plan review and for consideration of current and proposed applications for planning permission of the site. In the reports to committee, neither of the district councils demurred from either its content or its conclusions. Mr Stevens



accepted that the HDLP plan, and that the Plan policies should be read having regard to studies such as this, published after the Plan. He went on to suggest that the Llewelyn Davies report was of little weight. It is a material consideration.

5.4.4 The study is of relevance and some considerable weight, not as a policy statement, but as a detailed study against which, precisely on the basis that it has been adopted by HDC, the appeal proposals can be evaluated, for the following reasons:

- (i) It is the only detailed study of its kind to have been carried out in relation to the site.
- (ii) Llewelyn Davies are consultants of acknowledged high calibre in the field of urban design and were supported in their work by other specialist consultants, including landscape architects.
- (iii) There have been no material changes of circumstance since its adoption by HDC.
- (iv) In drawing up the report, Llewelyn Davies took account of all relevant development plan policies and all current and relevant national policies.
- (v) The report has integrity in that it is entirely independent of the planning application process.
- (vi) None of the commissioning authorities (HDC, ADC, WSCC) has at any time distanced themselves from its findings.

5.4.5 A number of relevant and important findings and conclusions emerge from the report. Firstly, so far as visual impact is concerned, the report finds that the removal of the buildings and structures is the priority. Interestingly this chimes with the SDCB study's findings [3.5]. Secondly, the report recognises the potential of the site in relation to the major urban conurbations of Sussex, including the City of Brighton and Hove (within 15 minutes) and Gatwick international airport all within 30 minutes drive time [see Figure 3.1]. The report underlines that the site is exceptionally well located to serve the Coastal towns and the Crawley/Gatwick conurbation.

5.4.6 The report rejects major commercial leisure development on the site as being non-viable. (4.10 + 4.11 of CD33). Also considered and rejected are a host of other potential uses – retail, factory outlet, education etc. Residential development is given very detailed consideration (4.7.1). The views of the planning authorities are considered. The benefits of such development are considered notwithstanding the clear recognition that *'the site could not be considered as a favourable location for residential development under normal circumstances'* in the *'light of current Government planning policy on sustainability'*.

5.4.7 Having considered all of these points, the report nevertheless concludes that:  
*'... the site is a previously developed site and development of housing would potentially provide funds (through a section 106 Agreement) for the demolition of existing buildings and structures together with restoration and remediation, thus enhancing the character of the countryside. Residential development is also less likely than more other forms of development to introduce additional environmental*

*impacts associated with the development. For these reasons we believe that consideration should be given to an option which includes a significant element of residential development. The most appropriate parts of the site for residential development would appear to be Site A and the western part of Site B.'*

5.4.15 It is instructive to note that HDC, having produced no design brief, but having adopted the Llewelyn Davies report to inform the evaluation of planning applications should reject our proposals for housing development –

- (i) on the part of the site (Site A) which Llewelyn Davies suggests is most appropriate; and
- (ii) where the justification for the housing element of the appeal proposals development is precisely that which their own consultants saw as over-riding, notwithstanding the opposition of the two district councils and their recognition of the potential conflict with AONB/Government policy.

5.4.16 The Llewelyn Davies report went on to recommend the housing option, as being the most likely to be viable, as well as achieving a number of environmental objectives [see Option I page 75 # 9.2 and page 96 (2<sup>nd</sup> column)]. However they also went on to say that *'If it can be demonstrated through a Traffic Assessment that major upgrading of the A283 is not required for the intensity of development proposed in options G and H, we would support extending development into the main body of the site for employment uses and provide potentially significant economic benefits to the local area.'* That assessment has now been carried out. This finding precisely accords with the appeal proposals. Their analysis concludes that notwithstanding the policy conflict, *'... the exceptional circumstances and the need to restore and remediate the site necessitate an exceptional response'*.

5.4.17 As to the remediation of the site it was accepted by both Mr Duckett and Mr Small that the appeal proposals for Area D are very similar to those put forward by the Llewelyn Davies report (CD 33 Figure 8.2d).

## Conclusions

5.4.18 The report was adopted for the purpose of deciding planning applications. It validates the appellants' approach and is a material consideration of much weight.

## 5.5 WASTE – 'STERILISATION WITHOUT COMPENSATION'

5.5.1 By their own admission (and assertion) the County Council, as Waste Planning Authority, put forward the proposition that 10ha<sup>4</sup> to 25ha<sup>5</sup> of land should be sterilised (safeguarded from development), for a period of up to 15 years, without compensation or any offer to pay for the blight or sterilisation of the site. The basis for this stance is a

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<sup>4</sup> John Kilford in XX  
<sup>5</sup> CD47

draft Waste Local Plan which has not been the subject of any inquiry, where the owner of the appeal site has not had any opportunity to have his objections heard, where there is no indication as to how an inspector at inquiry would respond to the objection. It is a bizarre, unreasonable proposition and, if a decision were made to refuse development on that basis, it would be wholly contrary to the site owner's human rights. There can be no lawful basis for depriving an owner of land of his enjoyment of the rights for which Parliament has provided, to apply for permission for development of his land in accordance with the statutory development plan, on the basis that the land might be required for waste purposes, at some unspecified time in the future. In short, the County Council is inviting the Secretary of State to make an unlawful decision, by requesting rejection on the basis that the site may be required for waste purposes.

- 5.5.2 The County Council invites the FSS to give weight to the Waste Local Plan Deposit draft [CD 58] and to dismiss the appeal as *'premature'*.
- 5.5.3 Government policy provides guidance in PPG1 #47 and 48 as to prematurity and the weight to be awarded to emerging development plan. Mr Kilford accepted in cross-examination that the guidance is relevant to the emerging West Sussex Waste Local Plan. He considered that the status of the plan came within the second bullet point of #48. Yet he accepted that there were objections to the deposit draft (not least from the weight to be attached to relevant policies.
- 5.5.4 If there are objections the converse applies. There is no escaping the logic that the converse of *'considerable weight'* must be little weight (the view taken by Mr Fidgett). If little weight can be given to the allocation of the site for waste purposes in the Deposit Draft Waste Local Plan; then there can be no question of prematurity arising.
- 5.5.5 As Mr Fidgett pointed out in cross examination, the true situation is that the current draft is the first of 2 drafts in the process and falls firmly in the circumstances of the first bullet point of # 48 of PPG1.
- 5.5.6 Furthermore, the use of the site for waste purposes is contrary to the adopted development plan, as the County Council clearly so stated in the Halewick Lane inquiry [WSCC2, App 7 # 3.41]. The proposals do not prejudice or prevent future use of the site for waste purposes, including a waste to energy plant, if the WLP should identify it as being an appropriate site.
- 5.5.7 Mr Fidgett's evidence shows how the proposed buildings could accommodate a range of waste uses. If energy-from-waste was to be proposed for the site, it may be necessary for the site of one or more of the buildings in Area C to be used for the plant. That would, in any case, need to be subject to its own EIA and planning application. It would stand or fall on its own merits, taking into account the possible blighting effect on the development as a whole, including the residential element. However it is no more precluded by permitting development and allowing the appeal than it would be if the site remained in its current form.
- 5.5.8 Of the 3 sites identified in the draft WLP, this is the only site that could be developed as a proper business park capable of contributing to the Sussex coastal area. To let it go to waste would therefore deprive the area of such a facility – it cannot be provided elsewhere.

5.5.9 There are no statutory powers to acquire land by compulsion for waste purposes. The land would have to be the subject of negotiation on a normal commercial basis. It cannot be lawful to dismiss an application for planning permission on the basis that some potential future commercial purchaser of the land might have to pay more for the site (or part of it) if it is granted planning permission for more valuable development. The County Council's case should be rejected, both in respect of prematurity and prejudice to the WLP.

## 5.6 LANDSCAPE

5.6.1 The Appellant's masterplan, produced in the absence of any material by HDC, accords with the objectives of the development plan and the requirements of its policies. Adur District Council support the proposals for Areas B, C and D, including the specific landscaping proposals for Area D.

5.6.2 Mr Russell Vick involved the County Landscape Architect, who has supported alternative proposals for HDC by Mr Duckett of HDA [HDC27]. These relate to Area D and part of the rim around Area C, but not Area A. The basis on which Horsham's 'alternative' is promoted is flawed. They labour under the false impression that if they provide a 'better' scheme than the appeal proposals, then the appeal proposals should fall.

5.6.3 At the inquiry HDC produced evidence of a more extensive, more expensive and more radical approach to the treatment of Area D, without ever consulting the site owners, Mr Duckett did not use the current situation as the baseline for landscape assessment, but instead took a notional (and purely imaginary) greenfield baseline. His baseline is not described or identified in their evidence, although Mr Duckett accepted that this was his case in cross-examination.

5.6.4 HDC then argued that because their alternative 'better' meets the requirements of the development plan, the appeal scheme should be rejected. Even if they were right that their scheme is 'better', the proposition is misconceived. Their alternative is not the subject of an application for planning permission, nor has it been the subject of an EIA. The appellant's application must be either accepted or rejected on its own merits, regardless of whether there is some other way of doing it. The correct proposition is: in the light of the development plan and other material considerations do the development proposals as a whole enhance the character and appearance of the AONB? [PPG 1 and PPG 7].

5.6.5 'Enhancement' of the AONB is the test set in the development plan policies, especially UB1 and Chapter 14 of the HDLP. This is expressed in various ways in the requirements of the policy. But in each case the question must be concerned with *change relative to the existing situation*. There is no requirement for restoration, and no one has suggested any scheme which entirely remediates the site as a practical proposition. All parties accept that major development will be a significant part of the development proposals. There is no requirement in the development plan to leave any part of the site undeveloped.

- 5.6.6 The non-development of Area D in its entirety is an enormous benefit, especially given its existing use rights and the very limited nature of the romp requirements for restoration.
- 5.6.7 Rather than accepting this, HDC have suggested that in some way the guidance in the supporting text of the HDLP can only be complied with by a scheme such as theirs [CD3, Ch14]. However, there is:
- (i) No requirement to keep Area D free from development in any part of the statutory development plan. The appeal proposals exceed Policy UB1 requirements in this respect.
  - (ii) As a matter of construction, the supporting text [#14.6] indicates a series of development benches with screen planting. No-one has suggested that such an approach is preferable to the approach taken by the appeal Masterplan and Mr Russell-Vick's landscape proposals for Area D.
  - (iii) Whilst '*substantial landforming and landscaping*' is a means to an end, it is not an objective. From the context of Chapter 14 it was perceived as being one way of reducing the impact of the cliffs in views into the site, especially from the west.
  - (iv) The appellants' approach to treatment of Area D is a legitimate landscape response to the remediation of the site, following the Llewelyn Davies report, as Mr Small agreed [CD33 Fig 3.2]. Although Llewelyn Davies considered the alternative type of approach which would reduce or remove the cliffs by regarding, as promoted by SDCB at the time, they considered that the SDCB approach failed to strike the appropriate balance between landscape and ecological interests. In the event the report recommended a landscape solution which is strikingly similar to that promoted for Area D by the appellants.
  - (v) There has been no criticism from any objector of the ecological approach and achievements which would accompany the appeal scheme. The appellant's approach has been endorsed by a number of bodies including English Nature and the Sussex Wildlife Trust, who withdrew their objection concerning effects on ecology. Dr Hill agreed in cross-examination that it was 'best practice'.
  - (vi) The proposal creates about 10ha of chalk grassland, whose viability as such is not questioned, in a location where presently there is none.
  - (vii) There are no questions raised by objectors as to whether the proposals are realistic, achievable and will produce the effects which the appellants claim.
  - (viii) By contrast, the HDA proposals have raised all kinds of suspicions as to their practicality and their benefits are overstated. The evidence of Mr Russell-Vick and Ms Fisher showed there were significant weaknesses in the HDA scheme. These included: the predominant need for excessively steep slopes; the arête edge against the Anchor Bottom boundary; the hanging dry valley effect identified by the Inspector. Plants would not grow as suggested on the 1 in 2 slopes, which would remain as white scars, the effect being similar to that which already exists.

To achieve good re-vegetation, geotextiles would be required; these are expensive, ugly and unlikely to produce good results in these circumstances.

- (ix) Most importantly, they would be highly damaging to important ecological interest in the site.
- (x) The appeal proposals are within a budget which ensures that they can be achieved as part of the overall package. The HDA proposals cost over £1m more. These extra costs would render the development unviable.
- (xi) Both Mr Duckett and Mr Small accepted that the appeal proposals do not preclude further iterative landscape work if funds were available and it was considered desirable to do so.
- (xii) No one has provided any evidence to suggest that any better scheme than that produced could be achieved within the budget of Mr Russell-Vick - a budget that was not challenged.
- (xiii) The scheme does involve substantial landforming (72,500 cu metres of chalk would be moved).

5.6.8 The HDA scheme is not a true alternative. It is not the subject of an application, has never been the subject of EIA and has not been the subject of other than the most abridged consultation with other bodies, and then on the basis of incomplete information. It cannot be treated as part of a fall back position; there is no realistic prospect of it being implemented. Nor can it be treated as a benchmark; it raises too many questions to be treated as reliable.

5.6.9 It leaves many questions unanswered. There must be very serious concern about the direct environmental losses which it would cause: protected species (peregrines lost from the site altogether, total loss of habitat for another protected species (lizard) direct loss of (in excess of 1ha of existing established chalk grassland. Its benefits are clearly overstated. All of the examples of other restored sites show that chalk grassland cannot be properly established on a 1 in 2 slope. No examples have been provided to the inquiry of successful establishment of true chalk grassland on any other site where the slope is steeper than 1 in 3 without the import of soils.

5.6.10 The examples put forward by HDA, on close inspection, demonstrate all of the defects suspected by Mr Russell-Vick and Ms Fisher: erosion, colonisation by non-natural or characteristic species, dominated by weedy growth and simply poor establishment of any kind of sward, unless soiling carried out, leaving the white chalk grinning through.

5.6.11 The landscape impact of the appeal scheme as a whole should be considered as to whether it would enhance the current situation, using Mr Russell-Vick's analysis, which accords with that recommended by the Landscape Institute [CA9/B]. For example, comparison of residual impact with existing impact by HDA shows no difference from Viewpoints 4, 31, (photomontage C) 42, 47 (photomontage D) and 62. In each case there is a very clear and important change – the renewal of built structures associated with the cement works. In examples 31,42 and 47 there is the direct loss of full views of virtually the entirety of the cement works buildings.

- 5.6.12 Yet the HDA approach simply fails to register this significant or substantial beneficial change; if the evaluation does include the effect of the buildings the method completely fails to express this very substantial benefit and does not allow one to draw accurate conclusions as to the true extent of change. There are two important criticisms of the HDA approach, which is fundamentally flawed. Firstly it requires assessment against a notional '*greenfield*' baseline. It is one thing to have to envisage a proposal against an existing objectively visible situation but quite another to have to envisage a future proposal against some notional and unknown situation. Mr Duckett's method further assumes that the quarry faces are part of the development, a fundamentally wrong proposition.
- 5.6.13 Secondly, Mr Duckett seems to give little real weight to the removal of the Cement Works buildings. It is recognised that there is a relationship between distance and the dominant features of the site. In close views the buildings and structures are clearly more dominant. Only in the longer views are the faces of the quarry the more visually dominant feature. However, the removal of the buildings and structures is perceived as being a priority in a number of independent published assessments of the site, most notably CD 32 and 33. The HDA approach has given too little weight to the importance of the removal of these structures and buildings.
- 5.6.14 Mr Russell-Vick's analysis provides an excellent basis for assessing the extent and degree of enhancement:
- (i) The 72 viewpoints are agreed as representing the key viewpoints of the site.
  - (ii) In none of those viewpoints do the appeal proposals produce a negative visual impact.
  - (iii) In 45 of the 71 viewpoints the appeal proposals cause a beneficial effect on the visual impact of the scheme.
  - (iv) Within those 45 viewpoints, 14 of them benefit from the creation of the grassy coombe within the floor of Area D.
  - (v) Those viewpoints are at the most sensitive points from which views into the quarry are obtained.
- 5.6.15 In summary, the appeal proposals achieve, overall, a substantial beneficial impact on the environment and from the most public and most sensitive locations in the area.
- 5.6.16 Turning to Area A, the removal of the bulky, high industrial buildings is a major benefit in itself. Great care has been taken to provide a form of development which will be perceived as familiar and attractive within the Downland environment. Instead of welcoming this, HDC have put forward the most esoteric of criticisms: that part of the main street has buildings on only one side; and that the site should be treated as if it fell within the floodplain character area, where settlements do not occur.
- 5.6.17 The elevation illustrations by Neil Holland compare very favourably with the dereliction which prevails on site A currently. After carefully balancing the visual considerations, the appellants decided that the housing development should face outwards. It will not be

experienced as incongruent, as is the existing situation as described in the SDCB publications [CD15 & CD16].

5.6.18 As to whether the development will be perceived as inappropriate because Site A should be properly considered as being flood plain in character rather than chalk valley:-

- (i) the character assessment which has been adopted by both Adur and Horsham as SPG identifies this area as being chalk valley;
- (ii) the 'rule' that there are no settlements within flood plain character areas has its exceptions – Upper Beeding is a good example;
- (iii) the proposition that the development of Area A is unacceptable because it falls within one character area rather than another is really of academic interest only. Area A is already developed out with massive concrete industrial buildings. For most people the replacement of tall, bulky, grim, ugly cement works buildings amongst extensive hard standing by high quality, architect designed, Sussex village vernacular, rural buildings in a landscaped environment, will be perceived as a dramatic improvement.

## 5.7 SUSTAINABILITY, TRANSPORT, HIGHWAYS AND TRAFFIC

5.7.1 Following the careful evolution of the development proposals, only two matters at issue remain: the 'sustainability' of the location for housing development; and whether the traffic generated by the development would unacceptably reduce the performance of the A283. The Highway Authority accept that proposals for access, parking and internal circulation are satisfactory. There is no issue of safety which arises with the proposals. Indeed the proposals make a major contribution to the enhancement of the A283. [CA5A #7.4.4-9]. Further financial contributions are made to enhance the local bus services, cycle and pedestrian routes – a total package, to be provided by section 106 obligation to the value of £735,000. In any terms, this is a major contribution to local transport choice to the benefit of local communities.

### Sustainability

5.7.2 No one has raised any substantive challenge to the sustainability of the appeal site as a location for employment development. Mr Stapleton and Mr Boulter both gave direct evidence of new employment sites attracting new employers, for example at Brighton, Fishersgate Worthing and Chichester. In any case, the freeing up of old and existing employment stock can often lead to refurbishment of outdated and obsolete buildings, as Messrs Stapleton and Boulter showed by reference to local examples. The retention of employment land is a matter for development control in the two distinct authorities.

5.7.3 All the evidence is that this site is very well located as an employment site. Inevitably, assessments of its value to the PAER and the sub-region can only be estimated at present. However, there is a clear advantage to providing employment at this site, which lies within 15 minutes drive of the Brighton and Hove, Worthing and within half an hour of the Crawley/Gatwick conurbation. If developed for B1 and B2 uses, the provision of nearly 1000 full time jobs will be a major boost for the local economy. As a location for employment development, in accordance with both AR4 of the ADCLP and UB1 of the HDLP, the site could make an important and high quality contribution to employment



development needs of the area. The overall effect of this is likely to reduce 'out-commuting' from the coastal towns, as well as strengthening the 'fragile economy' of the area.

- 5.7.4 So far as the hotel and pub/restaurant are concerned, none of the objectors has taken issue with the provision of these elements of the developments – indeed, again, they are welcomed as providing facilities which are poorly provided for in the area.
- 5.7.5 It is the provision of housing in this location which has caused the greatest controversy. Only two issues arise; firstly the principle of housing development at the appeal site; and, secondly, its location on site A.
- 5.7.6 It has not been disputed that housing would be far less visually damaging than employment, or that commercial development would generate more traffic. Indeed, having regard to the illustrative designs by Neil Holland, such development would be attractive and appropriate in this downland setting. Housing would be a visually acceptable form of replacement for existing development on Area A and would be superior to any conceivable commercial development. It would not cause harm to the AONB and, given the current visual impact of the site would enhance the natural beauty, character and appearance of the AONB in this area.
- 5.7.7 The attack on the location of housing at the appeal site has had two limbs. Firstly, it has been argued that the Development Plan does not identify the site for housing development. This argument has already been considered above; it is wholly unconvincing as justification for refusal of permission as part of this mixed development.
- 5.7.8 Secondly, it is suggested that if the site were to be considered in accordance with the procedures for allocation of sites for housing, in accordance with PPG3, the site would not be allocated. This may or may not be correct, but it is irrelevant. The arguments for including the housing element within the sites are not founded in meeting the housing requirements of the development plan. Indeed the whole approach of trying to subject this site to a process of evaluation, as if it were part of a PPG3 local plan allocation process, is misconceived.
- 5.7.9 The principal justification for housing on the site is to provide a form of development which will achieve a high value predictable receipt early in the development process. It will meet the high up front costs (including the S.106 obligations) – not only the costs of demolition, but also all the landscaping, highway improvements and the entire transport and safety package, as well as the preparation and implementation of the site's infrastructure.
- 5.7.10 The LPAs have insisted that the appellants should be tied in by a S.106 undertaking and conditions to provide all of the landscape, highways, transport and infrastructure works at an early stage of development. So remote from commercial reality is HDC that they also wanted to see some kind of requirement to complete the whole of the rest of the commercial development 'up front'. In other words, they would rely on a speculative commercial development to deliver all of the requirements with which they have sought to burden this development.
- 5.7.11 Housing is the key which will unlock the development of the site. However, it also meets other objectives. As noted above, it is far less damaging than commercial development.

Its footprint is less for the same value of development. It generates less traffic than the same value of development. Mr Sheehan's evidence regarding employment development generating greater travel than residential was unchallenged [CA5/A, section 9.8]. Housing also contributes to the sustainability of the development as a whole.

5.7.12 It is certainly right to say that until the employment development is constructed, most of the occupiers of site A would work elsewhere. The fact that the employment development will follow at least the first pioneers of the housing development means that the first occupiers are not likely to be drawn there by prospects of specific employment in close proximity. However, in the longer term, there is no reason why the housing development should not develop a close relationship with the commercial uses on sites B and C. This is particularly the case with part-time employment, which tends to be opportunistic in nature. At this location it would be encouraged by the proximity of the substantial proposals for employment.

5.7.13 There is, generally, a dearth of hard evidence on this subject. However, the guiding principle of support for mixed development, found as a key theme running through planning policy guidance [PPGs 1, 3, 13 etc] means that it is reasonable to assume that having an element of housing close to a major employment site unusually located in the countryside, will help to contribute to the sustainability of the site as a whole. The arithmetic of Mr Fidgett showed that the relationship is such that the scale of the housing development could never supply more than about 20% of the workforce. I submit that this is an appropriate relationship of scale. If, in the long term such a contribution could be achieved, it would justify claims for the sustainability benefits of mixed development on the site.

5.7.14 Thirdly, despite its rural location, the site is not unacceptably located relative to services and facilities.

- There will be a bus service running three times an hour linking the site to both Shoreham and Upper Beeding and Steyning - journeys which will take only a few minutes.
- The links to Shoreham Station (and indeed Shoreham Airport) are especially significant. Shoreham Station has direct links with all of the major Sussex Coast conurbations, including the City of Brighton & Hove, Worthing and Chichester. [CA5/C p 273-277]
- Although there would be some services on site, including the pub, small convenience store etc., residents would be in a similar position to that of the residents of Dacre Gardens. However, the bus service would be 3 times as frequent, the cycle path and footpath improvements would mean that facilities in Upper Beeding are accessible by cycle or on foot. School children could attend both the primary school in Upper Beeding and the secondary school in Steyning by means of a vastly improved bus service.
- Mr Fidgett's evidence contains details of the scale and extent of facilities in the villages of Steyning, Bramber and Upper Beeding [CA6/A].

5.7.15 Sustainability tends to have been defined by objectors in narrow terms by reference to proximity to services and facilities for residential development. Of course, the

government policy goes much wider and includes maintenance of high and stable levels of economic growth and employment, reducing social exclusion, protecting and enhancing the countryside and protecting wildlife.<sup>6</sup>

5.7.16 It would be wrong to look at the housing element of this site in isolation. It is the sustainability of the entire package that should be considered, given that housing is crucial to the viability of the entire project. When looked at both as a whole, and holistically, in terms of sustainability, the project hits key Government targets:

- It is entirely on previously developed land (which in turn takes pressure off development on greenfield sites).
- The development is mixed development, with the housing element subsidiary to the employment development.
- The development will make a major contribution to economic regeneration in an area of high unemployment and economic fragility.
- The developer contribution to transport provides (and increases for existing residents) choice of mode of transport and improves facilities for walkers, cyclists and users of public transport as well as increasing safety for motorists.
- The improvements to public transport will assist in achieving social inclusion. The presence of a new residential community will assist in contributing to viability of local services and facilities.
- The appeal proposals make a massive contribution to enhancing the AONB, a natural resource of national importance.
- Significant ecological benefits result, including the securing, in perpetuity of the nationally scarce chalk grassland, the habitats for the protected species of birds and reptiles within the site.
- The site would contribute to affordable housing – which is especially needed in the rural areas. In fact the position of HDC in requiring affordable housing at the usual rate on site undermines their case on sustainability.

5.7.17 This is a privately-owned site and the development proposed is, as the development plan envisages, a pure private sector development. There is no serious prospect of SEEDA or anyone else providing public funding while the site is capable of being developed, in accordance with the objectives of the development plan, through a viable private scheme. There is no serious prospect of any publicly promoted and funded alternative to the appeal scheme. There is nothing to prevent the owner from reverting to full exploitation of the lawful use rights which the site enjoys, unconditionally. The proposals, considered as a whole, and in the light of government policies, represent a highly sustainable form of development which should be welcomed.

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<sup>6</sup> See 'A Better Quality of Life' A strategy for sustainable development for the UK Cm 4345 page 4.

## Highway Capacity

- 5.7.18 The question is whether the traffic which may be generated by the development would unacceptably affect the performance of the A283. The only concern is southbound traffic, at am peak hour. The starting point of the County Council's position is that if the development was to be subject to a condition which restricts use of Area C to B8 only, they would not object on the basis of highway capacity, as Mr Barratt accepted in cross-examination. This is because the County Council considers that the projected flow in the design year of 2006 with the development, but no B2 uses, is 1410 vehicles per hour southbound, at am peak, to the north of the site. Their concern did not relate to safety – merely reductions in traffic speeds.
- 5.7.19 Mr Sheehan produced evidence of historic data where, because of roadworks on the A27, larger numbers of vehicles used the A283. With vehicle numbers in excess of 1480 vph in the a.m. peak, southbound average speeds over the link dropped to 43 mph. This is a perfectly acceptable speed for rush hour conditions on a road where the County Council themselves intend to introduce a 50 mph speed limit.
- 5.7.20 If all of site C was to be devoted to B2 uses, predicted flows in the design year would be 1458. Mr Barratt was prepared to reduce this to 1428, taking account of modal shift due to the travel plan and WSCC traffic reduction measures [HDC20 # 2.3.3].
- 5.7.21 The signalisation of access to the site, which would essentially accompany any major development of the site would cause reductions in traffic speed in any case. Mr Sheehan pointed out that when motorists find their journey unacceptably affected by congestion, 'peak spreading' would occur. Even with the high levels of flow on the road in the past, the traffic speeds had not unacceptably affected the performance of the road.
- 5.7.22 The potential for reduction in the performance of the link needs to be weighed against the importance of not restricting the use to B8. This could seriously affect the appeal of the Business Park and the potential to deliver a development of great importance to the Coastal Towns. B2 development would deliver up to 400 jobs more than all B8. Whilst in practice the likelihood is that there would be a mix of B2 and B8, it is submitted that the small reduction in highway network performance for one hour of the day in one direction only is an acceptable price to pay for the benefits to the community from the development.
- 5.7.23 HDC raised the issue that some further design year should be considered where, because of the growth in traffic, problems would emerge in future years [ref HDC 19]. There is no basis for taking this approach. The highway authority agreed to 2006 as the design year. If later years were to be taken, almost any level of development anywhere could be ruled out at some point. The HDC suggestion that the housing development could be taken out of the equation misses the point. Not only is housing essential to the viability of the development, but it is common ground that housing generates lower levels of traffic than does B2 use [CA5/D Section 3.5].

## Conclusions

- 5.7.24 When seen as part of the overall package for the site and the major contributions to improvement of choice of modes of transport from the site, as well as the substantial contribution to enhancement of the A283, the appeal proposals as a whole bring many

benefits, are sustainable, offer choice and accord with Government policy. Their effect on the operation of the highway network is acceptable.

## 5.8 ECOLOGY

### Peregrines and Ravens

- 5.8.1 Peregrine Falcons are a Schedule 1 species<sup>7</sup>. They are afforded special protection by Parliament, supported by penal measures for their destruction or interference. This was only the second site in W. Sussex to be colonised by Peregrines and they are one of only 4 breeding pairs in W. Sussex. It is agreed between the parties that it would be unacceptable to lose the Peregrines from the site as a result of development. It is also agreed that any scheme which would bear a real likelihood or risk of causing the loss of the birds from this site would not be an acceptable alternative.
- 5.8.2 Dr Hill accepted in cross-examination that there would be a risk of the birds leaving the site if their existing nest was destroyed and they were compelled to use alternative nesting sites created in the western part of the north facing quarry faces. On the other hand, the Peregrines being voluntarily relocated to the newly created nesting sites provided as part of the appeal scheme mitigation there is now agreed to be no real risk of them leaving as a result of implementation of the appeal scheme.
- 5.8.3 By contrast the HDA proposals, which destroy 80% of the cliff habitat in Area D, would be likely to lead to the loss of the Peregrines from this site. They destroy the entirety of the area which the birds most favour, where most (80%) of their activity takes place, and where they next, roost, raise their young, train to hunt, store food [CA12/A].
- 5.8.4 The part of the site which they are 'offered' by the HDA scheme is an area which they do not favour (only sighted there on one occasion in three years). It is the most friable part of the quarry face in Area D, whereas the area chosen by Mr Shawyer, most favoured by the peregrines, is the most stable. Mr Shawyer explained how the HDA proposed nesting area was subject to major face collapse. He explained how the falcons needed the entirety of the habitat. It is unacceptable to reduce the habitat to a mere residual 200 metres of cliff face.
- 5.8.5 Mr Shawyer had studied the site over 3 years, regularly visiting and observing the site. Dr Hill accepted his work as being 'best practice' (XX Hill). The successful relocation of the birds without the destruction of their old nest has occurred for the first time in the UK. No further relocation is necessary with the appeal scheme.
- 5.8.6 Dr Hill visited the site for the first time the night before he gave evidence. He had no direct experience of relocating either Peregrines or Ravens. He had not studied these birds. He had only been consulted for the first time 2 weeks before, once the inquiry had started. He had not been involved in the preparation of the HDA scheme. By contrast, Mr Shawyer had been involved in the creation of the appeal proposals for Area D.

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<sup>7</sup> Schedule 1 Part 1 of Wildlife and Countryside Act 1981.

- 5.8.7 Dr Hill agreed that engineering works for the stabilisation of cliffs to create a suitable habitat for Peregrines had been neither costed, nor was there any evidence of their extent or nature that would be necessary to stabilise the quarry for the HDA scheme. Mr Shawyer saw such works as '*substantial*'. There is no evidence on the extent or nature or even the viability of such works. Mr Shawyer concluded that even with such works the Peregrines would '*certainly*' be lost from the site and probably so would the Ravens too.
- 5.8.8 Dr Hill accepted that the Peregrines and Ravens are still persecuted, stolen and destroyed; their eggs taken by criminal collectors. The appeal proposals are highly defensible, the only access into Area D being through Area C which would be developed and under security surveillance. The HDA scheme was much less defensible, being open to access from any of the countryside around.
- 5.8.9 The site chosen for nesting for the HDA proposals was closest to the development in Area C and therefore more susceptible to disturbance. Whilst visual contact could be avoided, the proposed nesting sites for the Peregrines and the Ravens would be in close proximity to each other. Whilst they share habitat, they do not nest in sight of each other.
- 5.8.10 The appeal proposals provide excellent mitigation for protected bird species on the site. The alternative scheme for Area D is unacceptable and would lead to loss of this Schedule 1 species from the site.

#### Creation of Chalk Grassland

- 5.8.11. The appeal scheme leads to the creation of 10 ha of chalk grassland in Area D. This rare and precious habitat is appropriate and valuable in this location. It is a gain over and above the requirements of the local plan. There was no requirement of leave Area D free of development. It would create visual and landscape benefits. It is an important ecological benefit.

#### Ecological benefits adjacent to the River Adur in Area A

- 5.8.12 The landscaping and ecological enhancement to the River Adur corridor as a result of the scheme and described in Mr Russell-Vick's and Mrs Fisher's evidence is not disputed. Although other parties have suggested that they would have liked to have seen even greater areas dedicated to open space, the proposals provide a major enhancement of Area A, including carefully designed and appropriate ecological enhancement proposals.

#### Other ecological benefits

- 5.8.13 The site contains protected reptile species, whose habitat in the cliffs of Area D would be protected in perpetuity with the appeal scheme. The 'alternative' HDC proposals for site D would lead to the destruction of their habitat. Although they may be capable of translocation, the proposals for this have been proposed too late and are too superficial to be relied on.

## Conclusions

5.8.14 In respect of ecological enhancement, the appeal proposals result from three years of careful study and represent a major programme of enhancement of the ecology of the site. The provision of new habitats, including the creation of the 10 hectares of chalk grassland sward will substantially enhance and protect the ecological assets of the site. The only alternative proposals for the site which have been put forward by objectors would be highly damaging to the habitat of protected species and would be likely to lead to the loss of those species from the site.

## 5.9 FIRST SECRETARY OF STATE ISSUES

### Policies in PPG7

5.9.3 The Statement in the House made by Nicholas Raynsford MP, Housing and Planning Minister, in June 2000 means to all intents and purposes that the policy which relates to National Parks relates equally to AONBs. Therefore the prospect of National Park designation for this area, including the site, adds nothing to the degree of protection or the relevant policies relating to the site.

### *Conservation of the AONB*

5.9.4 There is no doubt that the development would not only conserve, but significantly enhance the natural beauty of the landscape. Indeed, none of the objectors has suggested otherwise. The appellants have considered natural beauty not merely as a cosmetic visual quality, but also as an ecological and wildlife resource. The SDCB considers the site '*with its decaying buildings, rusting structures and associated quarries, visible over a wide area of the AONB..*' as being the '*most significant eyesore in the Sussex Downs*'.

5.9.5 Firstly, the proposals provide for the demolition of buildings and structures which are singled out in the Countryside Commission's Landscape Assessment as being '*...particularly intrusive, not least because the buildings and chimney are so stark and monumental.*' [CD16 p.22]. This has been adopted as supplementary planning guidance by HDC and ADC.

5.9.6 The SDCB/CPRE/SWT Report 'Shoreham Cement Works Restoration Priorities and Opportunities [CD 32 June 2000] states: '*Its rapidly creeping dereliction betrays any limited industrial heritage value, which it might have had, and leaves impressions upon the beholder of overpowering decay, neglect and environmental abuse unworthy of the quality of the Sussex Downs AONB*'. The Report considered that the '*highest priority is to remove the discordant elements of Zones 1 and 2 and the buildings in zones 3 and 4.*'

5.9.7 The L-D report [CD33] considered that '*...the primary objective should be to reduce the visual impact of the site by the demolition and removal or the existing buildings and structures as soon as possible.*' The scheme entirely achieves this agreed priority objective. In itself, this represents a major enhancement of the landscape.

5.9.8 The proposals also lead to a programme of major landscaping and land forming, particularly in Area D, where 10 hectares of new chalk grassland are created, together with works to quarry faces to enhance their visual and wildlife character. The re-

dedication to countryside, in perpetuity, of this area of the site is a major enhancement to the natural beauty of the AONB.

- 5.9.9 In Area A, the improvements, creation of open space and the ecological and landscaping proposals will lead to a transformation which Mr Russell-Vick described as 'magical'. The proposed development will be in a properly designed landscape setting, will feature (particularly in Area A) buildings which will be experienced as appropriate and familiar in this rural downland location. The major commercial development will be largely hidden and screened out of view in Area C, while the Area B proposals and landscaping will be a major improvement on the current situation.
- 5.9.10 In summary, the proposals cause the substantial remediation and enhancement of this most damaged area and are wholly consistent with PPG7.

*Impact on economic and social well being of the area.*

- 5.9.11 The appeal proposals have clear social and economic benefits for the area, which fall into three categories.
- 5.9.12 These include, firstly, creation of a major new employment area, probably the most significant such area in the Coastal Towns PAER, including the whole of the City of Brighton and Hove. Whilst Horsham (to whom the site is more remote) tended not to appreciate its contribution, the strong support from Adur and their firm evidence of support demonstrates its significance. The evidence of Mr Stapleton and Mr Boulter in this regard was largely unchallenged.
- 5.9.13 Secondly, important features of the development are the contributions to public infrastructure. The major S.106 contributions (£735,000) to improvement of the A283 and other transport enhancements is clearly in the public interest. The improved bus service contributes to social inclusion and is available to the villages of Upper Beeding, Steyning and Bramber and improvements to cycle-path and footways brings wider benefits to social well-being. Significant contributions to affordable housing (or commuted payments in lieu thereof) are of great value, particularly here where rural affordable housing is recognised as a particular need of the area.
- 5.9.14 Thirdly, and probably most important of all, the enhancement of the AONB, the creation of a major high quality development and enhanced environment is probably the most important contribution to social well being in the area. It is expected to secure employment and reduce out commuting.

*The public interest*

- 5.9.15 The enhancement of the site has been accepted by all parties to be in the national interest and the development which achieves this meets the policy requirement in PPG7 # 4.5 and is plainly in the public interest. Similarly, the new employment development, infrastructure, social housing, etc is in the public interest.



*Need for the proposals and impact on the local economy*

5.9.16 This issue has been addressed above. The need to remediate the site in a landscape of national importance is demonstrably in the national interest. The benefits to the economic regeneration of the area are clear and acknowledged, not least by ADC.

*Cost and scope for development elsewhere*

5.9.17 Only on this site can the site be remediated. There is no prospect of development elsewhere achieving the remediation of this site. Whilst similar individual elements of the development may be achieved elsewhere, this would defeat the primary object of the development which is to enable the remediation of the site.

5.9.18 There is clear evidence that the employment development on this scale could not be achieved elsewhere. It is simply not good enough to suggest that, taken together, numerous small sites could achieve the same areas of new floorspace. This site offers the only site where a new business park of this scale and quality can be achieved, within the whole a single 'market area' of the coastal towns which Mr Stapleton identified between the A23 and the A24. The best evidence about this part of the Coastal Towns area is from him as the Chairman of the most prominent local commercial agent in the area. You only need to try to drive west through Worthing to realise that the Bognor, Chichester area is very different; likewise Newhaven to the east. The map at figure 3.1 of CD33 shows the area within 15 minutes travel time of the site.

*Extent of detrimental effect on landscape and extent to which moderated.*

5.9.25 The unanimous opinion is that the proposal would create a significant net enhancement of the environment. The new development on the site would be subject to extensive and appropriate landscape enhancement and it is intended that the buildings will be designed to a very high standard and use high quality materials appropriate to the AONB.

*Conclusions*

5.9.26 The proposals are entirely consistent with the requirements of PPG7.

*Compliance with PPG 3*

5.9.27 This site is being proposed to be developed for mixed use, including housing development not to meet need (although the housing does contribute to meeting that need) but for the primary and over-riding purpose of securing the financial viability of the proposals. Given the site-specific solution which the development proposals provide, it is not appropriate to assess the site in terms of the usual allocation process in PPG3. Nevertheless, the development meets key PPG 3 targets.

5.9.28 It takes place entirely on previously developed land (and reverts a major area of damaged brown-field land to countryside). Densities exceed the housing densities required in PPG3 # 58.

5.9.29 Despite its rural location, residents will have access to jobs, education, health facilities, shops, leisure and local services. Both Mr Sheehan and Mr Fidgett have given detailed factual evidence of this. The sustainability of the location is surprisingly good. Whilst many of these facilities are between two and three km from the site, there is a broad range of facilities in the settlements of Upper Beeding, Bramber and Steyning. All can be reached from the 20 minute bus service which will be provided by the proposal. New cycle and footpath improvements are to be provided. On site facilities of shop, pub, restaurant and of course, major new employment will not only serve the residential element of the development, but also the currently rather isolated Dacre Gardens.

5.9.30 The mix of housing on the site (and contribution to ADC's needs by commuted payment) help to meet the housing requirements of the whole community, including the special need for rural affordable housing.

5.9.31 No objector has argued that the level of parking does not meet the government's emphasis on securing sustainable residential environments. This is a rural location and although the proposals will enhance public transport, it is recognised that there will be high dependence on car use as a mode of travel.

#### PPG6 Key town centre uses.

5.9.32 The scheme does contain 12,000m<sup>2</sup> of office development. This is being developed as part of the mixed development and is seen as being a key part of the mixed use 'business park' concept, rather than a town centre use. Mr Stapleton gave unchallenged evidence that this will serve a particular need not served by town centre site - a '*different market*'. Other sites have been considered; Mr Stapleton has demonstrated that there is no other site in the area where the proposed mix and scale can be achieved. [CA10/A, p23-29]

#### PPG13 realistic choice of access.

5.9.33 Given that the proposal offers a wide choice of modes, including bus, car, cycle and foot, as well as enhanced and regular links to the main line railway at Shoreham Station (only 3 miles away), the site offers a realistic choice of access. The location of the site is not as sustainable as most urban sites, which is recognised by the appellant. Access to the site will rely heavily on the car as the primary means of access, in common with the whole of extra-urban Sussex [HDC17, App5]. Notwithstanding its rural location, considerable attention has been given to promoting sustainable transport choices as part of the development.

#### Compliance with PPG4

5.9.34 The proposal represents one of the most significant private sector commercial developments to be promoted within this area within the last ten years. The proposals are entirely in accordance with the requirements of PPG4. In particular, the new employment space is part of a mixed development. It would provide high quality new employment space, in all business use classes, with the potential for high tech, clustering, and with excellent connections to the PAER and the business community and national and international transport links provided in the Crawley/ Gatwick conurbation.

#### Accordance with development plan

5.9.35 The whole of the first section of the appellants' case deals with this subject. The proposals are in accordance with the development plan and accordingly carry the statutory presumption in favour of the development.

#### Environmental effects on the area, including traffic

5.9.36 There is no evidence of any significant impact on the environment caused by the additional traffic generated by the development. Evidence has been produced and the ES shows that the impacts on noise and air quality are negligible. All pollution and water quality issues have been resolved. The major environmental impacts which the development causes, in terms of landscape, ecology, and visual impact are substantial and positive.

#### Conditions

5.9.45 This has been subject of detailed consideration. The permissions should be granted subject to those conditions which have been provided in writing. Further requirements of the developer, in respect of matter of highway and transport, affordable housing, phasing and landscaping are provided in the section 106.

#### Other material considerations

5.9.46 A number of other matters have already been addressed. In particular, the detailed study by Lleweln Davies is of very considerable importance in providing an impartial and well-researched baseline. Commissioned by the three planning authorities, it has been adopted by Horsham District Council for the assessment of applications such as the appeal proposals. This document carries considerable weight; the conclusions of that lengthy study, where a whole range of alternatives were considered, chime very closely with the appeal proposals, not only with respect to content, but also to the landscape proposals for Area D.

5.9.47 Mr Austen's evidence on the engineering aspects of the application was not challenged, and was treated as agreed. It has been agreed between the parties that all outstanding questions relating to safety issues can be dealt with at the details stage after permission is granted.

#### 5.10 OVERALL CONCLUSIONS

5.10.1 The development proposals accord with the policies of the development plan and government policy. They will provide both a high quality contribution to the economy of the area and a major enhancement to the Sussex Downs AONB, finally providing a viable and attractive resolution of the future of a site which continues to be the single most damaging feature in the Sussex Downs.

## 6 The Case for Horsham District Council

### Introduction

6.1 The starting point for consideration of this appeal is the development plan. The appeal is to be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan comprises the West Sussex Structure Plan approved in 1993 and the Horsham District Local Plan adopted in 1997. The Structure Plan is now rather out of date and is shortly to be replaced by the new Plan that has already been considered by the panel of the examination in public. But the age of the Structure Plan is of little concern here because the Local Plan has a policy specific to the appeal site and to its redevelopment. The appellants do not suggest that the appeal proposals should not satisfy the requirements of the Local Plan.

### *The Development Plan*

6.2 In deciding whether a proposal is in accordance with the development plan it is right that one does not look to see whether it meets every aspect of every policy in the plan<sup>8</sup> but rather a judgement has to be made overall as to whether the application is in accordance with the development plan considered as a whole. A conflict with one particular aspect of the plan does not render a proposal not in accordance with the plan. But here Policy UB1 and its reasoned justification is specific to redevelopment of this particular site. It is a part of the plan that was expressly considered by the local plan inspector and supported by him with a recommendation that the types of 'very limited' housing acceptable on the site be specified in the reasoned justification<sup>9</sup>. That recommendation was followed. The development plan requirements for redevelopment of this site are very fully set out in the policy and the reasoned justification for it and it is the submission of the District Council that the appeal proposals do not meet fundamental aspects of those requirements. The proposal is not in accordance with the development plan. The conflicts are as follows.

### *Housing*

6.3 There is no express reference in the policy itself to housing being acceptable on the site. The policy requires the development to be predominantly for business and leisure uses. Indeed the reasoned justification explains that a detailed appraisal had been carried out of the Steyning, Bamber and Upper Beeding area as a whole and as a result the development plan proposed that in that area, which of course includes the appeal site, residential development should be contained within the existing built up area as defined in the Plan unless limited to the exception for local people unable to compete in the existing housing market. The appeal site is not of course within a built up area defined in the Plan<sup>10</sup> - indeed it is some 2kms outside the nearest- and whilst an element of affordable housing is offered, the housing scheme is predominantly for open market housing and it has not been suggested that it comes within the relevant rural exceptions policy of the plan<sup>11</sup>.

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<sup>8</sup> See *R v Rochdale BC ex p Milne* [2001] JPL 470 #50-51

<sup>9</sup> AWS PoE HDC1 #.2.2.2

<sup>10</sup> See Inset 36 in Vol 3 of the LP CD3

<sup>11</sup> HS6 CD 2 p.89

- 6.4 It is clear that the judgement was formed in the extensive processes leading up to the adoption of the Local Plan that this area is not a suitable or sustainable one for significant new housing. Indeed that judgement continues to be the view of the Council as expressed in the Settlement Sustainability Analysis<sup>12</sup> - that even the settlements in this area are not sustainable locations for significant amounts of new housing other than that to meet essentially local needs. Even less so is a site some 2 kms from the nearest settlement.
- 6.5 The reasoned justification for UB1 accepts that at Shoreham Cement Works there is an opportunity for *'a major business development ...incorporating an element of leisure or recreational provision and, possibly, some limited housing'*.<sup>13</sup> What is meant by that is fully explained at 14.9: it must be *'linked very closely with the main business or leisure uses...and specifically justified by virtue of providing (i) the residential element of workplace units or dwellings or (ii) dwellings necessary for the operation and management of leisure uses.'* The local plan inspector saw no fundamental objection to those limited types of residential accommodation and recommended that the Council clarify in the reasoned justification in the adopted plan *'the very limited residential developments which would be acceptable in association with the main business and leisure uses.'*<sup>14</sup> By expressing himself in that way the Inspector was clearly indicating that the scale of any housing was indeed to be very small and that ordinary open market housing was not acceptable on this site.
- 6.6 Furthermore, as he accepted only *'very limited residential housing'* he was not contemplating that the Plan should allow for such open market housing as the enabling element for the comprehensive redevelopment of the site. He could not have expressed himself in that way and at the same time contemplated that such very limited *'special'* housing could provide the enabling element of a substantial comprehensive scheme. A *'linkage'* of substantial open market housing to the business development by providing funding for the land forming and landscaping is clearly not what the Inspector or the Council contemplated nor is it what the wording of the development plan provides for.
- 6.7 The *'very close linkage'* contemplated in the Plan is a functional linkage with the business or leisure uses – a linkage echoed in the emerging Structure Plan with its reference to *'ancillary development for uses such as homes ...(as) only a small part of the overall scheme'*<sup>15</sup> Mr Kilford for WSCC explained in answer to the Inspector's question that ancillary was the word used to mean having a functional link. The highest the appellants seek to argue such a link is to suggest that having houses across the A283 from the business development would give the occupants of the houses the opportunity to work within that business development<sup>16</sup>. That is no functional link at all let alone a very close one. In any event there is no evidence of the extent if any that residents work in adjoining business parks. PPG13 warns against any glib assumptions that juxtaposing uses means that people do not drive away to carry out that juxtaposed use elsewhere.<sup>17</sup> Furthermore, the intention of the appellants is that the houses would be built before the business development so the first occupants would not even have that opportunity of working in the business development.
- 6.8 So the housing proposals do not satisfy the development plan requirements that they be very closely linked with the main business and leisure uses. They clearly do not come within any

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<sup>12</sup> CD 34 p.50

<sup>13</sup> CD3 rj 14.1

<sup>14</sup> HDC1 p.9 Inspector's recommendation 6.3.8(b)

<sup>15</sup> CD8A NE6 em #154

<sup>16</sup> SF in XX by RPL

<sup>17</sup> PPG13 #30

of the types of very limited residential development that the Plan sees - supported by the Local Plan Inspector- as acceptable.

6.9 They are also not limited or 'very limited' in extent. 84 dwellings is substantial housing development. If it were an allocation it would be the sixth largest of the 40 sites allocated in the whole district in the local plan<sup>18</sup>. Nor do they become limited in extent by the artificial expedient of dividing what is in truth one housing development into two parts by relying on the districts' boundary, as suggested by Mr Clay in re-examination of Mr Fidgett. Even then there would be a substantial number of houses in Horsham and the Adur plan is no more welcoming of housing on this site. The Council does not accept that a proper judgement as to whether the housing is limited in extent is formed by a simple calculation of the respective areas of built development<sup>19</sup>. In any event that exercise shows that the housing site on Area A amounts to some 18%<sup>20</sup> to 20%<sup>21</sup> of the overall development footprint and that is comparing it with an area including Area C proposed for some very big footprint buildings. That is not limited housing particularly on a site in the countryside some 2kms from the nearest village.

6.10 There are no other policies of the development plan which support residential development on this site and the appellants have not suggested any. The proposal for 84 houses on this site in itself is not in accordance with the development plan.

*The nature of the development on Area A*

6.11 Furthermore, UB1 expressly requires any redevelopment of the area to the west of the A283 (Area A) to be based on the principle of a significant reduction in the mass of buildings so that the resultant open space that is created can contribute towards the leisure and recreational needs of the Adur Valley and Sussex Downs AONB<sup>22</sup>. The reasoned justification looks for a significant contribution to those leisure and recreation needs and that any new building is within a reduced land area from the current buildings<sup>23</sup>. The footprint of the existing buildings is some 4600m<sup>2</sup><sup>24</sup>. The footprint of the proposed houses is some 7000m<sup>2</sup><sup>25</sup> - a more than 50% increase in floor cover on the Council's figures and a 16% increase even on the appellants' figures. The comparison which the appellants seek to make between the hard surfaced areas of the existing and the hard surfaces areas of the proposed<sup>26</sup> is not the relevant or therefore a valid comparison because it is a reduction on the impact of the buildings in Area A within the AOND that Policy UB1 is seeking to achieve. It is clear on site that the proposed housing would extend over a substantial area of Area A and that a more open area sought by the Plan which can make a significant contribution to leisure needs would not be realised by the appeal proposals. The open space that is proposed to an extent is required to serve the dual purpose of play and amenity areas for the proposed housing and as public open space. The Coastal Link would be running alongside and through extensive proposed landscaping<sup>27</sup>. However for some of its length it would be alongside the 3 storey wharf type housing and for a further length alongside the outer access road to the proposed housing with the housing itself on the other side of that road. The contribution to

<sup>18</sup> CD2 p.85-86.

<sup>19</sup> CA/6 # 6.2.43 cf. HDC 1 #3.4.4

<sup>20</sup> CA/6 #6.2.43

<sup>21</sup> Planning Statement in CD27 #6.2.28

<sup>22</sup> CD3 UB1 #(ii)(e)

<sup>23</sup> CD3 r j #14.8

<sup>24</sup> HDC1#3.6.34 - cf. CA/6A&E App.6 4700m<sup>2</sup>

<sup>25</sup> HDC1#3.6.34 - cf. 5473m<sup>2</sup> CA/6A&E App.6

<sup>26</sup> CA/6A&E App.6

<sup>27</sup> CA/9B&C PRV3, 7 and 8

the experience of the AONB and the enjoyment of the Coastal Link would be limited and not be the significant contribution the reasoned justification says the redevelopment 'must be based on'.

### *Reducing the impact of the Quarry*

- 6.12 It is an express requirement of the Plan that there be '*substantial land forming and landscape measures in order to reduce the impact of the site in local and distant views, including views of the quarry slopes*'.<sup>28</sup> The reasoned justification goes on to explain that it is the two elements of the removal of the buildings and structures and the recreation in part of the former downland landscape that constitute the compelling reasons to allow the redevelopment of the works.<sup>29</sup> The use of the phrase 'compelling' reasons is a reference to the site being in the AONB where the Plan requires compelling circumstances to allow development<sup>30</sup>. The importance of the substantial land forming is stressed again in the reasoned justification with the explanation that the basis of the redevelopment proposals should be to create a new landscape structure for the former quarry which is more in keeping with the chalkland landscape from which it was originally carved. It goes on to require the mitigation measures to concentrate on the most prominent vertical faces of the quarry which should be re-graded as far as possible.<sup>31</sup>
- 6.13 Those passages bring home the importance for any scheme which is to be in accordance with the development plan to address the quarry itself, particularly Area D, with substantial landforming to reduce the impact of those quarry sides with a part re-creation of the original chalkland landscape. Mr Fidgett agreed in cross examination that there are three particular requirements:
- substantial landforming ;
  - recreation in part of the downland landscape; and
  - reduction of the impact of the quarry sides – indeed a concentration on those vertical sides which are to be re-graded as far as possible.
- 6.14 The appeal proposals do not satisfy those requirements. What is proposed is illustrated on PRV23<sup>32</sup>. None of those three requirements is met. Instead there is what Mr Fidgett calls a pragmatic approach. It would create a '*gentle valley feature at the base of the quarry*' in Mr Russell-Vick's words. How gentle it would be is illustrated by Mr Duckett's plan which shows regular 5m contours<sup>33</sup>. The sense of a quarry would not be removed. Its strong rectilinear form and deep excavation would remain forever, as Mr Russell-Vick says in his evidence, extending over a wide area.
- 6.15 The importance of addressing the quarry is stressed not only in the development plan but also by the Countryside Commission in the Landscape Assessment of the Sussex Downs prepared for them. There the quarry is described as having 'sliced abruptly into the valley side, creating a deep gash which is highly visible in longer views from the

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<sup>28</sup> CD3 UB1 (ii) (c)

<sup>29</sup> CD3 rj#14.3

<sup>30</sup> CD2 CS2 p.26

<sup>31</sup> CD3 rj#14.6

<sup>32</sup> CA9/B

<sup>33</sup> HDC16

surrounding open chalklands'<sup>34</sup>. Mr Russell- Vick accepted that is a description of Area D. He himself described it thus: '*Area D is a hugely intrusive form in this landscape*'. Mr Boulter agreed, reminding us that the landscape assessment and the Zone of Visual Influence (ZVI) analysis identified that the existing chalk quarry within Area D generates the greatest overall adverse impact of the site as a whole within the AONB and also the widest ranging zone of visual impact. The Commission's Report observed that 'it may occasionally be appropriate to consider the partial infilling of particularly large, visually intrusive quarries such as that within the Adur Valley.'<sup>35</sup> Again Mr Russell-Vick accepted that as being a reference to this quarry.

- 6.16 The SDCB too in their Report on Shoreham Cement Works described Area D (their Zone 1) as '*a very stark angular bite out of the hillside relating to neither downland, nor valley form, colour or texture*'<sup>36</sup> whose '*zone of visual influence is approximately 13 km<sup>2</sup> and includes key downland viewpoints ...it is particularly notable that it is visible from the whole width of the AONB*'<sup>37</sup>. The restoration of that zone is seen as the first priority together with the removal of the buildings<sup>38</sup>. Whilst the impracticability of full restoration is recognised in that document, those references show how the SDCB also recognise the importance of addressing the most prominent vertical faces of the quarry – as the development plan does.
- 6.17 The appeal proposals do not meet the requirements of the development plan in relation to the quarry in Area D and are too far along the conservative side of the spectrum as Mr Russell-Vick described it. The methodology of Mr Duckett enables the residual impacts of the quarry after the appeal proposals have been carried out to be identified and assessed. That is the advantage of that methodology over Mr R-V's. It is not that either method is wrong. Nor is it the case that Mr Duckett is assessing against some theoretical base. He is assessing impacts on the AONB now and then assessing the residual impacts after the appeal proposals have been completed as designed. That exercise shows that the appeal proposals fall far short of what the development plan requires.
- 6.18 Mr Boulter describes the requirements for restoration of the quarry under the Environment Act 1995 (the 'ROMP')<sup>39</sup> as '*minimal*'. He is right. Whilst there is permission to extract the 7.5million m<sup>3</sup> chalk reserve, the information from WSCC is that there is little demand for chalk in the county. The notes of the meeting attended by the appellants in June 1999 and recorded by them indicate that '*it is accepted that there is no demand*'<sup>40</sup>. The average annual chalk extraction of the quarries in the county has been just over 26,000t in the recent past<sup>41</sup>. Even at that sort of level of extraction at Shoreham the level of the quarry might go down a few metres but the restoration would not produce a dissimilar result from the appeal proposals. We invite the Inspector and the FSS to share the view of Mr Stevens that the appeal proposals for Area D amount to little more than provided for in the ROMP<sup>42</sup>. The reclamation of the quarry floor in Area D does not properly address the visual prominence of the quarry which arises primarily from the quarry faces. The quarry floor would no doubt successfully be greened but the

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<sup>34</sup> CD16 p.22

<sup>35</sup> CD16 p.25

<sup>36</sup> CD32 #2.6.1

<sup>37</sup> CD32#5.2.1

<sup>38</sup> CD32#6.5

<sup>39</sup> CD51

<sup>40</sup> CA/10/C RHS 12

<sup>41</sup> HDC4 App.1

<sup>42</sup> HDC1 #3.3.12



angular and unnatural form of the quarry in Area D would continue to be the highly visible intrusion in the AONB that it is now. All that is proposed for the quarry faces is 'hydraseeding... of selected faces' but the 'limited success of such measures of vertical faces is acknowledged'.<sup>43</sup> The overall result would fall far short of what the development plan requires as one of the twin bases (with removal of the buildings) for allowing the redevelopment works.

### *Conclusions on the Development Plan*

- 6.19 Policy UB1 sets out in clear terms the parameters of an acceptable redevelopment of this site. Those parameters are then more fully explained in the reasoned justification of the policy entirely in accordance with the advice in PPG12<sup>44</sup>. It is not the case that the reasoned justification contains the policies and proposals for the site: they are contained in the policy as PPG12 requires but the policy and its requirements are explained more fully in the reasoned justification which is itself part of the development plan. A proposal should satisfy the requirements of the policy as those requirements are explained very fully in the reasoned justification. The appeal proposal does not in very important respects.
- 6.20 It is right that Policy UB1 does seek conformity with the provisions of a Development Brief and subsequent Masterplan, neither of which have been prepared by the Council. That does not weaken or undermine the clear requirements of the policy and its reasoned justification. The Development Brief contemplated has not been prepared for reasons explained by Mr Stevens.<sup>45</sup> Since the adoption of the plan the Council has been dealing with promised applications or applications on the site; given the comprehensive nature of policy UB1 and its reasoned justification in setting out the requirements for any acceptable scheme, those considerations have been fully informed by the plan itself. Indeed the appellants have never sought a Development Brief. The meeting notes of 24 June 1999 produced by Mr Stapleton<sup>46</sup> show that at that time the appellants agreed to prepare a project brief for the Development Brief. The notes acknowledge the District Councils saying that in those circumstances it would not be appropriate for the Councils to be part of the team developing the Development Brief. Mr Boulter accepted in cross-examination that the appellants had never provided that promised project brief for the Development Brief. The absence of a Development Brief does not weaken the need for any proposal to be assessed against the clear requirements of the policy as explained more fully in the reasoned justification.
- 6.21 The Llewelyn-Davies report has no status in the context of the development plan. The terms of reference expressly invited the consultants to look at development on a wider basis than that contained within the existing Local Plans if it could be justified by a strong case of regional significance.<sup>47</sup> The resolution of HDC was to adopt the report as a background document to be used in connection with the Local Plan Review and in assessing any current and future planning applications. It is not and cannot be SPG because it looks outside the development plan, as it acknowledges referring to 'challenging' the local plan.<sup>48</sup> It is a background document setting out the views of one set of consultants. The Council has never adopted those views. Indeed the Council's

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<sup>43</sup> CA9/A#5.5.3

<sup>44</sup> PPG12 Annex A #24

<sup>45</sup> HDC4 #14

<sup>46</sup> CA/10/C RHS 12

<sup>47</sup> CD33#1.2

<sup>48</sup> *ibid.*p.77

position at this inquiry shows that those consultants' views are at variance with the Council's views and indeed at variance with the views of the consultants engaged to advise the Council at this inquiry. It will nevertheless be noted that the report recognised that housing on this site would be unsustainable.<sup>49</sup>

- 6.22 Looking at the development plan as a whole, as we should,<sup>50</sup> the appeal proposals fail to meet the requirements of the development plan in terms of: the housing proposed; the failure of that housing development to meet the requirements for Area A; and the limited extent of works proposed in Area D. The proposals should not therefore proceed unless there are material considerations which indicate that those conflicts with the development plan should be overcome.

### ***Material Considerations***

#### Housing

- 6.23 The appellants pray in aid that the appeal site Area A is previously developed land within the definition in Annex C of PPG3 and argue that the site has an advantage as a housing site because it is not a greenfield site. However, as always the advice in a PPG has to be read as a whole. One objective of PPG3 is to make sure LPAs provide sufficient housing land, giving priority to re-using previously developed land within urban areas in preference to the development of greenfield sites<sup>51</sup>. The use of Area A would contribute to the target of 60% housing on previously developed land.<sup>52</sup> However, the Government is also committed to promoting more sustainable development by concentrating most additional housing development within urban areas. The reference in PPG3 to the presumption that previously developed land sites should be developed before greenfield sites is a reference to the order in which allocations identified in accordance with the criteria in #30 should be developed. Those criteria for allocations set out the search sequence starting with the re-use of previously developed land and buildings within urban areas, then urban extensions and finally new development around nodes in good public transport corridors.
- 6.24 It was accepted that the appeal site drops off the end of that search sequence. It would not feature at all in following that advice to identify it as a site for new housing. That advice is specific to identifying new allocations in development plans but it is a reflection of the fundamental commitment to sustainable sites for housing. PPG3 #38 advises that the PPG is a material consideration in determining applications before the plan can be reviewed and that advice on the appropriate sequence for identifying sustainable sites is clearly relevant. The next passage in #38 in fact addresses consideration of an application for permission to develop a greenfield allocation. It advises that such applications should be assessed in the light of the presumption as to the order in which allocations should be released, with previously developed land going first and by comparing the greenfield allocation with previously developed land in the light of the criteria in #31. That is not in fact the position we have here: the appeal site is not a greenfield allocation or an allocation for housing.

<sup>49</sup> *ibid.* p.75 Options G and H

<sup>50</sup> *R v Rochdale BC ex p Milne* [2001] JPL 470 #50-51

<sup>51</sup> PPG3#2

<sup>52</sup> PPG3#22-23

- 6.25 If the matters in #31 are looked at, the appeal site does not in fact score well: its location in relation to shops and services is poor; and the chance of building a community from 84 dwellings without any facilities (except possibly a 30m<sup>2</sup> shop in a hotel) within the 2kms to the nearest village must be slight. PPG3 recognises that even infilling or peripherally expanding existing villages is only appropriate where it can be shown that the additional housing would support existing services *'which would become unviable without some modest growth'*<sup>53</sup>. There is no suggestion here that the services in Upper Beeding or Steyning would become unviable without 84 dwellings 2kms or more away. The approach in the adopted Plan of viewing this area as not an appropriate or sustainable one for more significant housing<sup>54</sup>, carried through in the recent sustainability analysis<sup>55</sup>, is entirely consistent with the advice in and approach of PPG3.
- 6.26 The suggestion in cross-examination of Mr Stevens that what is proposed here is a new settlement in terms of PPG3 #72-75 which anticipate a regional capacity study to justify the new settlement and it being 'large scale' in those terms was disowned by Mr Fidgett in cross-examination. There is no support in PPG3 for 84 dwellings on this site in a location which would not even be contemplated for allocation in accordance with the PPG.
- 6.27 Nor is there any need for additional housing in this site. The up to date position is fully explained in the Council's Housing Development Monitoring Report<sup>56</sup> and in Mr Stevens' evidence<sup>57</sup> that was not challenged on this issue. Mr Fidgett agreed in cross-examination that if housing were permitted on the appeal site it would be likely to be provided by 2006. There is no need for any greenfield releases before 2006. Even the reserve site is not likely to be needed. There is not even a need to grant permission on windfall sites – the contribution from infills and redevelopment within existing built up areas will be sufficient.
- 6.28 In those circumstances the sustainability of a site becomes an even more important factor in deciding whether to grant planning permission. Housing on this site would meet no identified need in Horsham District. It would be extraordinary to prejudge the whole Local Plan Review process, in advance even of the adoption of the new Structure Plan, by allowing housing on this site to meet some longer term requirement to 2016 – particularly when the judgement has already been formed that this whole area is not a sustainable location for more housing. The Structure Plan process is proceeding in any event consistently with PPG3 in looking to major urban extensions as sustainable locations to provide the bulk of the new housing<sup>58</sup>.

### Sustainability

- 6.29 PPG13 explains that to promote more sustainable patterns of development the focus for additional housing should be existing towns and cities. The appeal site is over 2kms from the nearest town and that 2kms is empty of facilities other than a petrol filling station with a shop just within the 2kms at Upper Beeding<sup>59</sup>. The Highway Authority, WSCC,

<sup>53</sup> PPG3#70

<sup>54</sup> CD3 p.47 rj 14.1

<sup>55</sup> CD34 p.50

<sup>56</sup> CD5 esp. penultimate section entitled 'Implications for Future Development in Horsham District'

<sup>57</sup> HDC13.4.15-20.

<sup>58</sup> CD8A p.27

<sup>59</sup> CA5/B Fig 13

do not consider this would be a sustainable location for housing as Mr Barratt explained<sup>60</sup>.

### *Walking*

6.30 The companion guide to PPG3 'Better Places to Live' defines 800m as comfortable distance for access to facilities on foot.<sup>61</sup> There are no schools, shops, medical or indeed any other facilities within that distance of the site. Walking along the A283 is not the most attractive route and the 2kms walk or so to the nearest facilities would take some half an hour or more. Mr Sheehan accepts that the Downs Link would not be used significantly other than for leisure walking<sup>62</sup> and that there is 'limited scope for walking trips to (and so from) the site'<sup>63</sup>. School trips particularly are done on foot predominantly when the home is close (less than 1.6km) to the school<sup>64</sup>. The nearest primary school is 2.4km away and the nearest secondary school is 4km away.<sup>65</sup> There is no opportunity to travel to school by train.

### *Cycling*

6.31 The Downs Link is seen as suitable for recreational use<sup>66</sup> but it ends on the western edge of Shoreham some distance from the facilities in the town centre which is some 4kms away. The Link does not go to Upper Beeding. The A283 is a very busy road and unattractive to cycle along.

### *Buses*

6.32 There are now two bus services that go past the site once a week and the 2A and 20X services which together provide a bus past the site once per hour<sup>67</sup>.

6.33 In no way can the site now be described as a sustainable location for people to live. The planning permission for infilling the Dacre Gardens terrace with 10 flats<sup>68</sup> (when the principle of infilling had already been established) can in no way be said to indicate an acceptance by the Council of the sustainability of the area. The adopted local plan and the Sustainability Analysis say the complete opposite.

6.34 The development plan contemplates substantial business development on the site. However, there are measures that can be provided through a Green Travel Plan that can encourage employees not to drive to work but which would have no effect on car usage by people living in houses on Area A. These include the appointment of a travel co-ordinator, car sharing, penalties for excessive car use, cycle parking within the business development and providing showers for the employees. The appellants themselves say that 'achieving a high proportion of car sharing is a key plank in sustainable transport planning'<sup>69</sup>. That would be irrelevant to residents.

6.35 The highest the appellants themselves put the relationship of the proposed jobs to the east of the A283 to the proposed houses to the west of the A283 is that it 'will provide

<sup>60</sup> HDC16 s.7

<sup>61</sup> CD10 p.17

<sup>62</sup> CA5/A #4.3.2

<sup>63</sup> *ibid.* 7.3.2

<sup>64</sup> HDC17 App.6

<sup>65</sup> HDC16 #7.23 and # 7.29

<sup>66</sup> CA5/A 4.3.6

<sup>67</sup> CA5/B Fig 3

<sup>68</sup> CD56

<sup>69</sup> CA5/D #3.1.4

the opportunity for some journeys to work to be carried out within the confines of the overall redevelopment'.<sup>70</sup> PPG13 warns against the assumption that the juxtaposition of different uses will lead to less car dependency<sup>71</sup> and both Mr Sheehan and Mr Barratt confirmed that there is no research to put any figures to whether people work in jobs close to their homes. The housing is proposed to be built first so that the first residents would not have even the opportunity of walking to work and patterns of travel to work away from the area would be likely to become established before the first jobs became available. Indeed the target the appellants set for the percentage of employees walking to work after 5 years of the first employment occupation is 1%,<sup>72</sup> so if Mr Fidgett's figure of some 1000 jobs being provided<sup>73</sup> proved to be correct the target figure after 5 years would be 10 residents from the 84 dwellings on Area A working in Area B or C.

- 6.36 Even if that target were to be achieved it would mean that the remaining large majority of residents would be likely drive to work. The improved bus service would give the chance of going to Shoreham or to the east and to Steyning and Upper Beeding. Those settlements are not significant employment centres<sup>74</sup>. The appellants say that the houses would 'generate some demand for bus trips' but not at such a scale as to justify including them in their calculations of future bus use. They calculate purely a demand from new employees and an increase in demand on the existing routes from increased frequency<sup>75</sup>. So the housing is proposed to go in first but the increased bus use is based on new employees using the service.
- 6.37 The contribution to improve the bus frequency is based on the fixed sum offered by the appellants making up the shortfall in the cost of the more frequent service. If there is not the take up that the appellants assume, the contribution would get used up sooner by greater amounts needed in the early years. If the more frequent service does not by then pay its way the contribution will have been used up and either the more frequent service would stop or more public money would have to be put in to keep it going. A lot of faith is being placed by the appellants in the increased use of this one bus service to justify the appeal site as a location for housing. PPG3 recognises that just because a potential development is well served by public transport does not of itself mean it is an appropriate location for housing; account should be taken of the criteria in #31. This site is neither well located for services nor well served by public transport; the future of the one bus service is uncertain and the chances of building a community at this remote location are slim.
- 6.38 The possibility of a 30m<sup>2</sup> shop within the proposed hotel where there is no evidence of its viability, no commitment to provide it or to retain it for any period of time, adds very little to any claim for sustainability of the proposed housing.
- 6.39 In summary to provide housing on this site would be to fly in the face of all Government guidance on identifying sustainable sites for housing and should not be countenanced unless there are very compelling other material considerations.

The character of the housing

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<sup>70</sup> Ca5/A #6.6

<sup>71</sup> PPG13#30

<sup>72</sup> HDC17 App.4 at #4.2.1

<sup>73</sup> CA6/A#8.2.3

<sup>74</sup> CD34 p.40 and 43

<sup>75</sup> CA5/Capp.C 6.6-6.19

- 6.40 Furthermore, housing on the appeal site would be out of character and untypical of this AONB. The Landscape Assessment of the Sussex Downs AONB prepared for the Countryside Commission records that there is no settlement on the river floodplain<sup>76</sup>. Settlements are characteristically above the floodplain in the principal chalk valleys. That document places Area A (although not the east bank immediately to the south) within the principal chalk valley landscape area<sup>77</sup>. However, the South Downs Conservation Board in their study on Shoreham Cement Works<sup>78</sup> identifies Area A (their Zone 4) as a space related primarily to the river floodplain and closely related to the river and green spaces of the valley floor. Their view is that it should not be included in the principal chalk valley landscape. That view is shared by Mr Duckett of HDA<sup>79</sup> and by the authors of the Llewelyn-Davies Report<sup>80</sup>. Mr Russell-Vick considered in cross-examination that whether it was in the floodplain or the chalk valley was marginal. The ES at 10.2.6 appears equivocal about the issue. Findon and Alfriston are quite different settlements in quite different settings. The position of Area A in a floodplain area, where settlements are uncharacteristic of this AONB, is a further reason why substantial housing development is inappropriate.
- 6.41 Furthermore, even with the sympathetic design approach illustrated by Neil Holland<sup>81</sup>, the Council's concerns about the layout of the housing remain. 84 houses, with no other facilities, would be built along one side of a gently curving peripheral access road or 'main street', with parking areas off. The 'village core' would comprise no more than rather higher density housing. It is not tenable to suggest that such a proposal would replicate a traditional Sussex Downland village. PPG3 #56 advises that the local pattern of streets and spaces and building traditions should all help to determine the character and identity of a development. That is not the case here and the housing in the AONB alongside an important recreational route will appear all the more uncharacteristic and so intrusive.

#### Enabling Development

- 6.42 The appellants' case is essentially that the residential development must be allowed to go ahead to provide the funding for the scheme. If the residential development is contrary to the development plan and contrary to Government guidance on where new housing should be built in sustainable locations and inappropriate for the further reasons set out above, very cogent evidence would be needed to establish two points. These are: firstly that overall the appeal scheme was truly worth such conflicts with policy for such enabling development to be acceptable; and secondly that the enabling development proposed was the only way of achieving that scheme.

#### The Council's Landscape Proposals

- 6.43 The appeal scheme overall does not justify the conflicts with policy that would be entailed. The failure of the scheme to meet the requirements of the development plan as to the nature of the restoration proposals for the upper quarry has been set out above. The work of Hankinson Duckett Associates on behalf of the Council has shown how a

<sup>76</sup> CD16 p.74 and 75 and 21 and 22

<sup>77</sup> ES Ch.10 Fig 2

<sup>78</sup> CD32 #2.6.4

<sup>79</sup> HDC8 #2.5.3

<sup>80</sup> CD33 p.56 Fig 8.2a

<sup>81</sup> CA9/B&C Figs 7-14

scheme meeting the requirements of the development plan and achieving a proper remediation of the effects of the upper quarry, particularly its vertical faces, can be achieved. This alternative scheme has not gone through the statutory processes of environmental impact assessment and it could not be carried forward without substantial further work. It is also not a scheme which could be granted permission by way of a condition altering the nature of the appellants' proposals or by any other mechanism. It is an imaginative solution to the problem of the impact of the upper quarry and particularly of its vertical faces which the development plan and representative bodies seek to have addressed. It avoids the environmental problems of importing fill. Mr Leivers with his substantial experience of quarrying and quarry restoration is of the view that the HDC scheme is *'very achievable'*<sup>82</sup>. That view is supported by CA Blackwell (Contracts) Ltd a company with substantial experience in this work who conclude that the HDC restoration proposals are *'entirely constructible... (with the) several challenges ...capable of being met by the application of sound, tried and tested, earthmoving techniques'*<sup>83</sup>

6.44 Ruth Allington of Geoffrey Walton, mining geologists and geotechnical engineers, mine and quarry designers, is of the opinion that the HDA scheme *'is geomorphologically consistent with the surrounding landscape. When chalk vegetation is established, it should be indistinguishable from surrounding land'*. Contrast that with her view of the appellants' proposals: *'whilst the re-grading of the valley floor produces smooth contours at gradients similar to those found in the surrounding downland, the surrounding quarry faces do not mimic any aspect of the surrounding landforms'*.<sup>84</sup> She explains how the RIGS interest could be retained and indeed improved with the HDA scheme.

6.45 The HDA scheme would tie three sides of the quarry back into the surrounding landscape by creating a typical indented dry valley in continuity with the adjacent landform and landscape, and by replacing the most prominent white quarry faces with chalk grassland<sup>85</sup>. The fourth remaining south-west quarry faces are the least visible around the perimeter of Area D. With remedial work identified by Ms Allington, they could be retained to provide the opportunity for peregrine and raven ledges.<sup>86</sup> Mr Russell-Vick himself acknowledges that re-profiling of Area D within the existing ownership boundaries would be more beneficial than the appeal proposals. Indeed he accepts that faces at 1:2 would be able to be grassed and be much less conspicuous in the landscape<sup>87</sup>. His main reason for rejecting such a solution is a concern over safety but he contemplated moving material from the rim back into the quarry. HDA propose building up from within the quarry and Blackwells are happy with the health and safety concerns of that approach<sup>88</sup>.

6.46 The HDC proposals are supported in principle by the County Council through its Senior Landscape Architect and Senior Ecologist<sup>89</sup>. Dr. Whitbread of the Sussex Wildlife Trust supported in part the HDC proposals, subject to a change to provide more cliffs in the south-west corner of Area D. He does not support the appeal scheme – 'we do not think

<sup>82</sup> HDC6 #5.1.5

<sup>83</sup> HDC11 App.4.#5.1

<sup>84</sup> HDC11 App.3

<sup>85</sup> HDC8 #6.2.12 and 6.4.2

<sup>86</sup> HDC11 App.3.#2.2.3,8

<sup>87</sup> CA9/A #7.6.2, 7.2.3

<sup>88</sup> HDC8 # 6.1.7

<sup>89</sup> HDC27

it is a good landform' was how he put it. The Sussex Downs Conservation Board also supports the HDC proposals but not the appeal proposals.

- 6.47 The appellants have not sought to challenge that the geomorphology of the HDA proposals is more congruent than the appeal scheme, or that they would have a more beneficial landscape and visual impact. Instead they challenge the practicability of the HDA scheme and in particular the steepest slopes. The main area of criticism seems to be the northern slopes of the HDA scheme but a significant part of this area is in cut and likely to be free draining and not subject to significant erosion<sup>90</sup>. Fill profiles cover only a proportion of the site: some 6.98 ha in total of which only 1.10 ha is at slopes of 1:2<sup>91</sup>. Doc CA8/F shows the limited area with slopes at 1:2, much of which would be in cut.
- 6.48 The letter from the Bedfordshire County Ecologist<sup>92</sup> further confirms that 1:2 filled bare chalk embankments have succeeded in supporting chalk grassland after hydraseeding at Barton-le-Clay.<sup>93</sup> Since the work was carried out in 1989/90 his experience and observations have convinced him that hydraseeding of bare chalk '*enables the establishment of the basis for calcareous grassland which will increase in value as the soils slowly develop and as it is colonised by specialist species adapted to the conditions*'. The establishment of chalk grassland is a slow process but it is time worth taking to get the right result.
- 6.49 The other examples put forward by Mr Duckett are examples of particular aspects of his HDA scheme – they are not the same in all particulars by any means. Kensworth shows the success of the steeper faces<sup>94</sup> with chalk grassland being established on a chalk substrate. Whipsnade also shows chalk grassland being established on a chalk substrate after some 4-5 years. St. Catherine's Hill shows how chalk grassland can be successfully translocated. This technique would be needed on the HDA scheme to move the 'small patches' of species rich grassland on the northern rim and the less valuable grassland on the eastern rim, albeit they are only patches and of local interest only.<sup>95</sup>
- 6.50 In respect of nature conservation, English Nature and the County Ecologist were consulted by Mr Duckett as he prepared his scheme. Neither objected then<sup>96</sup> nor now<sup>97</sup>. Neither the appeal scheme nor the Council's scheme affects an SSSI or SNCI. The Sussex Wildlife Trust gives qualified support to the HDA scheme but objects to the appeal scheme. Some 14.2 ha of chalk grassland could be created in Mr Duckett's scheme, and 1-1.3 ha of mainly undistinguished grassland on the rims will need to be translocated, as has successfully been done elsewhere. The appellants have given various figures for their chalk grassland creation. The ES claims either 8.9 ha<sup>98</sup> in Area D or 9.5ha<sup>99</sup>. A further 2.3ha could be created in Area C, as it could in the HDA scheme, acknowledged by Mrs Fisher in cross-examination. ES Table 7.12 acknowledges a loss of 0.2 ha in Area B; again common to both schemes. Doc CA8/L seeks to reconcile these figures but it is not easy to do so. On any view if the HDA

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<sup>90</sup> HDC13 #3.1(i)

<sup>91</sup> HDC12 #3.3.6

<sup>92</sup> HDC15

<sup>93</sup> HDC29

<sup>94</sup> HDC11 App.7 Fig30,11,5 and photos on second sheet

<sup>95</sup> ES #7.3.136, 7.3.60 and 7.6.62 and 7.4.29

<sup>96</sup> HDC11 App.9

<sup>97</sup> CA8/H and HDC27

<sup>98</sup> ES table 7.14

<sup>99</sup> ES Table 7.10



scheme is successful in creating chalk grassland it has the potential to create more chalk grassland than the appeal scheme.

## Ecology

- 6.51 So far as the peregrines and ravens are concerned clearly the appellants and Mr Shawyer are to be congratulated on their forward planning for the falcons in particular and for their success in attracting them to the new artificial ledge. The expectation of course was that the peregrines would be moved from their former ledge site by the disturbance of development in Area B and attracted only then to the new artificial ledges. Similarly the HDC scheme taken over two years allows for artificial ledges to be created while the birds are away from the nest. Whilst Mr Shawyer is understandably protective of the birds he has studied now for some years, Dr. Whitbread told the inquiry that peregrines do move to new sites fairly easily.
- 6.52 Some engineering of the cliff would be necessary to stabilise it. Ms Allington explains how that could be achieved, as shown on HDC31, which also indicates by label that there is 'potential for increasing the length of nesting cliffs by modification to the final landform'. Mr Shawyer's main concern was the length of available cliff, although the letter to JF from English Nature explains that neither option precludes peregrines from nesting. There are many examples in Sussex and throughout the UK of peregrines nesting in close proximity to high levels of disturbance. EN also cite examples of peregrines nesting on relatively small cliff faces. Mr Shawyer accepted in cross-examination that the existing ridges in the cliff would prevent inter-visibility of the peregrines and the ravens.
- 6.53 There are no objections to the HDC scheme from authoritative and representative wildlife bodies and it is support by Dr Hill, a distinguished ornithologist albeit with only very limited experience of this particular site. In these circumstances, a more substantial restoration of the quarry thereby meeting the requirements of the development plan on the basis of nature conservation should not be ruled out.
- 6.54 In summary, the restoration proposals of the appellants are not shown to be sufficiently successful in dealing with the most intrusive aspects of the quarry nor are they shown to be the only realistic approach to that restoration so as to justify a permission that necessarily involves unsustainable housing in conflict with the development plan.
- 6.55 Furthermore, whilst Mr Stevens acknowledged that the business development proposed in Areas B and C is itself in accordance with the development plan, his point is that it is not so special as to be acceptable if it comes only with a package including housing on Area A and the limited restoration of Area D. An exceptionally valuable business development might make it worthwhile even in the AONB to accept those otherwise unacceptable elements of the appeal proposals. There is no quantitative need in Horsham District for employment floorspace on this site although it is acknowledged that Adur do value the business development in quantitative terms. Nevertheless there are other employment sites available within what the emerging Structure Plan sees as the coastal area in need of regeneration<sup>100</sup>. Of the sites identified in the Coopers and Lybrand Report<sup>101</sup> Romany Road, Worthing, Northbrook Farm and College, Worthing in the high rating and City Fields, Tangmere and Lyons Farm, Worthing in the middle rating were accepted by Mr Boulter as still being available. The later English Partnerships

<sup>100</sup> CD8A policy NE5 p.34

<sup>101</sup> CD9 T5 p.15

Investment Strategy West Sussex Coastal Sites report also identifies other employment opportunities including the 11.75 ha Southern Cross allocation in the recently adopted ADLP<sup>102</sup>.

- 6.56 Further, Mr Fidgett tells us that the principal market for their development would be local businesses relocating<sup>103</sup>. Therefore the total number of jobs at the site would be unlikely to be entirely new because some would be transferred and the old sites used for a non-employment use, most likely residential. This has been Mr Stevens' experience in Horsham, although not to the same extent Mr Boulter's experience on the coast.
- 6.57 So neither the level of restoration proposed nor the nature of the employment provided would be such as to justify overriding the conflicts with the development plan that have been identified.

#### Viability

- 6.58 The next question is whether the appeal proposals could be justified as the only viable way to achieve the limited landscape restoration and the proposed employment provision. The appellants say it is only the housing development which can pump prime the scheme and enable it to go ahead and that if it does not the existing use rights will be exploited and the site will not be restored.
- 6.59 Policy UB1 contemplates comprehensive redevelopment of the site in order to secure the demolition of the buildings and the appropriate landscaping works. The scale and type of the development should however be no more than is necessary solely to provide adequate funds to carry out the demolition and landscaping and landforming. The policy does not contemplate that substantial open market residential development would provide the funding, even if it is advanced on the basis that it is enabling development.
- 6.60 'Enabling development' is itself a familiar concept in many areas of planning. One definition is 'development that is contrary to established policy – national or local – but which occasionally is permitted because it brings public benefits that have been demonstrated clearly to outweigh the harm that would be caused'<sup>104</sup>. That definition is put forward in the context of the conservation of 'heritage assets'. It is recognised that the principles of enabling development are applicable to the support of a wide range of public benefits from opera houses to nature conservation, including landscape conservation. To permit housing here the judgement would have to be formed that the harm to policy and sustainability and recreational interests was outweighed by the benefit to the AONB by the appeal proposals. For the reasons already outlined the quality of the appeal proposals falls short of that balance coming down in favour of the grant of permission.
- 6.61 Furthermore the appellants have not established that the benefits to the AONB can only be achieved by the appeal proposals. Firstly, despite the explicit requirement of the policy, no information on viability was provided until January 2003, after the appeal was lodged. What was then provided relied fundamentally on the purchase price of £3.65m as establishing a shortfall of funding, unless the scheme for 84 houses came forward on Area A. The exercise was not to calculate how much enabling development was the minimum needed to meet the policy requirements but how the scheme came out with 84 houses on Area A.

<sup>102</sup> CD37

<sup>103</sup> CA6/A #8.3.56

<sup>104</sup> CD17 EH Policy Statement on Enabling Development p.8

- 6.62 The EH advice is that the site value should be the open market value, allowing for the 'hope value' of any potential for development or alternative uses in accordance with the development plan. Any allowance for the possibility of consent being obtained for development in contravention of established policy should be excluded. Whilst specific to heritage matters that clearly has general application: it cannot be right to allow a development contrary to policy in order to recoup a price paid in the hope of more than policy allows.
- 6.63 Mr Stapleton's 'Market valuation – ignoring hope value' seeking to justify a market value of £3.75m was produced on day 9 of the inquiry [CA10/F]. The valuation was based on a potential rental income from Areas A and B of £329,500 pa, compared with the actual rental income in 2002-3 of £81,980 from Area A. Even on the basis of short terms lettings the disparity between those figures is remarkable. Mr Stapleton allowed limited sums for the cost of repairs to the buildings, other than £400,000 for the repairs to the main 1950's office building on Area A. The figures were based on the capitalising of the rental at a rate of 10% in perpetuity with no allowance for an initial void or a running void as tenants come and go. The level of rental assumed is again remarkable given the nature of the buildings, even after some repairs, their setting amongst the unrestored site and the levels of rent that Mr Stapleton is himself assuming for new buildings on their proposed business park and which are being asked elsewhere in West Sussex<sup>105</sup>.
- 6.64 Whilst it is accepted that the site as a whole has a lawful use for B2 any office or storage use is ancillary to that use. Any potential new planning unit created would have to be considered, to judge whether there was truly a material change in the use of that land.
- 6.65 The GPDO limits change from B2 to B8 to a building of 235m<sup>2</sup>. The Use Classes Order excludes car breakers from B2. It should not be assumed that any permission would be given for new operational development because the development plan seeks the comprehensive redevelopment of this site. Where there are no usable buildings therefore any B2 use would have to be carried on in the open air.
- 6.66 £600,000 is allowed in Mr Stapleton's exercise as the value of Area D. Whilst it has permission to extract chalk and there are reserves of 7.5m tonnes, it was accepted in 1999 at a meeting between the appellants and officers of ADC, HDC and WSCC that there was no demand for the chalk<sup>106</sup>. That accords with the recent information from WSCC<sup>107</sup> and with what Llewelyn-Davies were told<sup>108</sup>.
- 6.67 The Council therefore consider that the value ascribed to the site by the appellants to justify the need for the housing is significantly too high.
- 6.68 It is accepted that for any private sector scheme to achieve the restoration of the works and quarry it has to be remunerative for the developer: it has to be worth his while. Mr Haynes approach throughout has been to assess what area of employment land on Areas B and C is needed to allow the developer to recoup the cost of carrying out the remedial works<sup>109</sup>. If his allowance for demolition costs is too high that merely increases the value of the exercise for the developer or could be set off against any higher cost of the

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<sup>105</sup> See CD63 and 64

<sup>106</sup> CA10/C RHS12

<sup>107</sup> HDC4 App.1

<sup>108</sup> CD33 #1.1 and #3.5

<sup>109</sup> HDC25

HDC scheme. The other costs are not in issue save as to the costs of Mr Duckett's scheme, which he defended in his evidence.

- 6.69 It has equally always been Mr Haynes' case that there is a developer's profit built into the value of the remunerative elements of the scheme<sup>110</sup>. HDC28 seeks to show the extent of that profit using assumptions (all valuation exercises are based on assumptions) that he considers reasonable. They are consistent with the terms of the application as to the nature of the development and with the levels of rent that could be expected that are built into Mr Stapleton's own land values. The costs are based on figures provided by chartered quantity surveyors based not only on published sources but also on their own recent experience of projects. That exercise shows that there would be a very real incentive for a developer to carry through the project. It also suggests that once the land had in fact obtained planning permission and the site had been restored, given the profit in carrying out the built development of the business scheme a higher land value could be obtained if it was decided to sell it on to another developer to do the actual building out.
- 6.70 Mr Stapleton's response to this exercise is to inflate the costs beyond anything in the Andrews Partnership reasonable range and thereby make the scheme unprofitable. The actual information from the chartered quantity surveyors is more accurate.
- 6.71 Finally, the appellants have undervalued how remunerative the housing scheme would be. Mr Haynes has carried out his valuation and shows a profit of nearly £3m<sup>111</sup> on a land value of £5.5m. The issues between Mr Stapleton and Mr Haynes come down to how much the houses would be worth and the costs of building them. As to the former Mr Haynes takes a figure of just under £21/m<sup>2</sup> based on comparables identified in HDC23, App IV. The dispute comes down to how attractive a housing development would be on this site. In 1999 Mr Stapleton thought it would be very attractive<sup>112</sup>; he now considers it would not be attractive enough to command the prices Mr Haynes considers appropriate. The Council considers that a site within an AONB, rare enough in itself for a new housing site, alongside the river and with potential views of the Lancing College Grade I chapel would be bound to be very attractive in the market and so achieve high prices. The build costs figure of £6.50/m<sup>2</sup> is higher than the BCIS figures<sup>113</sup> and in any event carries a 5% contingency uplift so Mr Stapleton's £7.43/m<sup>2</sup> is not justified.
- 6.72 What the appeal proposals achieve is not such in itself to justify acceptance of the inappropriate housing development that is an intrinsic part of the scheme. Nor should it be accepted that the works and quarry would only be remediated if unsustainable housing were allowed on the site. There may remain a private sector solution.
- 6.73 Whilst a private sector solution is being investigated it is understandable that public bodies such as SEEDA and the Countryside Agency will not be actively involved. That does not mean they can not or will not become involved if the private sector does not come up with a solution. The SEEDA December 2002 Regional Economic Strategy does include as a 'Sub-Regional Priority' the forming of a special purpose company to purchase and develop constrained employment sites in locations such as Shoreham

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<sup>110</sup> HDC23 #7.4.13

<sup>111</sup> HDC23 App.III

<sup>112</sup> CA10/C RHS p.10

<sup>113</sup> HDC 24 #4.23

Cement Works<sup>114</sup>. That document describes these priorities as ‘representing a shared commitment by SEEDA, the South East Economic Partnerships and their constituent members to drive the work forward over the life of the strategy.’<sup>115</sup> Policy UB1 assumes remunerative development -albeit the minimum necessary – to achieve the environmental goals but it does not prescribe the agency that is to bring that development forward. It would not be inconsistent with the policy if SEEDA were to promote the scheme.

- 6.74 If some additional funding is necessary to bring forward the proper restoration of this site in the AONB but also the housing is considered unacceptable, the possibility of public agencies playing a role in the future to secure that proper restoration should not be discounted at this stage.

#### Highway Capacity

- 6.75 There remains a concern at the impact of the proposed mix of B2 and B8 development in Area C and the impact of the overall traffic levels so generated on the A283, part of the strategic road network. Because the development plan contemplates employment development on this site the highway authority WSCC have been prepared to assess the scheme on a liberal calculation of the road’s operational capacity at 1400 one-way flow. The critical flow is southbound in the AM peak. If Area C were B8 only the flows would be 1410, within 1% of capacity. But with Area C as B2 the flow would be 1458, 4% over capacity. A condition restricting Area C is not acceptable to the appellants and there is no other mechanism for limiting the development in Area C to that which would generate a flow within capacity.
- 6.76 The difficulty with these arguments always is that the numbers over capacity are small and can be easily dismissed as less than an extra vehicle a minute and so on. Equally, employment development in itself is supported in the development plan.
- 6.77 Nevertheless, Mr Barratt’s evidence<sup>116</sup> shows that using the Traffic Assessment for a new road the capacity calculation would give 1323 so the 1400-1410 already accepted is itself allowing for some potential operational problems. When flows have exceeded the forecast figures in the past the network manager has experienced those operational problems. And as HDC19A shows with each year’s growth in traffic -even if WSCC are entirely successful in meeting their targets in reducing that growth- the effect on capacity and so operational levels becomes more severe. This is a real concern with the appeal proposal before the inquiry.

#### Conclusion

- 6.78 The appeal proposals are not in accordance with the development plan in that the housing is not linked with the business development and it is not limited in scale, the result for Area A is unacceptable and the restoration of the quarry is inadequate. The housing is also contrary to all current policy on the sustainable location of new housing. The overall benefits of the scheme do not overcome those concerns. It cannot be concluded that this scheme is the only one that will bring about the proper restoration of this sensitive site in the AONB. The appeal should therefore be dismissed.

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<sup>114</sup> CD52 p.60

<sup>115</sup> *ibid.* p.35

<sup>116</sup> HDC 19 #2.4

## 7 The Case for Adur District Council

### Introduction

7.1 Pursuant to section 54A of the Town and Country Planning Act 1990, the starting point for considering the applications is whether they are in accordance with the policies of the Development Plan. This consists of the West Sussex County Structure Plan 1993, the Adur District Local Plan 1996 (Plan period 1993 – 1996), and the Horsham District Plan 1997. Paragraph 40 of PPG 1 provides the test as follows: *‘Where an adopted or approved development plan contains **relevant policies**, section 54 A requires that an .. appeal shall be determined in accordance with the plan unless material considerations indicate otherwise. Conversely, applications which are not in accordance with **relevant policies** in the plan should not be allowed unless material considerations justify the grant of planning permission.’*

7.2 The following points are of fundamental importance:

- a) It is not within the test or within the planning inquiry process to judge whether the proposal is better or worse than other proposals. The test is to take the appeal proposal and judge it against the development plan.
- b) The test is whether these development proposals are in accordance with the policies of the development plan. It is not whether what is proposed is better than what exists. The two are not the same for the purposes of the section 54A test. What is proposed may be better than what currently exists but that does not mean that it is therefore in accordance with the relevant policies of the development plan.
- c) The test is not whether the proposal is substantially in accordance with the development plan. It is not a case of breaking down the proposal into several constituent elements and concluding that for example 80% of the elements comply with the plan therefore it accords with development plan policies. The proposal as a whole must be in accordance with the policies and if it is not permission must be refused unless there are other material considerations to justify allowing the proposal.

7.3 The proposal as submitted is not in accordance with the relevant policies of the development plan because of the housing on area A. However, the aspects of the scheme in respect of areas B, C and D are in accordance with the relevant policies of the development plan.

### *The Development Plan*

#### Remedial works to Area D

7.4 The proposals for the remedial works in respect of this area are on balance acceptable. That balance has to consider that the more extensive the remedial works, the greater the costs impacting on the viability of redevelopment proposals and creating a need for more unacceptable development as enabling development. That is not to say that the Council considers that the proposals put forward by Horsham District Council are considered unacceptable or inferior to the submitted scheme for this area. However, the task of this inquiry is not to decide which of two alternatives is better, but whether the submitted scheme in respect of this area is acceptable.

## Employment Development on Areas B and C

- 7.5 Whilst areas B and C lie outside the boundary of ADC, their redevelopment for employment purposes is of fundamental importance for the economic strategy for Adur District and the coastal sub-region. The English Partnerships guide published in March 1999 highlights seven sites within the West Sussex Coastal strip as key brownfield sites as new strategic business sites as part of the regeneration strategy for the sub-region (CD37). Obtaining *all* of these sites is the strategy and securing five or six out of the seven will not achieve the desired aims. More importantly this site is one of only two east of Worthing identified. The other, Shoreham Harbour, faces particular problems which will delay the site's redevelopment for a considerable period of time. Developing the sites east of Worthing will meet the employment needs of Adur District without the requirement for considerable commuting distances contrary to the Government's transport objectives. From the outset, ADC has supported the proposals in respect of Areas B and C and hearing the evidence at the inquiry reinforced that view.
- 7.6 In securing comprehensive redevelopment of the site to meet the principal aim of environmental improvement, the Council recognises that appropriate areas of the cement works provide an opportunity to meet the needs of the District that cannot be acceptably met on sites within the District. The provision of substantial modern employment floorspace available for a variety and range of uses would achieve an important economic objective. Whilst such uses and development would have otherwise been unacceptable within the AONB, the visual and environmental improvements provided by a comprehensive redevelopment of the cement works site provides a justification and opportunity for such development and in so doing meeting the costs of the redevelopment scheme. Areas B and C provide this opportunity.
- 7.7 The Adur Local Plan recognises that the site represents an alien intrusion into the Downs visible from many distant viewpoints (CD7 #10.25). The opportunities to reduce its impact have been explored for many years and can only be achieved by the comprehensive redevelopment of the site. The proposal provides for substantial business and employment generating opportunities. The proposal ensures flexibility to provide an appropriate mix of B1 and B2/B8 floorspace in accordance with the objectives and specific policies of the Adur Local Plan. The opportunity to provide a mix for both B2/B8 is extremely important; any limitation of the floorspace in Area C to Class B8 on highway safety grounds would be undesirable.
- 7.8 This is specifically recognised in policy AE1 of the Adur Local Plan which provides for a minimum of 82,000 square metres of floorspace for B1, B2, and B8 uses for the period 1993-2006. The plan recognises that a proportion of the floorspace will be provided from the redevelopment of the Shoreham Cement Works (CD7 p96-97). Moreover, the contribution of floorspace provided by the opportunities the site presents, as realised by these proposals, is of particular importance. It allows for the development of a large modern business park which could not be achieved in Adur District without unacceptable harm owing to the physical constraints and characteristics of the district, and its policies for the protection of the countryside and strategic gaps.
- 7.9 The employment development on areas B and C accords with the policies of the Horsham District Local Plan and provides an opportunity to meet the needs of the coastal districts rather than Horsham (CD3 #6.14, CD4 #14.12). Mr Stevens accepted that the scheme for B and C would be acceptable, provided there was no housing on the site and proper remediation of area D. The sustainability of the location for employment purposes, unlike

the housing, can be justified by the overriding need and the mitigation through the Green Travel Plan as recognised in PPG13.

#### Housing on Area A

- 7.10 Mr Fidgett confirmed that the only policy of the Adur Local Plan on which he relied supporting housing on area A is DP.AR4 (CD7 p134). However, that policy does not mention housing and it contains nothing whatsoever which directs housing to, or justifies housing on area A. What the policy does permit is the use and redevelopment on Area A predominantly for leisure and recreational purposes where this would secure the demolition of existing buildings and structures and achieve substantial landscape restoration and enhancement. The development proposals before this inquiry are plainly not *predominantly* for leisure *and recreational purposes* on area A, whether the whole of area A is looked at or simply that part of area A which falls within Adur District.
- 7.11 In addition, DP.AR4 (iv) requires that there needs to be ‘*a significant reduction in the mass and bulk of buildings*’ currently on the site. When considering this the effects of any changes produced on the east of the road should be excluded. It is area A which is being considered. As Mr Davies answered in cross-examination so far as this is concerned there will be a different visual impact but not one which reduces the impression of bulk of built development. From some views unacceptable development of one form in the AONB will simply be changed to unacceptable views of a wider area of roofscape in the AONB and alongside the river as indicated by Mr Davies with reference to PRV fig 32 and 33 (CA 9/B and C). There is therefore nothing in this site specific policy which the appellants can rely on to suggest that housing on area A is in accordance with relevant policies in the development plan.
- 7.12 Moreover, Adur Plan policy AG1 (page 14 CD7) provides for a presumption against development outside of the built up boundary which area A is. Policy AC1 (CD7 p27) provides for the protection of the countryside for its own sake from development which does not need a countryside location. Only in exceptional circumstances will development be permitted and then subject to policies elsewhere in the plan. As considered above the proposal is not in accordance with DP.AR4 and therefore even exceptional circumstances would not justify the housing proposed as being in accordance with relevant policies of the development plan. The presumption against development is even stronger in particularly sensitive areas of the countryside as specified in Adur Plan policies AC2, AC3, and AC4 (pages 28 – 30 CD/7). Area A falls within the AONB area covered by policies AC2 and AC3 and the housing proposed would not be in accordance with these policies.
- 7.13 The Council also considers that housing on area A would be contrary to the policies of the Horsham District Plan. The Adur Local Plan provides that the redevelopment proposals for the area must be acceptable to both District Planning Authorities [CD7 #13.32]. Moreover there is no support for housing on site A in national or regional guidance. Housing on area A in the AONB is contrary to the advice contained in PPG7.
- 7.14 In terms of transport sustainability there is no hiding from the fact that site A is plainly in a relatively unsustainable location. Mr Barratt reminded the inquiry during re-examination that the companion guide to PPG 3 gives 800m as the comfortable walking distance and there are no facilities anywhere near approaching that comfortable distance. It is in excess of 2km to any facilities (apart for the proposed pub and shop if and when they are built) and in considering the distance it is important not to focus on the epicentre of the site but its access on to the road. This places facilities even further away than shown in the appellants’ evidence.



- 7.15 Travel will be necessary for nearly all aspects of daily living. It will as Mr Barratt correctly stated be 'a carbound development'. PPG13 paragraph 4 (bullet point 3) reminds us that the primary aim of new development is to reduce the need to travel; it adds, '*especially by car*'. It is a point which is often overlooked and produces a wrong conclusion that development is acceptable if facilities can be reached for daily living by public transport. Indeed, Mr Stapleton recognised the lack of access to available facilities in distinguishing the value of housing land. Mr Clay fell into the same trap in cross-examining Mr Haynes in asking him the question on his housing land valuation comparatives by referring to the location's relative lack of immediate services. The fact that the distances involved may be no worse than for other development in the countryside in the region misses the point. That development already exists. The aim is to substantially improve access to facilities for new development thereby reducing the need to travel rather than compounding and reproducing development which is as poorly located as the existing averages.
- 7.16 Considering PPG3, it is true that the former cement works meets the definition of previously developed land, but that does not mean that it is acceptable to develop it for housing purposes. It is noted that even the definition itself recognises that it may not be appropriate to develop the whole of the curtilage of previously developed land bearing in mind other planning considerations including policies for the protection of the countryside (Footnote 1 annex C PPG3). Re-use of previously developed land is only one aspect to the Government's vision of sustainable development. The site is in a location which would fall exceptionally low on a list of sites which could be allocated for housing purposes within the sequential test provided by paragraph 30 of PPG3 and does not meet the Government's aims for sustainable development. In attempting to justify the site's accordance with the sequential approach to site selection, Mr Fidgett has, with respect, confused urban uses of the site with the site being in an **urban location**. (Page 89 of CA6/A.)
- 7.17 In addition, as far as ADC are concerned, it already has in the emerging structure plan a 100% brownfield land target for housing development (CD/8A page 26). Adur's evidence, which has not been disputed, is that it can meet these requirements in more sustainable locations in the urban area. It has no need for the housing on this site in a relatively unsustainable location to meet targets. There is no scope to argue that it improves brownfield use, as the target which can be met is already 100%.
- 7.18 The only possible justification for housing on Area A is if the Secretary of State considers on balance:
- a) That it is absolutely necessary for the developer to build 84 houses on an unsustainable location in the AONB as enabling development to secure the comprehensive redevelopment of the former cement works bringing the benefits of environmental enhancement and much needed employment floorspace; and
  - b) That the benefits achieved by the scheme, and all the other material considerations considered below, outweigh the policy objections of allowing housing development in the AONB, contrary to local, regional and national policy and guidance.

### *Material considerations*

#### The Waste Local Plan and Prematurity

- 7.19 It appears to be common ground that it is not possible or desirable to reserve an area within the submitted development proposals to meet any possible allocation of the site which

may ultimately appear in the Waste Local Plan. In any event so doing would change the viability assessment of any comprehensive redevelopment scheme. The potential consequence could be to create a need for or for more unacceptable enabling development on area A. It could also undermine the opportunity to create a business park offering a range and choice of employment floorspace which there is no opportunity to provide elsewhere in the District which is a second fundamental objective in the redevelopment of the site.

7.20 Moreover, the Waste Local Plan has not yet been placed on Deposit and Adur District Council has yet to consider what representations to make in respect of it. Given that it is not yet a deposit draft, the bullet points at paragraph 48 of PPG 1 provide examples of the weight to be attached at successive stages. In saying '*where a plan is at the consultation stage ...the refusal on prematurity grounds would seldom be justified...*' does not mean that once this stage has gone that prematurity objections should succeed. The second bullet point is yet to be reached and even though not yet on deposit, Horsham have already objected to the Plan.

7.21 The Waste Local Plan Consultation Document identifies it as the third choice site for an energy from waste facility. The area identified is larger than the County now accepts is necessary. The owner has not received any enquiries from waste management operators seeking to secure any options on the site. In all of the circumstances little weight can be attached to the WLP considerations.

#### Housing as enabling development

7.22 Adur District Council recognise that, in principle, housing development on Area A may be justified as enabling development to bring about the key benefits of environmental enhancement and employment floorspace that the comprehensive redevelopment of the former cement works site could provided. In its view, if the housing, both in principle and in the numbers proposed was proven to be absolutely essential for the viability of the redevelopment proposal then this would justify the housing proposals in an otherwise unacceptable location regardless of any other material considerations. However if the case for enabling development is not established then no other material considerations can justify this scheme.

7.23 At the time the ADC's planning committee considered matters on the 24/10/02 and 24/3/03, it was not satisfied on the evidence at that stage that it had been proven for the necessity for 84 houses on area A as enabling development. Since then the inquiry has tested the evidence of both sides and heard new evidence which ADC have not been able to consider. The two valuation experts are fundamentally apart not only in terms of numbers but also in overall approach to the question of enabling development. The following matters need to be considered.

#### The correct approach to enabling development

7.24 Mr Haynes based his appraisal on the approach set out in the English Heritage guidance [CD17]. The guidance provided in this document is restrictive. The risks involved in this sort of case are different to those involved in securing the future of heritage assets. In such cases the developer will almost always be the contractor able to take the profit not only on sale of the development but also from the construction and remedial works themselves. In such circumstances it is not surprising that the guide advises that a double profit should not be allowed. It recognises that an entrepreneurial developer will look for an overall return on costs of between 15-25% compared to the builder/developer seeking a return of 10% on the construction cost element paragraph (CD17 #5.8.2). However the guide indicates at page 12

that *'This statement addresses only 'enabling development' intended to facilitate the conservation of heritage assets, although the concept has a much wider application for example arts and social projects and the conservation of the natural environment.'*

#### *The purchase price*

7.25 Simply allowing recovery of purchase price unrelated to the market value of the site, as Mr Stapleton ostensibly did in his original assessments (which were before the Council's planning committee), would not be appropriate [CA/10C/2 p6]. Ultimately planning is about achieving development in the public interest and it cannot be in the public interest to allow a developer to recover losses on overpayment by permitting in principle, or in greater quantities, otherwise unacceptable enabling development to compensate for the overpayment. The developer should be allowed to recover the market value, based on current planning permissions, of the land and this may or may not accord with the price paid.

#### *The market value of the site*

7.26 Mr Stapleton produced evidence on the market value. He has looked to see how the site could be used in accordance with the existing planning status and without the need to obtain planning permission, thereby excluding any hope value. This is now the correct approach to the assessment of value. However, he may have been over-optimistic in his assumptions about 100% occupancy levels and the rental levels, given the nature of the site, the condition of the buildings, uncertainties regarding planning use rights for multiple occupation given that the site is a single planning unit, and potentially conflicting neighbouring uses if the site is in multiple occupation.

7.27 Equally Mr Haynes may have underestimated the potential use of the site and thereby its current market value. This is Mr Davies' opinion. Confining his estimate to the potential generated by the existing actual uses occurring on site, and limited to the life of the temporary permission leads to an underestimation of the market value. This is perhaps compounded by insufficient consideration of the condition of some of the redundant buildings on site and their potential for re-use.

#### *Profit Taking and the level of profit*

7.28 Unlike Mr Haynes, the Council accepts the principle of allowing the developer to take a profit on the sale of the land at a ready-for-construction phase rather than being confined to taking the profit at the end of construction itself. The scheme involves a large element of employment floorspace which the appellants acknowledges would probably have to be sold as freehold land to meet the requirements of many employers. The Council would seek to encourage such choice, which would otherwise be fettered by only allowing profit to be taken from the construction works. The Council also acknowledges that the level of profit should be reflective of the risks involved which may be greater in respect of Areas B and C than Area A. Overall it is considered that a return on the scheme as a whole up to ready-for-construction stage would not be unreasonable.

#### *The justification for 84 houses*

7.29 Even on Mr Haynes' approach; the scheme is very marginal without Area A, (page 24 HDC/23) and it would only require the view that his market valuation was undervalued by a small amount to trigger the need for some enabling development. Once triggered then further costs are incurred in developing housing on area A which require further enabling development.

- 7.30 However, as well as the requirement to establish that enabling development is required in principle, it is also necessary for the developer to establish that 84 houses are required. In this regard it is respectfully submitted that Mr Stapleton's approach is flawed. His assessment starts with the submitted scheme of 84 houses and then demonstrates that it is necessary to meet the shortfall. However, the correct approach would be to determine what is the minimum amount of housing/housing land required to cover the shortfall. One should ask, for example, whether 50 units or 1.5 hectares would achieve the same end?
- 7.31 All of this leaves the financial evidence on the question of enabling development somewhat confused and unsatisfactory. The case for some enabling development may be made out but not for the amount in the scheme submitted. In that event the simple solution would be to reject the scheme.
- 7.32 It may be necessary to take the assessment a stage further. If a smaller quantum of housing/housing land can be identified, the unjustified excess over and above that needed to make the scheme viable, needs to be assessed in the overall balance of planning merits, bearing in mind that a number of houses are required to achieve affordable housing requirements.
- 7.33 On the basis of the additional material in the form of illustrative design details by Neil Holland contained in Mr Russell-Vick's appendices [CA9/B], the design and layout of the housing would be acceptable. The housing scheme cannot entirely create the character of a traditional settlement without a focal point, which would have justified its location. The commuted sum offered through the Section 106 obligation meets ADC's original affordable housing concerns in respect of the scheme.
- 7.34 In conclusion, ADC strongly supports the employment development on areas B and C. On balance the scheme on area D is acceptable. Housing on Area A is unsustainable and can only be justified if it is necessary as enabling development both in terms of principle and amount. On the evidence at the date of the planning committee resolution the Council was not so satisfied.

Secretary of State matters

*PPG7 Countryside*

- 7.35 Given that the proposal is within the AONB, the Council considers that, taking account of the overwhelming need to remove the existing major derelict buildings and structures from the site, the proposed development, other than that on Area A of the application, would (subject to further satisfactory details) conserve the natural beauty of the landscape. The proposals for Areas B and C would have a substantial beneficial impact on the economic and social well being of the area. The proposals for Areas B, C, and D (but not A) are in the public interest to a significant extent.
- 7.36 There is significant evidence of need for the proposed development (other than that on Area A) in terms of national considerations of improving the environment of the AONB, and the impact of permitting it or refusing it on the local economy would be substantial. There would be substantial highways infrastructure investment costs and little scope for providing the development proposed for Areas B and C elsewhere within (or within easy reach of) the coastal area. Finally, other than for the development proposed on Area A, the remaining part of the proposal, subject to satisfactory additional details, would not have a detrimental effect on the environment and the landscape; its effects could be moderated by the imposition of conditions and by a suitable section 106 obligation.

*PPG3 Housing*

7.37 With regard to making the best use of land, the proposed housing is within the recommended density of 30 – 50 dph. Residents would have relatively poor access to education and health facilities, shops, leisure and local services as compared to those within towns and villages of the area and to those who would occupy dwellings to be built on land identified (or otherwise meeting approved criteria) for residential development in the Development Plan. The proposed development would appear to provide a mix of types and sizes of houses. The level of parking provision appears to result in a development on average with 1.5 spaces per dwelling unit.

*PPG 6 Town Centre and Retail Developments*

7.38 Although the scheme includes offices, existing town centres in the locality would be unable to accommodate offices on the scale proposed and other sites which might be more suitable for some of the development under the 'sequential approach' are unavailable primarily because of lack of adequate highways infrastructure within the built up area.

*PPG13 Transport*

7.39 Subject to the provision of satisfactory additional details and completion of a section 106 obligation, the proposal could offer a realistic choice of access by public transport and cycling. However, the location is basically not a sustainable one for residential development.

*PPG4 Industrial and Commercial Developments and Small Firms*

7.40 The proposal would provide for the needs of businesses unable to find suitable sites within the built up area of the nearby coastal towns. The proposed siting of the proposed Class B1, B2 and B8 buildings within the application site would help reconcile this demand with environmental protection. The development would help to minimise additional congestion within the built up areas of the coastal towns.

## 8 The Case for West Sussex CC

### The need for more waste disposal capacity

- 8.1 There is an urgent need for more waste management capacity. This underpins the County Council's case and justifies its request for refusal of these applications. West Sussex, and for that matter the country, faces a growing problem in relation to waste. If this problem is going to be successfully addressed then opportunities to safeguard sites which could make a major contribution cannot be allowed to slip by.
- 8.2 The size of this problem is illustrated by figures provided by Mr Kilford, accepted by Mr Fidgett in cross-examination [WSSCC2, App1]. 11.6 million tonnes of waste will be generated between 2001 and 2016 which West Sussex has no capacity to manage.
- 8.3 In cross-examination Mr Fidgett described that as a substantial shortfall in the county's waste management capacity. Although he felt it would be possible for the waste management industry to find sufficient sites to overcome that shortfall he acknowledged that in practice it will be difficult for them to do so. Mr Fidgett did not therefore accept a proven need for waste to energy. In identifying how this substantial shortfall was to be addressed he wandered between a number of options, including waste minimisation, greater recycling and even more landfill. However when pressed he acknowledged that all of these options had problems, particularly in identifying sites.
- 8.4 While acknowledging that waste minimisation had a role to play and that there would always be a need for landfill, Mr Kilford gave clear evidence, emphasising that the County has less than 3 years of landfill capacity available. If the agreed substantial shortfall was going to be met then, in accordance with government policy, there will need to be a substantial increase in the amount of waste recovered and this means waste to energy of some sort. This substantial shortfall should be kept in mind.

### The Waste Local Plan

- 8.5 The Waste Local Plan (CD45) identifies this site as having potential for waste management – both recycling and energy from waste. The Plan also contains a policy – G11 – which seeks to safeguard the sites in the Plan from other development which would prevent or prejudice the use of the site for waste management purposes.
- 8.6 The Waste Local Plan has not yet been adopted and is therefore an emerging Plan. As such PPG1 makes clear that the Plan will gain weight in the determination of planning applications as it goes through the statutory stages to adoption. Mr Fidgett accepted therefore that the Waste Local Plans policies are a material consideration in the determination of the applications. His view however was that the Plan should be given very little weight. Mr Kilford, on the other hand, felt that the Plan should be given substantive weight; 'a little bit less than considerable' was the phrase he used.

### The weight to be accorded to the policies in the Waste Local Plan

- 8.7 PPG 1 provides three examples of the weight which could be accorded to emerging plans at varying stages in their development. The guidance does not cover all of the possible stages in the preparation of a local plan. In addition since the guidance was produced the mechanism for producing local plans has changed. The previous practice of producing a consultation draft local plan has been replaced by a requirement to produce an issues paper. Also plans are now placed on deposit twice before a Public Inquiry is held.

- 8.8 Mr Fidgett considers these changes alter the weight that can be given to a Deposit Draft Plan. Mr Fidgett attaches no weight to the Waste Local Plan Public Consultation Document (CD 47) and argues that the Deposit Draft Plan should therefore be acquainted with an old style consultation draft plan. This would place the Waste Local Plan within the first of the bullet points in paragraph 48 of PPG 1- where a refusal on the basis of the policies in the Plan would seldom be justified.
- 8.9 However, the PCD was not intended to be a full version of the Plan but rather it was designed to inform a discussion. Nevertheless, it does contain a clear strategy (sections 2 and 3) and key policies including the amount of waste to be dealt with and development control policies on where waste facilities can be located (section 4). Most importantly it contains a list of 48 sites – including the appeal site – all of which have been identified as having potential for waste management uses. The detailed evaluation which led to the identification of those sites is explained in section 5. It would be wrong therefore to condemn the PCD as simply an issues paper – it was a substantive statement of policy in its own right.
- 8.10 In fact it could be argued that the PCD should be given more weight than an old style Consultation Draft. The old style Consultation Drafts were mainly produced in order to allow consultation with statutory consultees (e.g. Districts, the Environment Agency etc). There was no requirement to publish them for public comment. However an extensive consultation was carried out on the PCD (see page i of CD 47) and all parties – including landowners like the appellants – were able to comment. The results of this consultation were taken into account by the County Council in preparing the Deposit Draft Plan.
- 8.11 Mr Fidgett also felt the Deposit Draft Waste Local Plan should be given less weight because of the existence of the second Deposit stage. However, the second Deposit stage is merely a formalisation of the long-standing practice of Local Authorities making informal proposed changes to the Plan before Inquiry. These were advertised and were indications of the Authority's policy but were not formally part of the Plan. Whilst not impossible it would be highly unusual for a Local Authority to make major revisions to its policies at this stage.
- 8.12 Mr Fidgett is therefore wrong to say that we are at the first bullet point stage. The position is actually closer to the second bullet – where a Deposit Draft has been produced. Clearly the proposal for an energy-from-waste plant at the site will attract objections and therefore it cannot be accorded the considerable weight that a policy with no objections can be afforded. However that does not necessarily mean it should be accorded no or very little weight – the amount of weight must be somewhere in between the limited weight of a consultation draft and the considerable weight of a policy with no objections.
- 8.13 In assessing the weight to be given to the allocations in the WLP Mr Kilford contrasted the weight to be given to allocations in a WLP with say housing in a District Local Plan. Given that housing is relatively easy to locate there are often a large number of viable sites competing to be regarded as the best sites and therefore included within the Plan. With waste however, as Mr Fidgett acknowledged, there are very few acceptable sites and therefore there is not the same competition from other sites seeking to replace them. As Mr Kilford pointed out, waste sites which have passed a site selection process should be afforded more weight therefore than housing allocations.
- 8.14 This lead Mr Kilford to his considered view that the Waste Local Plan should be afforded 'a little bit less than considerable weight'. That view is entirely consistent with the guidance in PPG 1.

WLP Policy guidance in this case

- 8.15 It is common ground that the policies of the Waste Local Plan are a material consideration in this Appeal although the weight to be given to them is in dispute. It is important however to have in mind what the relevant policies of the Waste Local Plan are in order to determine their impact in deciding this appeal.
- 8.16 Shoreham Cement Works has been identified as one of only 3 possible sites for an energy-from-waste plant. It is the only possible location which has been identified in the south east of the County. That identification is protected by a safeguarding policy (G11) the principle of which Mr Fidgett accepted (albeit he had reservations about the wording). The combination of these two policies makes a strong argument against granting permission for this development. These policies are a material consideration to be weighed with the policies of the Development Plan.

Prejudice to the Waste Local Plan

- 8.17 Whether the application prejudices the Plan involves consideration of two issues. The first is whether the site is likely to stay in the Plan – if it is not then there is no real cause for concern about whether the proposals prejudice the Plan. The second is whether the proposals cause sufficient prejudice to justify refusal.
- 8.18 Whether the site will remain in the Plan depends to a large degree on the views of the Inspector who holds the WLP inquiry. The test that Inspector will be applying is whether there are any overriding objections which mean that the site could never come forward. The inspector will not therefore be considering the proposals in anything like the detail with which we are considering these proposals. If there were any overriding objections it should be possible to identify them now.
- 8.19 In his evidence Mr Kilford explains the criteria which the Council has used for identifying sites for inclusion in the Plan and the site selection methodology used. In cross-examination Mr Fidgett was reluctant to commit himself on whether he accepted these criteria. However he did not object to any of the considerations used or identify any others which should have been included.
- 8.20 Mr Kilford applies those criteria to the Shoreham Cement Works site and comes to the conclusion that the site performs very well against them [WSCC1, S.E]. No points on this section were put to Mr Kilford in cross-examination. Mr Fidgett considered that analysis and identified 5 areas in which he considered the Shoreham Cement Works site to be deficient in terms of waste management:

*Proximity*

- 8.21 Mr Fidgett expressed the view that the site does not fit well with the ‘proximity principle’ as it is remote from the built up areas. This is perhaps an odd conclusion given his view on the sustainability of the housing on Area A. In terms of the proximity principle for an energy-from-waste plant it is wholly misguided. An energy-from-waste plant, as Mr Fidgett accepted, will always need to cater for waste from more than one community. Therefore in terms of proximity for an energy-from-waste plant we are looking for a site which is well placed to serve a number of settlements [WSCC2 App4 #18]. Given its location on the strategic road network this site is ideally placed to serve a number of settlements.



*Best Practical Environmental Option (BPEO).*

8.22 Mr Fidgett criticised the site because no BPEO examination had been carried out. But the Waste Local Plan is a strategic land use plan; it will never, even at its Inquiry, deal with the identification of a site in the detail suggested. There is simply no requirement for either a BPEO exercise or the type of detailed environmental assessment Mr Clay was seeking. In re examination Mr Kilford looked at the relevant guidance on the preparation of Local Plans -- (paragraphs 4.16et seq. of PPG 12) which requires an iterative approach to environmental appraisal. Mr Kilford confirmed that this was the approach taken by the County Council in relation to the Waste Local Plan.

*Integrated Waste Management Facilities.*

8.23 Mr Fidgett initially alleged that the site was unacceptable because it did not provide for integrated waste management facilities. However when pressed on this issue he agreed that there was no reason why an integrated plant, as he described it, could not be accommodated on the site.

*Conformity with other Development Plans.*

8.24 Mr Fidgett also alleged that the Waste Local Plan proposals were not in conformity with the other policies of the Development Plan. However, the District Local Plans, as Mr Fidgett accepted, cannot identify a waste use and therefore there can be no mention of waste uses in these plans. Given that the majority of the suitable waste sites are on either previously developed land or on industrial estates they are always like to be subject to some other Local Plan allocation. In that situation the plans simply provide a choice with either use being in conformity with the Development Plan. To say that the Waste Local Plan is in conflict with the District Plans because it proposes a different use is therefore simply not right.

8.25 As far as the Structure Plan is concerned the only policy relating to the site is in the emerging Plan (CD8A) – Policy NE6. This specifically provides that a waste management use ‘*may be identified in the Waste Local Plan either for the whole of the site or as part of a comprehensive scheme alongside other uses*’. There can be no question therefore of the proposal not being in conformity with the Structure Plan.

*Restoration*

8.26 Mr Fidgett suggested that an energy-from-waste plant could not contribute to the restoration of the site. He accepted that he had made no financial appraisal of the viability of an energy-from-waste plant. In fact the only information available to the inquiry was contained in an exchange of emails with the operators of the SELCHP plant [WSCC4 & 6]. These show that the SELCHP plant cost £80-85m and that the site itself required remediation to remove previously deposited waste.

8.27 This information was not discredited during cross-examination of Mr Kilford about the availability of various grants to fund SELCHP, as WSCC6 showed. Both Mr Kilford and Mr Fidgett expressed the opinion that the costs are likely to have increased rather than decreased. It is therefore safe to rely on the information contained in these emails, which show that the cost of restoring the entire site would be a small proportion of the cost of constructing a plant. There is no basis therefore for concluding that an energy from waste plant could not either fund the restoration of the entire site or make a substantial contribution to it.

8.28 There are no obvious over riding objections which would lead an Inspector to rule the site out of the Waste Local Plan.

#### Prejudice to the Waste Local Plan

8.29 The appellants consider that granting of permission for these proposals would not prejudice an energy-from-waste plant coming forward at all. If such a plant were needed, the site would still be in the WLP. If a contractor wished to build it, land could be made available within the site. There would no prejudice to the Plan therefore, they say.

8.30 As a matter of basic principle if all the buildings proposed for the site are built the opportunity for an energy-from-waste plant is lost. Mr Fidgett accepted that short of tearing down a building this was the case.

8.31 In terms of the intervening period between the grant of planning permission and the construction of the buildings whether an energy-from-waste plant could come forward on this site depends on a choice by the landowner; would they make the land available? If there is likely to be a need for an energy-from-waste plant on this site then the appellants have to indicate that they will make the land available. If they receive permission and simply build their industrial park then the opportunity for an energy-from-waste plant will be lost and the development of the Plan will have been prejudiced. Whether the appellants will make the land available is not something which can be proven from evidence. It is easy for the appellants to say now that 'in principle' they will make land available but will these fine words be backed by action?

8.32 What is clear is that the suitability of the site for waste management has been identified for some time. A number of the studies refer to it and the site was included in the PCD published in November 2000, 2 years before the application was made. Despite this clear policy indication the applicants have never seriously taken forward the potential for a waste use on this site. There is no documentary evidence for any offer to safeguard the site. Mr Fidgett's notes of a meeting with a County Council Officer (WSCC5) make no reference to safeguarding a site and Mr Kilford, who was at part of that meeting, says he does not recall an offer being made. That remains the position of the County Council.

8.33 A previous withdrawn offer to reserve a site was predicated on the appellants being released from all of their responsibilities in relation to the restoration of the site for the period of the safeguarding. Neither the District nor County Councils could support development taking place on the site without restoration taking place at the same time.

8.34 The same problem prevents the use of a condition for the long term safeguarding of the site. Mr Fidgett, in answer to the inspector's questions, did suggest the possibility of a short term safeguarding until construction began on site – he suggested this might be in 2006. Whilst this would allow the Waste Local Plan to progress – probably to adoption – it would not really safeguard the site. All it would effectively be doing would be to say 'if someone comes along with a better offer before we build we will consider it but when we are ready to build we can.' That would not overcome the Council's objection.

8.35 Although it is impossible to prove that the appellants are not interested in promoting a waste-to-energy scheme, their case supports this proposition. They have said specifically that the development must provide 'early low risk high value returns'. The Appellants have no interest at all in doing the work needed to bring about a waste to energy plant. If they

are given their permission the industrial estate will be built and a unique opportunity for an energy-from-waste plant on this site will be lost.

- 8.36 On the other hand refusal of permission will give a clear direction that the appellants' proposals should not prejudice the provision of an energy-from-waste plant. The Waste Local Plan will proceed to adoption with, if the County Council's approach is correct, the Shoreham Cement Works included. The site will also have the benefit of the safeguarding policy – G11. As Mr Fidgett agreed in cross-examination that policy would mean that any application which prejudiced or prevented the development of the site for waste management purposes would not be in accordance with the Development Plan. The likelihood in those circumstances would be that the application would be refused.
- 8.37 If the urgent need for more waste management capacity is accepted then the only safe course would be to refuse permission. While this may leave the appellants 'swinging in the wind' to use their expression, it needs to be remembered that they bought this site speculatively, knowing the problems of obtaining permission and the risks that involves. Also the purpose of the planning system is to regulate the use of land in the public interest. Sometimes this means that landowner's aspirations for sites cannot be agreed to.
- 8.38 In summary, these applications should be refused either wholly on the grounds of prematurity or in combination with the other objections raised by the 2 District Councils.

## 9 The Case for Interested Persons

### SUSSEX DOWNS CONSERVATION BOARD

- 9.1 The site is located at the narrowest and potentially most vulnerable point of the AONB, and occupies a prominent position mostly on the side of the valley of the River Adur, but extending into the valley floor and into the downland to the east. In its present condition, the site detracts significantly from the visual amenity of the AONB, in contrast to the quality and character of its surroundings. The former cement works complex should be considered as a site in need of remediation rather than a site where development is to be maximised.
- 9.2 The appellants' witnesses claim that their proposals achieve significant benefits. However, there are a number of fundamental concerns with the proposed development.
- 9.3 The inclusion of 84 houses in the proposals clearly render them contrary to the policies of the adopted Horsham District Local Plan, the adopted Adur District Local Plan, the adopted West Sussex Structure Plan and the emerging West Sussex Structure Plan Deposit Draft. Quite simply, there is no provision, specific or otherwise, for this amount of housing on the site in any relevant policy.
- 9.4 In addition, Policy UB1 of the Horsham District Local Plan requires 'substantial landforming' in respect of the quarry faces. The appellants put forward a scheme that consists of some re-grading of the floor of the quarry and claim that this results in significant visual and ecological benefits. However, what would actually result is a rather strange-looking, almost flat-bottomed landform, with prominent chalk faces remaining to the north, east and south. The Environmental Statement submitted with the application acknowledges that the quarry form would remain.
- 9.5 Therefore the submitted proposals do not achieve the substantial land forming required by Policy UB1 to reduce the impact of the site in local and distant views. The appellants' landscape witness is conscious that the proposed scheme put forward for Area D falls some way short of an ideal landscape solution. In the ES and his evidence he was somewhat defensive of the scheme, with references to an 'honest' response and using health and safety constraints (and, latterly, the presence of bird species) as justification for the minimal works proposed, rather than promoting the scheme as the optimum solution. The minimality of the scheme has been demonstrated by the appellants' pointing out that their proposals would not compromise any future further works.
- 9.6 Horsham District Council's landscape witness has demonstrated the feasibility of the type of remediation scheme clearly envisaged by the Council and its financial witness has demonstrated that this could be provided with only commercial/industrial development. This alternative scheme has been 'attacked' by the appellants as liable to result in the loss of nesting sites for important bird species. However, English Nature has raised no objections to the alternative restoration proposals. Dr Whitbread of the Sussex Wildlife Trust has stated that, if need be, the proposals could be slightly revised to accommodate these species, and that the alternative proposals are closer to his ideal than the appellants'.

Horsham District Council's ornithological witness has also endorsed Mr Duckett's proposals.

- 9.7 The appellants' claimed concerns over the alternative scheme are not justified, although it should be remembered of course that the site is part of an area designated for its national landscape importance, not its nature conservation value. In fact, it has no designation, national or otherwise, to reflect any specific nature conservation interest. Although one of the bird species present is considered to be of national significance, the other is of only of county interest. The presence of these bird species should not, therefore, override other natural beauty considerations if there was to be an irreconcilable conflict between landscape and nature conservation interests; in reality, this conflict would not occur.

#### Material considerations

- 9.8 The appellants argue that the costs of the remediation proposals they put forward, and other costs, including site purchase, would not be met by the development of only the commercial/industrial element, and that the residential element is thus required to cover the shortfall and provide a reasonable return. However, this calculation is founded on £3.6 million having been paid for the site. Had the appellants paid less for the site, such as its actual worth based only on such redevelopment as allowed for by the local plan, then there may have been no shortfall or need for residential development. In fact, Horsham District Council's witness considers that the site has a much lower value and that all remediation works could be funded by commercial/industrial development alone, with no need for the housing element at all.
- 9.9 The housing element is not required to meet a particular local need. Horsham District Council has made it quite clear that there is an adequate supply of housing land within Horsham District identified through the local plan process, and Adur District Council also object to the housing element of the proposals.
- 9.10 There are no exceptional reasons why housing on the scale proposed should be permitted anywhere on this site. In addition, West Sussex County Council, as Highway Authority, objects to the proposed residential development on the basis that it is in an unsustainable location. The appellants' planning witness seemed to accept that this would not be a location favoured for residential development under the terms of PPG3 for that reason. The site is not, therefore, a location that would be favoured for housing development even if there was a need for additional housing within Horsham District. Finally, the housing element of the proposals, located on a site which forms part of the Principal River Floodplain landscape type, would be out of character with its surroundings. The layout shown for approval at this stage does not reflect the street pattern of the locality, whereas PPG7 advises that it should.
- 9.11 Turning to the commercial/industrial development proposed, is this of such national or other significance that the whole development should be allowed regardless of its non-compliance with the Horsham and Adur Local Plans and the lack of any need for the housing element? Clearly the answer has to be no. The adopted Horsham District Local Plan allows for business/industrial development, subject to certain requirements, on the site. There is, therefore, a policy framework in place to allow the benefits to the local economy that could accrue from such development.
- 9.12 The appellants claim that just under 1,000 people could be employed in the proposed development, but there is no compelling evidence that these jobs would actually materialise or, if they did, that these would be new jobs rather than existing local jobs simply

relocating. Evidence has been given that there are a number of permissions for B1 development in Shoreham that have not been implemented and which have now lapsed. This indicates a lack of demand for such premises which does not inspire confidence that the proposed units would be fully occupied, particularly by new businesses to the area.

- 9.13 If the permissions in Shoreham have lapsed for other reasons, this could imply that Shoreham is not an attractive location for business development. It may suggest that occupiers of current premises within the town would seek to relocate to the Adur Valley Park, with their existing premises becoming vacant and possibly being redeveloped for other purposes. The Adur District Local Plan does not appear to contain a policy to retain existing business sites. Perhaps it is for this reason that the Adur Economic Partnership, according to the evidence presented, received expressions of support for the proposals. It is notable that the West Sussex Economic Partnership has submitted a statement to the inquiry, objecting to the proposals as submitted, on the basis that the type of units proposed could be developed on other brownfield sites in the area.
- 9.14 Even if there is an increase in jobs as a result of the proposed development, there is nothing preventing the development of the site in accordance with the adopted local plan policies, unlike the current proposals, and no justification for the permitting of these proposals contrary to those adopted policies.
- 9.15 Finally, the landscape and ecological benefits of the appellants' proposals are insufficient to justify the permitting of this development as proposed. The relevant local plan policies allow for landscape restoration already and Horsham District Council's witness has demonstrated how that could be achieved.
- 9.16 The appellants' proposals will have some landscape and ecological benefits but, crucially, these would also be achievable through a scheme in accordance with the development plan, as demonstrated by Horsham District Council's suggested alternative scheme for Area D. The appellants' scheme, of course, also brings with it a number of disbenefits – the visual impact of the proposed housing, the opportunity lost for ecological and informal leisure improvements on Area A, and the additional traffic, noise, light and general activity that would be generated by the occupiers of those dwellings.
- 9.17 Clearly, therefore, there are no material considerations of sufficient weight to indicate that any decision other than in accordance with the development plan should be made nor that the appellants' scheme should be permitted contrary to the provisions of that development plan.
- 9.18 In conclusion, neither the Council nor the Conservation Board have produced a detailed scheme for the remediation or development of the site in accordance with the provisions of the development plan without, in the Board's case, public funding. However, Horsham District Council's witness has demonstrated that such a scheme could be possible. With interest in progressing an acceptable scheme being expressed by SEEDA and the Countryside Agency, the redevelopment of the site to provide visual, nature conservation, economic and social benefits, thus achieving real sustainable development, is more than possible.
- 9.19 Accordingly, in the interests of preventing demonstrable harm to an interest of acknowledged importance – a nationally important landscape – and upholding the provisions of an adopted development plan, the application should be refused and the appeal dismissed.

#### WEST SUSSEX WILDLIFE TRUST

- 9.24 The Trust accepts the principle of large scale development on the site but only if it delivers significant environmental enhancement. Given the previous history of site use, the developer should propose such a scheme, or restore the site to its original condition.
- 9.25 The environmental measures proposed by the appellants are limited to building demolition and the creation of chalk grassland in the quarry. Very little re-profiling will occur and the cliffs will remain exposed for many decades. The scheme does not meet the requirements for restoration envisaged in the joint report sponsored by the West Sussex Wildlife Trust [CD32]. The proposal would not provide sufficient environmental improvement for the level of development proposed.
- 9.26 The Trust also has concerns about the management of the proposed grassland in Area D. However, these could be addressed by a Section 106 obligation.
- 9.27 The major residential development on Area A conflicts with Development Plan policy. Housing on the most visible part of the site would have severe landscape implications. It would be unwise to locate new housing so close to the floodplain level. There is not enough environmental improvement of this prominent area.
- 9.25 The Trust supports HDC's alternative restoration proposals for Area D, subject to modifications to increase the length of cliff.

#### UPPER BEEDING PARISH COUNCIL

- 9.26 The Parish Council opposes the proposals for 84 houses. The village is already dispersed, and another isolated group of dwellings would adversely affect community spirit. It is understood that both the Upper Beeding Primary School and Steyning Grammar School are full.
- 9.27 There is uncertainty as to whether the A283 could cope with the extra traffic from the scheme. There have been traffic problems in the past; the installation of traffic lights at the site entrances will aggravate the problems. Many parents already take their children to school by car, even within the village. The nearest bus stop to the school involves a walk along a narrow road to the entrance.
- 9.28 Upper Beeding is short of open space; residents of the development would look to the village to meet their needs but the capacity would be inadequate.
- 9.29 The Parish Council supports the HDC's proposals to restore Area D by creating a coombe.

## 10 Written Representations

- 10.1 Document 3 contains a number of letters about the scheme. In general, they cover the same objections as those raised by HDC, in particular with regard to the housing proposed for site A. Objectors also are concerned with traffic levels on the A283, and the extent of landscape restoration, particularly in Area D.
- 10.2 The Countryside Agency objects to the proposals on grounds of failure to meet the national need test of policy in PPG7, the possibility of a more sustainable alternative form of development, and detrimental visual impact on the AONB. Other points not covered in detail by the cases for the main parties include an objection regarding additional light pollution in the AONB, the scale of development in Area B, potentially inadequate water supply, possible flood risk.
- 10.3 English Nature accept that the scheme would affect neither the features of ecological or geological interest within the site, subject to appropriate conditions and planning obligations, nor the SSSI adjoining the site to the north. The Environment Agency objected to the original layout of houses on Area A within 16m of the River Adur but this was withdrawn by a subsequent letter of 6 November 2002.
- 10.4 There is one letter of support.



## 11 Conditions and Obligations

### Planning Obligation

11.1 Document 6 is a Section 106 planning obligation submitted by Callstone which provides for a number of matters already summarised in paragraph 3.7 above. The District Councils were concerned about the size of the shop and nursery and that they would not be delivered. HDC raised the following concerns that the provisions regarding affordable housing were not in the standard form normally issued by the Council:

- service connections were not specified
- the RSL need not obtain the Council's agreement to nominations
- there were no stipulations about the timing of land transfer with regard to the amount of private development.

11.2 Other time periods were not agreed for Section 2:

- 1.2.1 (i) 999 years was sought;
- 1.2.2 a) two months was too short;
- 1.2.3 the failure period of 6 weeks was too short

11.3 HDC requested nomination rights for 4 agencies, and a further 2 houses for key workers.

11.4 The District Councils also expressed a view that the provisions of Section 3 would not ensure a sufficiently early release of funds for the restoration of Area D.

11.5 Finally, WSCC argued for the indexation of the funds to support improved bus services, together with penalty interest.

### Conditions

11.6 Documents 5A and 5B are lists of suggested conditions for the proposals in relation to the two Districts concerned. They were discussed extensively at the inquiry and accepted by all parties, subject to a few concerns. These were: the omission of a requirement for general parking on Area A in association with recreation provision; the timing of open space and landscaping, and the means of restricting the number of 3 storey houses.

## 12 Conclusions

### *Introduction*

- 12.1 On the evidence put forward, and my inspection of the site and its surroundings, I have come to the following conclusions. Numbers in brackets refer to paragraph numbers in the report.
- 12.2 This section of the report covers the matters set out in the call-in and recovery letters. In essence these cover several main issues:
- The effect of the proposals on the AONB, having regard to local and national policy for its protection.
  - The acceptability of the mix of uses proposed, having regard to the Development Plan and national policy in PPGs3, 4 and 6.
  - Whether the scheme would conflict with relevant local and national policies to direct new development to locations accessible in safety by a variety of means of transport, and in particular to reduce travel by private car and vehicle emissions.
  - The effect of the scheme on the efficiency of the strategic highway network
  - The effect of the proposals on the ecology of the site
  - Whether the proposals are premature with regard to the Waste Local Plan.
- 12.3 As a starting point for consideration of these issues, the site in its current state represents a major visual intrusion at a strategic point within the South Downs AONB. The former cement works buildings are very large unsightly structures, highly prominent from close viewpoints. The quarry itself, and area D in particular, has been accurately described as a large gash in the rolling landscape of the Downs, visible from a very large number of public viewpoints over many kilometers.[2.2-6]
- 12.4 All parties at the inquiry agreed that the removal of the cement works buildings and the remediation of the landscape would be in the national interest. Although the development proposals themselves are not of national importance, I agree that their contribution towards the improvement of the AONB landscape could be considered to meet this requirement of national policy in PPG7, as clarified by the Raynsford statement of June 2000. Such an improvement would be in the public interest and clearly could not be achieved in another location. [5.1.4, 5.9.4-8, 5.9.15]
- 12.5 The principle of some form of redevelopment of the site, to achieve the primary objectives of removing the buildings and restoring the landscape, has been accepted in the Development Plan. This is consistent with national policy for the AONB in this case. However, the form and extent of a development in a location where it would not normally be permitted, and the level of restoration it would enable, remain at issue. In accordance with the normal process for determination of planning proposals, I consider it would therefore be appropriate to decide whether the scheme accords with the Development Plan first, before turning to other material considerations. [4.2, 4.4]

## *The Development Plan*

### General

- 12.6 As planning case law sets out, the development proposals have to be considered in relation to the Development Plan as a whole, not broken down into its constituent parts. [5.1.15, 6.2] Policy C2 of the Structure Plan seeks to protect the natural beauty of the AONB and where possible to achieve landscape restoration. This is a common thread behind the more detailed policies of the two Local Plans.

### Employment development in Areas B and C

- 12.7 Policy UB1 of the Horsham District Local Plan sets out a number of requirements. The principle and detailed nature of the employment development on Areas B and C with regard to the policy was not disputed. Even though the County Council sought the refusal of the application on grounds of prejudice to the provisions of the draft Waste Local Plan, they did not allege that the employment uses conflicted with the provisions of the HDLP. Policy E3 of the HDLP allocates the site specifically for employment use.[5.1.8]
- 12.8 The SDCB referred to possible lack of demand for commercial and industrial premises in the Shoreham area. However, there is a need for employment development of this type to help regenerate the PAER. The English Partnerships guide identifies the quarry as one of seven key brownfield strategic business sites (only two of which are located east of Worthing) needed to regenerate the West Sussex coastal strip. The other nearby site at Shoreham Harbour requires very substantial investment and is unlikely to come forward in the short term. [5.9.12, 7.5]
- 12.9 Policy AE1 of the Adur District Local Plan recognises that some of the floorspace needed in Adur would be provided at the appeal site. The proposal would provide a large business park development of a type that could not be developed within the constrained land supply of Adur District. This element of the proposals is strongly supported by ADC. The creation of a major employment area serving the coastal Towns PAER would have a beneficial impact on the economic well being of the AONB in accordance with policy in PPG7. PPG4 gives general support to the creation of a range of employment opportunities, as proposed here. I go on to discuss the general principle of locating employment development in a rural location below.[4.2, 5.1.7-9, 7.5-8, 9.12-13]The proposals for Areas B and C would provide a good range of unit sizes and considerable flexibility for potential occupiers. There are no outstanding concerns about the layout of the scheme or the potential impact of the buildings on the AONB, subject to satisfactory details at reserved matters stage. Most of the larger industrial/warehouse buildings would be screened from wider views by the old quarry faces that separate the two areas. I consider the hotel and restaurant would not be of sufficient scale to be considered as anything other than ancillary to the main employment elements of development on the land east of the A283. I deal with the Council's objection to the potential traffic generation from the site if all the units in Area C were to be occupied as Class B2 industrial premises below.[3.3, 2.5]

### Housing on Area A

- 12.10 The proposal for 84 houses on Area A was the subject of much discussion at the inquiry. Neither Policy UB1 nor Policy DP.AR4 make reference to housing on any part of the site. I consider the broad thrust of the policies as written is quite clear; the site should be

redeveloped predominantly for business and leisure purposes. Paragraph 14.1 of the reasoned justification for Policy UB1 refers to '*possibly, some limited housing*'. Further explanation is given in paragraph 14.9, which indicates that any such housing should be 'linked very closely' to the business or leisure uses, either through the provision of the residential element of workplace units or dwellings necessary for the operation and management of the leisure uses. Neither of these 'exceptional circumstances' quoted by the text apply in this case. [4.2]

- 12.11 What is proposed is a discrete area of housing on part of the site identified for predominantly leisure and recreational purposes. The appellants argued that residents would be likely to have links with the employment uses on the other side of the A283 by obtaining jobs once the business park and industrial areas were occupied. No firm evidence about the likely take-up of employment in this way was put to the inquiry. PPG13 warns against assumptions that juxtaposition of uses will lead to reduced car travel. In this case there could be a significant time lag before any links could be established; the new residents moving into Area A would be employed elsewhere and would have no chance to work at the site until the employment development was completed. [6.3, 6.6]
- 12.12 In any event, I consider that a development of 84 houses, which would be the sixth largest housing site in Horsham District, cannot be described as limited. Even in the context of a large scheme such as this, it would still represent almost one fifth of the total area of building footprint. In practice, even though the dwellings would straddle the boundary between the Districts, they would form a very significant element of the proposals as a whole. I deal with the acceptability of housing on this scale with regard to general policies for sustainable development below. [6.8]
- 12.13 Both Policy UB1 and DP.AR4 require any development on Area A to achieve a significant reduction in the mass of buildings on this part of the site. The proposed houses would occupy a larger area of building footprint than the existing buildings, although the extent of this increase was disputed. I consider the Council's figure of a 50% increase in floor cover is a more accurate indication of the likely impact of additional built form. The comparison between existing and proposed hard-surfaced areas does not fully reflect the objective of the policies to reduce building mass. Although there are some large structures on this part of the site, including the 3-storey office block and the packing plant, the proposed houses would cover a much more extensive area. Despite the screening of deciduous trees along the riverbank, I saw that the expanse of new buildings in the AONB would be readily apparent from a number of viewpoints, particularly those from the elevated ground above Coombes to the west. The rather limited areas of open space to the north and south of the housing would improve the appearance of the area, though not to the extent sought by the Local Plans.[6.11]
- 12.14 Details of the design of the houses and other hard materials remain to be determined, although the illustrative plans produced for the inquiry show that a high quality scheme could be achieved in terms of the appearance of the buildings themselves. Despite the classification of the site as a chalk valley in the Landscape Assessment of the Sussex Downs, I agree with those who disputed this judgement that the made up ground alongside the river appears more part of the river floodplain. While settlements in the floodplain are rare, some, like Upper Beeding itself, have grown up at similar locations. However, the type of housing estate proposed here would not be characteristic of a Sussex village, either in terms of its layout, fronting a spine road primarily running along the western boundary, or building mix; there would be no natural focus such as a

chchurch, pub or shop. Moreover, the coverage of housing across the site would do nothing to reduce the impression of a substantial amount of new building in estate form on the most prominent part of the site.[5.6.17-18, 6.40-41]

The scale of the development scheme

12.15 Policy UB1 also requires the scale of development in this sensitive location to be minimised to that necessary to fund the restorative works to the landscape. The evidence on this point was contradictory in many respects.

*Site valuation*

12.16 The first significant area of contention related to the value of the site. As the main parties agreed, I consider it appropriate to take as a starting point the open market value of the site, taking into account only such hope value for redevelopment proposals as would be in accordance with the Development Plan. The Council produced a very low figure of £275,000 which appeared to relate solely to the limited short-term lettings on Area A, capitalised over a similarly short period. It was argued that Policy UB1 does not allow for any more development than that required to secure landscape restoration. However, as discussed below, both District Councils accepted that a developer would be entitled to make a reasonable profit on investment in such a scheme. The costs of any scheme large enough to create sufficient value to effect a proper remediation of the landscape through removal of the cement works buildings and undertake landforming would be substantial, at least £10m according to the appellants. The site could have some value as the vehicle to make an element of profit on such a scheme that accords with the Development Plan.[5.3.2]

12.17 By contrast, the appellants' site valuation of £3.65m was based on detailed assessment of existing use value and the fallback position. It was agreed that the site as a whole has existing use rights for Class B2 use. These are rights are restricted to the buildings and any activities that could be carried on in the open air. Planning permission for new uses of land or buildings, or sub-division of buildings would not necessarily be forthcoming, given Development Plan policy context for restoration of the site and its location in AONB. I note that a previous appeal decision allowed open storage on part of the site for a temporary period only; different considerations would apply to permanent proposals.[5.3.1, 5.3.6, 6.63]

12.18 A number of buildings on Area A are already let for an annual return of £81,980. Most of these are basic industrial structures, of unattractive appearance. The general state of repair varies; none are in good condition, but the small office (building A5 on CA10/G) is in a poor state of repair. The appellants' valuation was based on higher rents than currently obtained, capitalised at a figure of 10% in perpetuity, which indicates confidence that the existing buildings would continue to be attractive to tenants for the indefinite future. Given their condition, even if improved as allowed for in the calculations, this seems optimistic. The calculations assume no voids, which represents a best case scenario.[6.63]

12.19 The office building on Area A appeared structurally sound and contains a substantial amount of usable floorspace. The appellants argued that the structure could be renovated at a cost of £400,000. I have strong doubts that a developer would be prepared to undertake such a renovation of the building at this cost, in a poor setting next to the very unsightly packing building and with minimal additional investment in improvements to its surroundings. I doubt that the likely rental or capital return would match the

appellants' estimate, unless other demolition and more extensive site restoration than allowed for in the estimates were to occur.[2.2, 5.3.10]

- 12.20 Turning to Area B, it is difficult to envisage effective use of the largest buildings such as the former coal store, kiln and packing plant, which were all designed for specific purposes and would require very extensive conversion works, even just to lower and replace the roofs. There is a workshop on Area B (Building B2 on Plan CA10/H) which could be re-used at a cost, according to the appellants, of £800,000. However, the expected rental return is very close to the projected income from a brand new building set in a restored site, with full landscaping, new access and parking provision etc. The anticipated rent for this building appears to make little allowance for the general condition of the site. The site owner would have a continuing liability with regard to health and safety for existing plant and structures that would remain in this area. I consider that the potential value of the land through re-use of existing buildings was over-stated.[6.63,7.26]
- 12.21 The valuation of open land in Area B with Class B2 use rights at a similar level to land with planning permission for new industrial development also appears optimistic. Area C contains substantial areas of unstable quarry waste that could not be used without remediation. However, the appellants identify the potential for just under 7 ha to be used for a range of B2 uses, citing a recent letting on 1.62 ha for the manufacture of concrete blocks. This 5-year lease, at an annual rent of £66,000, is terminable after 1 year. On that basis the inclusion in the valuation of this part of the site at £500,000 appears reasonable.
- 12.22 Turning to Area D, I am sceptical of the value of the chalk extraction rights, since the evidence suggests that it has not been profitable to undertake quarrying for at least 10 years. [6.66]
- 12.23 Given the very wide discrepancy between the 2 valuers' estimates, there can be no certainty about the amount that should be allowed to be charged against likely receipts from development. The HDC's estimated value of the site was much too low, taking into account the potential for re-use of existing buildings and land. The appellants' site valuation amounts to approximately £4.5m, including interest from the date of purchase in February 1998 less short-term letting income. [5.3.10]
- 12.24 Although there are a number of buildings, including the former HQ office that could be renovated, on balance I consider that the appellants have over-estimated the potential returns from interim leases. In my view much more expenditure on substantial landscaping and site improvement and security works would be required before rents at the predicted levels could be achieved. Despite the 'slack' in the estimates, I think short-term commercial expectations are unrealistic. Following that conclusion through to likely site value leads me to believe that the price paid by the appellants was more than existing use value. The inclusion of some hope value, taking into account potential development beyond what would be allowed by the Development Plan, has a direct link to the assessment of whether the proposals meet the economic test of Policy UB1.
- 12.25 The failure to make an appropriate allowance for the liabilities resulting from the existing buildings, the general condition of the site and the lack of value of Area D lead me to conclude that the allowance for purchase costs should be substantially less than £3.65m paid by the appellants. Bearing in mind my detailed comments in #2.18-22 above, I would envisage including a figure of less than £2.5m would be a more robust basis for a financial appraisal against Policy UB1 requirements.

### *Costs of development*

- 12.26 The appellants' estimates of costs of providing infrastructure and associated works were revised during the inquiry, in accordance with details set out in CA10/J. The lower demolition costs put forward by the appellants were based on contractors' estimates which appear reasonable in the context of other additional costs for removal of contamination, cliff treatment etc. The cost of demolition by volume used in the HDC estimates is likely to be excessive, bearing in mind the nature of the kiln house and coal store on Area B. These are vast structures but much of the upper parts are constructed of steel frame and cladding which would not prove unduly difficult or costly to remove.[5.3.26]
- 12.27 There are other less significant differences regarding the timing of the works, which would not greatly affect the overall viability assessment. It is possible that some elements of the off site works and contributions to the highway authority might be revised if the residential element of the scheme were removed or significantly reduced.

### *Area D remediation*

- 12.28 The appellants' estimate for this part of the scheme was about £1.2m, including cliff treatment. The revised costs HDC's scheme for landforming set out in the table attached to HDC25 show a figure of about £2.2m. The more extensive nature of the HDC suggestions is a reasonable explanation for this difference. From my review of the costs and likely value of the scheme, I accept that the £1m extra could make a critical difference to the overall viability of alternative redevelopment proposals for the site. I note also that the HDC scheme did not include the full amount for restoration of Area A as public open space. [5.3.25]

### *Developer's profit*

- 12.29 All main parties accepted that the developer undertaking the restoration of the quarry would be entitled to a profit on the enabling element of the development. However, the appellants and HDC took very different approaches to this aspect of the valuation exercise. The appellants argued that the development would be likely to be undertaken in two stages: demolition, site preparation servicing and other enabling works first, followed by construction of the buildings themselves. A reasonable profit element would be allowable on both stages. HDC argued that profit should only be available after the initial stage of getting the land ready for construction, at the 'remunerative stage' of development, to avert a double profit.[5.3.16, 6.69,]
- 12.30 The EH guidance referred to in the inquiry is quite clear that developer's profit is allowable on all valid costs, including site costs. While there is no indication that profit on the site preparation costs would be appropriate, neither is there anything to say that in cases where the site might be prepared and then sold for development, a reasonable element of profit should not be allowed. I agree with the appellants that it would be completely unrealistic to expect a developer to undertake a variety of complicated procedural and construction tasks to prepare a site for development, at some considerable risk, without a reasonable profit element similar to the 12% predicted by the appellants. However, on that basis the developer who constructed buildings on the restored land would also expect to make a profit, some of which would be on the profit element of the land costs. I deal with this aspect further, particularly with regard to housing value, below. [5.3.18, 7.28]

*Employment land value*

12.31 Broadly speaking the valuers for the appellants and HDC agreed the likely return from sale of land for B1 and B2/B8 development on freehold plots at £1.115m and £0.926m per ha respectively. From the evidence of recent schemes in W Sussex there seems no doubt that this development mechanism, rather than construction to let, would be used. However, Mr Haynes for HDC put forward additional information about likely receipts and profit from the building construction stage. These showed a profit of £9.43m on a building cost, plus fees, of about £28.62m. The appellants disputed these figures, on grounds that construction costs did not reflect difficult ground conditions, assumed natural ventilation and limited office content in the B2 space. I consider these factors would be likely to cause some increase in the costs per m<sup>2</sup>. However, I think it inappropriate to account for the more significant increases proposed by the appellants to allow for inflation; for consistency, a similar allowance would have to be made for inflation in rents. Again, the real picture appears to lie somewhere between the two approaches, but the additional information suggests that serviced plots would be taken up speedily if marketed at the cautious land values of the appellants' initial assessment. [5.3.12]

*Residential land value*

12.32 The appellants argued that the residual land valuation used by HDC to indicate the level of profit likely to be obtained from the housing on Area A was inappropriate. Mr Haynes detailed appraisal contained a large number of assumptions that call into question its validity as an accurate method for predicting real residential values. However, the information contained within the appraisal indicates to me that the appellants may have been cautious in their own estimate of housing value. For example, building costs quoted by Mr Stapleton are well above the national averages. Even though high quality materials would be required in the AONB, there is no firm evidence that the significant percentage increase above normal costs in this area could be justified. While there is no guarantee that these costs would be re-couped, the creation of a high quality development with good design and finishes could well add to its prestige and value in this location. Similarly, while the sale of all houses might not be complete within 16 months of the start of construction, the appellants 3 year sale period appears excessive for this scale of development. [5.3.20, 6.71]

12.33 Indeed, the likely sale value of the houses is a matter of judgement of and some uncertainty. The other new housing sites in the locality were not strictly comparable to the site for valuation purposes. At Littlehampton, the development was in a distinctly different marine environment close to a town centre, with which comparisons of value would be likely to have little value. The site at Angmering was in a suburban location near the edge of the built up area, close to open space. At Storrington the estate was within the built up area of a reasonably sized village with a large number of amenities, including reasonable convenience shopping. Nevertheless, some indication of relative values in the wider area for houses on new estates, of roughly similar quality. It is difficult to judge the relative attractiveness of a unique rural location in a highly attractive AONB, alongside a river and with excellent views of Lancing College to the south. While its position next to the A283 may have some adverse effect on value, this would be minimised by the proposed layout. I imagine that such a development is likely to be popular with car owners who work in the coastal towns.



12.34 On balance, I concur with HDC's view that the likely value of a housing site for 84 dwellings at this location has been underestimated by the appellants, although not to the extent claimed by Mr Haynes.

### *Conclusions*

12.35 Policy UB1 allows only the minimum size of scheme necessary to bring about landscape restoration. It has proved difficult to come to any firm conclusions about the viability of the scheme. Overall, the appellants' site valuation is not fully justified by my conclusions about the value of existing buildings and land for Class B2 uses, even allowing for some refurbishment. The price paid appears to reflect more than purely existing use value, plus any reasonable developer's profit from a scheme that accords with the Development Plan. In this case I consider the inflation of costs by including £4.5m for the site leads to a requirement for more development than the minimum. Furthermore, I have reservations that the appellants' appraisal included an adequate residential value. I am not convinced from the evidence that based on the appellants' proposals for landscape restoration, any residential development would be required to ensure the viability of the development, certainly on the scale of the 84 houses proposed.

12.36 However, the more extensive works in the scheme put forward by HDC would cost more. From my assessment of the widely varying figures put to the inquiry, the overall viability of the project to site preparation stage of the HDC proposals looks marginal, if housing were to be excluded. A limited amount of developer's profit might be available if land and holding costs were halved. To provide the level of landforming required by the District Councils, I consider that some more development would be needed, possibly in the form of more B1 buildings on Area B, with the leisure uses re-located to Area A.

12.37 I note that public sector funding has not been not pursued while potential private sector scheme was being proposed. However, interest from SEEDA for an employment-led scheme may come forward if a revised private sector scheme is proved to be unviable.[6.73]

### *Landscape restoration*

12.38 The scale of impact of existing buildings and the quarry itself is substantial; the site has a detrimental impact on the landscape of the AONB at a particularly important location. The evidence showed the extensive zones of visual influence for various parts of the site, indicating the wide visibility of both the buildings and the landscape. The buildings have a particularly adverse impact on views from locations close to the site, including the main road, the towpaths on both sides of the river and from the road to Coombes and Botolphs. Their removal would undoubtedly make a significant contribution towards enhancing the AONB. Their replacements, particularly the commercial buildings on site B, with landscaping, would sit much better in the landscape. Much of Area C, the site of the industrial/warehouse buildings, is screened from wider views by the cliff faces of the original quarry and is not widely visible. Although the buildings would not be of traditional character, the scale of the quarry ensures that they would not seem intrusive. However, for reasons explained in #12.14 above, the residential element of the scheme would not fully fit in with the aim of enhancing the AONB.[5.6.11]

12.39 By contrast, the quarry itself, and Area D in particular, is a substantial scar on the landscape. It is visible over a wide area, including much of the South Downs Way to the west, and at least as far as Cissbury Ring, some 6km away. Under the appeal proposals some reduction in the quarry sides is proposed, but to a limited extent. The rectilinear

- gash would remain widely visible, as would the faces to Areas B and C. However, the proposals would greatly improve the appearance of the vast expanse of the white quarry floor in Area D, which is also very prominent from many viewpoints. This would be broken up by the green sloping grassland and further planting on new benches at the foot of some cliffs.[6.14-17, 9.5, 9.25]
- 12.40 The appellants' landscape evaluation considered the scheme in relation to the existing situation on site. I agree with their assessment that the landscaping proposals in total would improve the appearance of the AONB, through the removal of buildings and the new grassland in Area D in particular. However, Policy UB1 seeks 'substantial landforming'. Despite the amount of earth moving involved, I consider that overall extent of the appeal scheme works could not be described as major landforming in the context of the scale of the quarry. [5.6.8]
- 12.41 HDC sought to assess this aspect of the policy by undertaking a different form of assessment, whereby the appeal proposals were compared with a notional 'pre-quarry' state. They put forward alternative landscape proposals in the form of a suggestion for a new coombe, with the east and north faces of the quarry graded at slopes of up to one in two. The Council's scheme shows some of the problems in trying to restore such a major dislocation of the traditional landscape form. Even earthworks at this scale would not restore the original downland profiles, but would leave a distinct arête, separating the former rim of the quarry from Anchor Bottom. Also, the new works would leave the existing cliff between Areas D and C, creating the appearance of a hanging valley stopping above the new industrial estate. However, further design work may indicate a way to achieve a more natural form to the downland and lessening the height of the drop between areas D and C.[5.6.7]
- 12.42 There was some discussion about the likely success of hydra-seeding the new re-profiled areas of the quarry. My inspections at Barton-le-Clay and the two quarries revealed such projects to have mixed success. At Embankment 1 (as shown on the plan attached to HDC29) the cover of plants was not extensive, with a large proportion of the chalk showing through the vegetation. The same problem was apparent at the more recently restored Whipsnade quarry, where the ground showed some signs of erosion. However, embankments 2 and 3 along the Barton-le-Clay bypass showed that after 10 years or so the technique has been successful in creating new greensward of different grasses and chalk loving plant species. I found the Kensworth quarry restoration impressive, with a wide variety of plants completely covering the chalk. I therefore consider the evidence indicates that downland could be re-created by this technique, if the right method is used. [6.48-49]
- 12.43 The Council's alternative restoration scheme would result in the loss of the cliff faces on the north and east sides of Area D. However, some cliff face would be retained for the peregrines, but along a face less visible in general than the east cliff. The appellants argued that this would prejudice the successful re-location of the peregrines, a point which I deal with below.
- 12.44 In terms of what remaining landform would be visible externally, I consider the works proposed would not be of enough substance and impact to meet the test of Policy UB1 requiring major landforming. However, the failure to comply with this particular element of Development Plan policy needs to be balanced with other aspects of policy in the round. HDC's alternative proposals show that more extensive landscape improvement is realistic with regard to construction and planting techniques, albeit at an extra cost of about £1m more than the appellants' scheme. I note that the lesser works

proposed by the appellants' scheme would not preclude further landforming at a later date.[5.1.15, 5.3.25, 6.22]

### Development Plan Conclusions

12.45 The employment proposals for Areas B and C comply with the spirit and detailed interpretation of all relevant policies of the Structure Plan and both Local Plans. However, I found the appellants' arguments about the housing on Area A unconvincing. From the detailed wording of Policies UB1 of the HDLP and DP.AR4 of the ADLP and their supporting text, I consider that new housing on his scale was not envisaged in the specific provisions for redevelopment of the quarry site. In this regard I consider HDC did not take an unduly restrictive interpretation of the policy context as a whole for the site in general. By any standard, 2 ha could not be described as a 'limited' area of housing, even in the context of a site of this size.

12.46 The appellants argued that the proposals as a whole complied with the provisions of the Development Plan because they were needed to achieve the overriding objective of removing the buildings and remediating the landscape. However, from the evidence to the inquiry, I am not sure that this could only be achieved by including the housing development proposed for Area A, certainly not at the proposed scale. The Development Plan set out some quite specific requirements for the site; in summary, I have concluded that the scheme as a whole does not comply with these provisions. Whether those requirements would secure the objectives sought is more open to question. The lack of viability of proposals which would comply with the uses specified in the Development Plan would be a material consideration to be weighed in the balance with any other advantages and disadvantages of the scheme. If the Development Plan proposals prove not to be viable through private finance alone, the availability of additional public funding should not be discounted completely at this stage.

### *Sustainability*

12.47 The appellants did not dispute HDC's point that the site would not be allocated for housing in accordance with the criteria set out in PPG3, on the grounds that such a consideration was irrelevant. The proposals for new dwellings on previously developed land were put forward as enabling development, not to meet any District-wide housing need. Both ADC and HDC put forward uncontested evidence that they could meet their housing targets without this site. [5.7.9, 6.27, 7.16-17]

12.48 Nevertheless, the suitability of the site for housing in the absence of any specific Development Plan policy allowing such use on the scale proposed is relevant. Looking at the criteria in #30 of PPG3, the site is previously developed but is not within an urban area; it is not an urban extension; nor is close to a node in a good public transport corridor. The first part of #38 of the guidance relates to greenfield sites, whereas the last sentence is silent about any preferential test for previously developed land. Despite the advantage of the site in this respect, I consider that it scores poorly with regard to the more general sustainability criterion of reducing the need to travel, especially by car.[6.29, 7.15]

12.49 The appellants pointed to the potential synergy between the employment development and the housing as a benefit contributing to sustainability objectives. However, in the first instance the homes would be built and occupied well before any employment premises would be started. Travel to work patterns would become established before the

- first jobs became available. No firm evidence of research into the strength of the relationship between jobs and homes on adjoining sites was put to the inquiry. The number of occupants of 84 dwellings would be about 20% of potential employees (up to 1,000) on the site. I consider the figure of 1% of these jobs being taken by those who walk to work is a much more accurate indicator of the likely strength of this inter-relationship. [5.7.12-13, 6.37]
- 12.50 The site is 2 km from Upper Beeding, which has a range of facilities, including primary school, shops and community facilities. However, only a petrol filling station lies within that distance. In reality, travel will be necessary for virtually all aspects of normal living, including education, work, leisure and shopping. [5.7.14, 6.29, 7.15]
- 12.51 The companion guide to PPG13 gives 800m as a comfortable walking distance. The only facilities within walking distance would be the restaurant and hotel, and the small shop. The walk along the A283 to Upper Beeding is not attractive and would take about half an hour. Mr Sheehan accepted that the Downs Link was unlikely to be used for trips other than leisure walks. The site is too far from the nearest primary school (over 2km) and secondary school (about 4km) for convenient walking trips.[6.30]
- 12.52 Cyclists could use the Downs Link to travel to Steyning and Bramber and the outskirts of Shoreham. However, the link ends some distance from the town centre, some 4km away. Again, the A283 is not an attractive cycle route to Upper Beeding. [6.31]
- 12.53 At present there is an hourly bus service past the site, plus another two services once a week. The S.106 obligation would secure a significant improvement in the bus service between Shoreham and Upper Beeding/Steyning for up to 11 years, with buses running three times per hour. These services would be particularly useful for school children attending primary and secondary schools in the villages to the north. I consider this to be a reasonable level of provision, but of itself does not make the site a sustainable location. [6.36]
- 12.54 The same arguments could be applied to the employment element of the proposals. The appellants' contention that the site would be attractive for new employers relies on its position on the strategic road network, and the provision of more jobs in the coastal strip of Sussex, which would help to reduce out commuting. However, the provision of a large amount of business floorspace in a rural location does not comply with the advice in PPG6 and PPG13 to direct such developments to town centres or other locations that are highly accessible by public transport, walking and cycling. However, the proposed green travel plan would go some way to achieving more sustainable methods of travel to work. Measures such as car sharing, penalties on the developer for excessive car use, showers for employees single trip journeys of this type are more likely to reduce car use for travel to work than other general trips to and from homes. [6.34]
- 12.55 The proposed housing area of 2 ha or so meets requirements of PPG3 regarding efficient use of land with regard to density policy, on the area of site occupied. The housing element of the scheme would also provide an appropriate amount of affordable housing, in Adur's case through a commuted sum. Given the rural location of the site I consider that this would be appropriate in this case if the FSS were minded to grant permission for the scheme. The proposals also meet other requirements of PPG3 concerning parking provision and the range of dwelling types.[5.9.28]
- 12.56 However, compliance with these aspects of PPG3 does not overcome the basic planning objections to building new housing in an unsustainable location. I acknowledge that

residential development was put forward as the preferred option in the Llewelyn-Davies report, although that document has no formal planning status in Development Plan terms. In summary, I agree with HDC that a new residential development on this rural site would fly in the face of the whole raft of government policy in PPGs 3 and 13 to direct new housing to sustainable locations within urban areas. In such an event, special justification would be needed. The proposal fails to meet the aim of providing new development in locations with improved access to facilities, thus reducing need to travel.[6.21, 6.27, 7.15, 9.26]

### *Highway capacity*

- 12.57 HDC's concern related to a single matter: the likely impact of the scheme on the A283 in the am peak, with regard to southbound traffic only. The theoretical capacity of the single carriageway road is 1323 vph. The Highway Authority, appearing for HDC, would accept flows up to 1410 vph, the traffic level likely to be generated if all of Area C were restricted to B8 use, with no B2 units. If all of Area C were used by occupiers falling within class B2, the expected traffic flow would be 1458 vph, 4% over capacity. Mr Barratt accepted that modal shift resulting from the Green Travel Plan and WSCC traffic reduction measures could reduce this figure to 1428 vph, but argued that this would cause an unacceptable reduction in traffic speeds and interference of flow on a strategic highway link. [5.7.18, 20; 6.75, 6.77]
- 12.58 However, no safety problem was alleged. At its worst, traffic models predicted a reduction in speeds from about 50 mph to about 35 mph (taking into account the proposed traffic signals at the site entrances). Surveys undertaken during roadworks in March 2001 indicated that flows greater than the worst prediction for 2003 did not lead to such a speed reduction. More than 1480 vph in the am peak resulted in average speeds dropping to 43 mph. In the context of a proposal by the highway authority to reduce the speed limit on this stretch of road to 50 mph, I consider the marginal increase over known capacity to be insignificant. The flexibility of allowing either B2 or B8 use would help to underpin the viability of the scheme and create employment benefits. On balance I consider that even with some expected increase in future flows, the interference in traffic flow on this important highway would not be serious enough to refuse permission for the scheme.[5.7.19]

### *Ecology*

- 12.59 There was no objection from any party regarding the impact of the scheme on ecological interests. Initial work has already secured the successful relocation of peregrine falcons within the site. Other management measures should ensure the protection of the rooks. The potential for persecution of the protected species would be reduced by the defensible nature of Area D. Some chalk downland would be created, albeit in a rather artificial way, as a valuable new habitat. The reptiles to be found at the top of the quarry would be retained. [5.8.5,11,13]
- 12.60 The Council's alternative landforming proposals would not retain the quarry faces in Area D, except the southern one. These are important habitats for the birds, which use the cliffs for roosting, training their young and hunting. The falcons would have to be encouraged to move to a new site on a cliff that shows more signs of friability than the existing faces used by the birds. However HDC's report shows that substantial areas of

cliff could be retained in a stable form and there are good grounds to believe that another relocation could be achieved, if necessary. Other evidence, in addition to the appellants' successful measures, indicates that falcons can be moved to locations with relatively high levels of disturbance.

- 12.61 The appellants argued that the creation of 1 in 2 slopes using hydra-seeding would not be effective. Given the lack of objections from WSWT and EN to the HDC proposals, I consider that some more extensive re-modelling of cliff faces should not be ruled out on ecological grounds at this stage. [6.52, 9.6]

### *Waste*

- 12.62 I acknowledge severe difficulties of finding suitable sites for the disposal of waste and the scale of the problem facing the County Council as waste authority. At the time of the inquiry, the West Sussex Waste Local Plan was at a stage somewhere between the first two bullet points of paragraph 48 of PPG1. The Plan has been subject to consultation, and is not strictly comparable to an 'old style' draft. It seems unlikely that the Plan due to be deposited in May 2003 would be materially different from the earlier draft. However, it is clear that the Plan has a long way to go before all processes are complete, and it is likely to be contentious. Adur DC have yet to decide on their position, but Horsham DC have already decided to object to this allocation. In these uncertain circumstances I consider that the Plan carries little weight at this stage.[4.6, 8.8-14]
- 12.63 Even though the WLP contains a strategy for dealing with waste throughout the County, it is by no means clear that the Shoreham Quarry site will definitely be required for an energy-from-waste plant. The site is only 3<sup>rd</sup> preference in a list of possible energy-from-waste sites. In these circumstances, where implementation could be delayed by up to 15 years, it could be argued that the site would not be critical to the success of the strategy.[5.5.1]
- 12.64 Without rehearsing in detail arguments that may be heard at the inquiry into the WLP, there are planning issues that could lead to a re-appraisal of the site. These include its location within the AONB and its compatibility with the proposed business park element. However, the severity of the shortage of suitable sites for waste treatment could be a weighty factor in favour of allocation.
- 12.65 The site lies outside any urban area. It would not conform well to the proximity principle for the location of such uses with regard to reducing travel movements, nor is the site at a location near consumers of power. Although it is well placed on the strategic road network to serve a number of settlements, in most cases the traffic movements would be longer than if it were located within one of the coastal towns.[8.4, 8.21]
- 12.66 Despite these potential disadvantages, however, it would be safeguarded from development by Policy G11 if the Plan were adopted in its current form. The evidence about the potential impact of the allocation on the overall viability of the scheme was sketchy. On the one hand the use may well have an adverse effect on the marketing of the business park element of the scheme and the new houses. On the other, a energy-from-waste plant may be a reasonably high value use, given the shortage of suitable sites. I note from cross-examination of the appellants' witness that the owner has not received any enquiries from waste management operators seeking to secure any options on the site.[8.5]

- 12.67 WSCC argued that the site should be safeguarded in case it were needed at some unspecified time in the future. However, given the uncertainty about the allocation I see no reason to withhold permission on this ground if there were no other planning objections to the scheme. Current planning legislation does not allow for one use to be prohibited if there are no grounds of refusal other than a desire to restrict land value prior to allocation for, possibly, a less profitable use.[5.5.1]
- 12.68 WSCC argued that if planning permission were granted for industrial development then there would be no incentive for the appellants to make part of the site available for an energy-from-waste plant. Given that the whole of Areas B and C is needed for commercial viability, refusal of this scheme could preclude any real chance of restoring the site, in accordance with Development Plan policy, for many years. I consider that this would be a very high price to pay, given the early stage of the WLP, the role of the site in the strategy, and the likelihood of objections and further scrutiny of potential planning disadvantages of allocation.[7.19-20]
- 12.69 In any event, I consider the appellants' argument that the scheme as a whole would not prejudice the provisions of the WLP has some force. Although an energy-from-waste plant would be a poor neighbour for a business park, it would be sited within an industrial area where noisy, smelly uses would be allowed. Most of Area C is well screened from public views. During the inquiry Mr Kilford for WSCC agreed that a site of 10 ha would be required. I consider that granting permission for the scheme would not preclude an energy-from-waste plant, if required, on for example the combined sites of units C2 and C3. I have concluded therefore that permission should not be withheld on grounds of prematurity.[5.5.6]

#### *Conditions and agreements*

- 12.70 Conditions listed for all schemes were amended by the Council following extensive discussion at inquiry. For the reasons set out in the schedules, I consider that they should be imposed in the form presented, subject to the following amendments and/or exceptions:
- 12.71 Conditions 33, 35-37 are essentially informatives that need not be retained. Condition 43 concerning waste management sets out laudable objectives but appears to lack sufficient precision for any meaningful enforcement. Condition 60 regarding the treatment of the underpass is unnecessary, since this would be covered by the general landscaping condition (No. 19).
- 12.72 The Section 106 planning obligation contains a number of benefits, particularly with regard to transport and highway improvements that were agreed by the Councils. Although the clauses intended to secure affordable housing provision did not comply with HDC's current standard forms, I consider they would adequately ensure an appropriate number of homes. There would be a limited choice of agency provider, giving HDC reasonable nomination rights, on a suitably long 99 year lease. The final draft requires transfer of the land to relevant Agencies within 2 months of the start of development. The offer period would be just adequate to effect take-up of the land, and the failure period, although tight, would not set an impossible deadline. On balance, I consider the offer of 13 dwellings for each Council (about 31% of the total dwellings) to be reasonable without the requested extra two key worker dwellings.
- 12.73 I see no reason why placing in a bank account £2,750,000 before the occupation of the first house would not ensure enough funds to complete the landscape remediation within

another 5 years, given the nature of the works involved and the likely commercial need to create an attractive residential and business park environment. The linking of the transport benefit payments to inflation would be desirable; given my comments on the financial appraisal regarding the appropriate allowance for land costs and the value of residential land, I consider such linking could be afforded. However, the bus subsidy is a substantial sum of £324,563, that appears appropriate if the FSS were minded to grant permission.

### *First Secretary of State matters*

#### *Compliance with PPGs*

- 12.74 The PPG7 issues regarding the conservation of the AONB and landscape impact, the public interest, economic impact on the AONB and local economy, including the need for the proposals, have all been considered above. Clearly, the landscape remediation could not take place elsewhere, nor could employment development of this scale and type. It is well-placed to serve the market area of the coastal towns of Sussex. The contributions to social infrastructure through the provision of improved bus services, highway improvements and affordable housing would add to the social well being of the area. However, the group of isolated dwellings with no facilities as proposed here would not be of sufficient size to foster a community spirit.[5.9.13,18]
- 12.75 I have considered the matters raised with regard to PPG3 in the housing sustainability section of the report above. Looking at policy in PPG13 in broad terms, I take issue with the appellants that the site is at a sustainable location, particularly with regard to access to facilities by a variety of transport modes.
- 12.76 I have already noted that the provision of a substantial amount of Class B1 floorspace outside a town centre does not meet the objectives of PPG6 with regard to town centre policy. I note the appellants' argument that they seek to construct a business park of a composition which cannot be provided anywhere else, to meet 'a different market' to town centre offices. Such a benefit needs to be weighed in the balance with other matters, such as the landscape improvements that business development would enable. In doing so, the Development Plan policies accept the need for such floorspace to achieve other objectives, despite the conflict with PPG6.

### **Overall conclusions**

- 12.77 Some form of redevelopment of the site to secure significant landscape improvements to the AONB would accord with government policy in PPG7 and the principle of relevant Development Plan policy. The appeal proposals fail to meet the requirements of Policy UB1 of the HDLP and DP.AR4 of the ADLP in a number of ways. They contain a significant residential element, well in excess of the minimal amount indicated in the supporting text to Policy UB1. The dwellings would be located on the most prominent part of the site, which Policy DP.AR4 states should be given over to primarily leisure uses. Notwithstanding the overall policy objective of securing restoration of the site, I consider that this substantial divergence from the broad guidance setting out proposed uses to be sufficient reason alone to conclude that the scheme does not comply with the Development Plan as a whole.
- 12.78 Policy UB1 also requires the total amount of development on the site to be the minimum necessary to achieve landscape restoration. I concluded that the appellants' financial



evidence on this matter was not fully convincing. In particular, the existing site value appeared high, given the state of the land and existing buildings, the potential liabilities they impose, the scope of existing use rights and the value of Area D. I also considered that the likely return from a development of 84 houses in this position would be greater than the appellants' forecast. I concluded therefore that the number of dwellings proposed was greater than that needed to secure a scheme that broke even, including developer's profit. It follows that I have concluded that the proposals would not meet the objectives of national policy in PPG7 for the protection of the AONB, because they would result in more development with an adverse effect on the landscape than what would be required to secure the required improvements.

- 12.79 On the landscape issue, the appellants' proposals provide significant benefits through the removal of the unsightly buildings and some restoration in the most visually intrusive part of the quarry, Area D. However, the unnatural form of the cut lines of the faces and its sheer scale would continue to be viewed as a major blemish on the AONB landscape over a wide area to the west. The proposals do not fully meet the aspirations of policy UB1 in this regard, although I consider that this shortcoming might not lead to a conclusion that they would conflict with the Development Plan as a whole if all other aspects were satisfactory.
- 12.80 There is some doubt that the Council's alternative proposals for a more natural landform, involving hydra-seeding of steep slopes, would effect a significant short term improvement. However, in the medium term it seems highly likely that a downland ecosystem would become well established by such methods. The appeal scheme would not preclude such works being undertaken at a later date, subject to finance being available. Given my findings regarding the marginal viability of an employment-only scheme, the extra £1m costs of more extensive landscape works could prevent a viable private sector scheme that complies with the Development Plan.
- 12.81 There are no adverse ecological effects resulting from the proposals. The removal of substantial lengths of cliff through more extensive landforming could possibly threaten the retention of falcons on the site, although mitigation measures could be carried out, as they have by the appellants already. In any event I consider that the potential for very significant benefits for the landscape to the AONB from removal of the northern and eastern cliffs would outweigh the minimal threat to wildlife interests in this instance.[9.7]
- 12.82 On balance, the highway convenience objection in this instance would not be so serious as to prevent some of the undoubted employment benefits of the scheme being achieved. Similarly, I found no reason to recommend refusing permission on grounds of prematurity to the WLP. This is at an early stage in the process towards adoption and the location is the third choice of 3 proposed allocations for energy-from-waste sites. The proposals might not prejudice such a plant being developed in any event.
- 12.83 I have taken full account of the benefits advanced by appellants in favour of the scheme: the improvement to the AONB landscape; the re-use of previously developed land; the provision of a mixed development; the boost to the economic regeneration; public transport improvements; the provision of affordable housing; and some ecological benefits. However, I consider that these could be provided in smaller amount of development, without creating a sizeable new housing development in an unsustainable location. In summary, they are insufficient to overcome the strong objection to housing on the scale proposed.[5.7.16]

### 13 Recommendations

13.1 That the appeal be dismissed and the application refused.

Inspector

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He called

**John Kilford**  
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**Mrs Shaw**

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## DOCUMENTS

### GENERAL INQUIRY DOCUMENTS

Document	1	List of persons present at the inquiry
Document	2	Letters of notification of the inquiry
Document	3	Letters from interested persons
Document	4	Statement of Common Ground
Document	5A,5B	Suggested Lists of Conditions
Document	6	Section 106 Planning Obligation

### CORE DOCUMENTS

CD 1	West Sussex County Structure Plan
CD 2	Horsham District Plan 1997 Volume 1 General Policy
CD 3	Horsham District Plan 1997 Volume 3 Southern Area
CD 4	Position Statement
CD 5	Annual Housing Monitoring Report
CD 6	Inspector's Report
CD 7	Adur District Local Plan
CD 8	West Sussex Structure Plan Deposit Draft 2001-2006
CD 8A	West Sussex Structure Plan Deposit Draft, inc prospective changes August 2002
CD 9	Cooper & Lybrand West Sussex Coastal Sites Study 1998
CD 10	Housing Better Places to Live – A Companion Guide to PPG3
CD 11	Plan N. 486/SK/08 Rev D (WSP) - included in Adur Valley Park ES
CD 12	TA46/97 – Traffic Flow Ranges for Use in the Assessment of New Rural Roads
CD 13	West Sussex Household Travel Survey 2000
CD 14	Travel to Work 2001 – People aged 17 to 74 in Employment
CD 15	Sussex Downs AONB: The Landscape of Sussex Downs 1996
CD 16	A Landscape Assessment of the Sussex Downs AONB 1997
CD 17	Enabling Development and the Conservation of Heritage Assets, EH June 2001
CD 18	PPG1 General Policy and Practice
CD 19	PPG3 Housing
CD 20	PPG4 Industrial and Commercial Development and Small Firm
CD 21	Adur Valley Park ES Part 1 January 2003
CD 25	Adur Valley Park ES Part 2 January 2003
CD 26	Adur Valley Park ES Further Information
CD 27	Adur Valley Park Planning Statement May 2002
CD 28	Adur Valley Park Amended Figures & Revised Additional Information Jan 2003
CD 29	RPG9 Regional Planning Guidance for the South East
CD 30	2002 Ecological Surveys
CD 31	Sussex Enterprise - 'Room to Grow'
CD 32	'Shoreham Cement Works: Restoration Priorities and Opportunities' - report by the Landscape Group, for the SDCB June 2000
CD 33	'Shoreham Cement Works: Final Report' - Llewelyn-Davies
CD 34	'Settlement Sustainability Analysis' Horsham District Council June 2000
CD 35	AMSKI Preliminary Proposals for Winter Sports Resort/ Business Park
CD 36	Appeal Decision T/APP/Z3825/A/99/10033763/P2
CD 37	'Investment Strategy for the West Sussex Coastal Strip' English Partnerships 03/99

- CD 38 'Tranquil Areas Sussex Downs' - ASH Consulting Group for SDCB March 1997
- CD 39 Housing Needs Survey Upper Beeding Parish – Upper Beeding Parish Council and Sussex Rural Community Council 2002
- CD 40 Housing Strategy Statement 2002-2007 - Adur District Council July 2002
- CD 41 'The Strategy for the Development of Tourism in the Adur District'
- CD 42 Brighton & Hove Economic Strategy December 2002
- CD 43 Adur Economic Strategy 2002 – 2005
- CD 44 Review of Progress 2001 – 2002 West Sussex Investment
- CD 45 West Sussex Deposit Draft Waste Local Plan 2001 – 2016
- CD 46 Halewick Lane Appeal Decision – APP/P3800/V/00/000135
- CD 47 West Sussex Waste Local Plan 2001-2016 – pre-deposit consultation Nov 2000
- CD 48 Waste Strategy 2000
- CD 49 Mitigation Strategies for Raven, Barn Owl and Redstart at AVP December 2002
- CD 50 'Beeding History of a Village' Beeding and Bramber Local History Society 1999
- CD 51 ROMP submission May 2000, approval 18/07/00, Committee Report June 1998 and decision notice UB/53/97
- CD 52 Regional Economic Strategy
- CD 53 Minute of meetings held 18<sup>th</sup> December 23<sup>rd</sup> December 1997
- CD 54 Minute of meeting held 27<sup>th</sup> March 2001 and report
- CD 55 A Better Quality of Life
- CD 56 Report to Committee re: infill housing at Dacre Gardens
- CD 57 Focus on Personal Travel
- CD 58 West Sussex Local Plan Background Paper 5
- CD 59 English Nature SSSI Designation Plan
- CD 60 PS4 Basis of Valuation
- CD 61 Extract of BCIS Quarterly Review of Building Prices - RICS March 2003
- CD 62 RICS December 2002
- CD 63 Stiles Harold Wilson Industrial Market Review Spring 2003
- CD 64 Stiles Harold Wilson Offices Market Review Spring 2003
- CD 65 West Sussex Waste Local Plan Background Paper 2
- CD 66 Peter Brett Associates Report
- CD 67 Shoreham Maritime – Executive Summary

#### CALLSTONE DOCUMENT LIST

- CA5/A Mr Sheehan proof
- CA5/B&C Mr Sheehan figures & appendices
- CA5/D Mr Sheehan supplementary proof
- CA5/E Mr Sheehan summary proof
- CA5/F Mr Sheehan note of evidence in chief
- CA6/A Mr Fidgett proof
- CA6/B&C Mr Fidgett figures and appendices
- CA6/D Mr Fidgett supplementary proof
- CA6/E Mr Fidgett summary proof
- CA6/F Mr Fidgett note of evidence in chief
- CA7/A Mr Boulter proof
- CA7/C Mr Boulter appendices
- CA7/E Mr Boulter summary proof
- CA8/A Mrs Fisher proof
- CA8/C Mrs Fisher appendices
- CA8/D Mrs Fisher supplementary proof

CA8/E	Mrs Fisher summary proof
CA8/F	Mrs Fisher HDA plan 2 marked with slopes etc
CA8/G	Mrs Fisher rebuttal
CA8/H	Mrs Fisher letter from English Nature dated 9th April 2003
CA8/J	Mrs Fisher photographs and notes re: Barton le Clay treatment areas 1-3
CA8/K	Mrs Fisher letter to English Nature from Mrs Fisher 31/03/03
CA8/L	Mrs Fisher technical note on grassland areas and tables from the ES
CA9/A	Mr Russell-Vick proof
CA9/B&C	Mr Russell-Vick figures and appendices
CA9/D	Mr Russell-Vick supplementary proof
CA9/E	Mr Russell-Vick summary proof
CA10/A	Mr Stapleton proof
CA10/B&C	Mr Stapleton figures and appendices
CA10/D	Mr Stapleton supplementary proof
CA10/E	Mr Stapleton summary proof
CA10/F	Mr Stapleton note of evidence in chief
CA10/G	Mr Stapleton photographs of buildings and plan of Area A
CA10/H	Mr Stapleton plan of Area B
CA10/J	Mr Stapleton schedule of demolition costs
CA10/K	Mr Stapleton commentary on further evidence of Mr Haynes 1st May 2003
CA11/A	Mr Austen proof (including summary)
CA11/C	Mr Austen appendices
CA12/A	Mr Shawyer proof
CA12/B&C	Mr Shawyer figures and appendices
CA12/D	Mr Shawyer supplementary proof
CA12/E	Mr Shawyer summary proof

#### HORSHAM DISTRICT COUNCIL DOCUMENTS

HDC 1	Mr Stevens proof
HDC 2	Mr Stevens summary
HDC 3	Mr Stevens errata
HDC4	Mr Stevens supplementary
HDC 5	Brief to Llewelyn-Davies
HDC 6	Mr Leivers proof
HDC 7	Mr Leivers supplementary
HDC 8	Mr Duckett proof
HDC 9	Mr Duckett summary
HDC 10	Mr Duckett supplementary
HDC 11	Mr Duckett appendices
HDC 12	Mr Duckett response to Mrs Fisher's proof
HDC 13	Mr Duckett response to Mr Russell-Vick's proof
HDC 13A	Mr Duckett additional table
HDC 14	Note on construction of photomontages
HDC 15	Letter from Bedfordshire County Council
HDC 15A	Plan of Area D with 5m contours
HDC 16	Mr Barratt proof
HDC 17	Mr Barratt appendices
HDC 18	Mr Barratt summary
HDC 19	Mr Barratt supplementary



HDC 19A	Mr Barratt additional tables
HDC 20	Mr Barratt comments on Mr Sheehan's proof
HDC 21	Letter to WSP dated 5/10/01
HDC 22	Print out of traffic flows
HDC 23	Mr Haynes proof
HDC 24	Replacement table and response to Mr Stapleton's supplementary proof
HDC 25	2nd Alternative table
HDC 26	Mr Duckett additional table on visual impact
HDC 27	WSCC letter to HDC dated 8th April 2003
HDC 28	Mr Haynes 2nd supplementary proof, inc Andrews Partnership letter 30/4/03
HDC 29	HDA photographs of Barton le Clay
HDC 30	Dr Hill proof of evidence
HDC 31	Dr Hill plan of Area D (Geoffrey Walton ref. SHAM0304/1/A)

#### ADUR DISTRICT COUNCIL DOCUMENTS

ADC 1	Mr Davies proof
ADC 2	Mr Davies appendices
ADC 3	Mr Davies supplementary proof

#### WEST SUSSEX COUNTY COUNCIL DOCUMENTS

WSCC 1	Mr Kilford's proof
WSCC 2	Mr Kilford's appendices
WSCC 3	Mr Kilford's summary proof
WSCC 4	SELCHP email
WSCC 5	(Handwritten) note of meeting between Mr Johnson and Mr Fidgett
WSCC 6	2nd SELCHP email

#### SUSSEX DOWNS CONSERVATION BOARD DOCUMENTS

SDCB 1	Mr Small's proof
SCDB 2	Mr Small's appendix 1
SCDB 3	appendix 2
SCDB 4	appendix 3
SCDB 5	appendix 4
SCDB 6	Mr Small's errata and supplementary proof

#### SUSSEX WILDLIFE TRUST DOCUMENT

SWT 1	Dr Whitbread's proof
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#### UPPER BEEDING PARISH COUNCIL DOCUMENTS

UBPC1	Submission: Upper Beeding Parish Council (Mrs Shaw)
UBPC2	Steyning, Bramber and Upper Beeding Local Plan 1978 - 1988

#### PLANS

Plan	A1-5	Application plans and drawings as listed in the Statement of Common Ground
Plan	B1-2	Additional site access plans, Nos. 486/SK/11A and 12A

## LIST OF PLANNING CONDITIONS - ADUR DISTRICT

1. Application for approval of the reserved matters shall be made to the LPA before the expiration of 3 years from the date of this permission.

*Reason: In pursuance of Section 92 (2) of the Town and Country Planning Act 1990.*

2. The development hereby permitted shall be begun either before the expiration of 5 years from the date of the permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

*Reason: In pursuance of Section 92 (2) of the Town and Country Planning Act 1990.*

3. Approval of the details of the design and external appearance of each of the buildings (hereinafter called the "reserved matters") shall be obtained from the Local Authority before commencement of the construction of each of the relevant buildings and thereafter construction of each building shall be in accordance with that approval. These details shall include:
  - a) building elevations and floor plans;
  - b) the materials to be used on the exterior roof and walls of the building including samples where appropriate;
  - c) existing and proposed levels including the finished floor levels..

*Reason: To ensure that the external appearance and the detailed plot access and landscaping is satisfactory in the individual Areas of the site as identified on the approved Master Plan before the commencement of development on each individual Area of the site.*

### Height

4. The maximum height of buildings hereby permitted within each part of the site shall not exceed the following:
  - (i) In Area A no dwelling hereby permitted shall exceed a maximum height of two storeys to eaves level other than those shown marked in red on plan Figure PRV3 A, which shall be a maximum of three storeys to eaves level, and in all cases the ridge height shall be no greater than a maximum of 10 metres from ground floor to ridge (unless otherwise agreed in writing by the Planning Authority);
  - (ii) In Area B development is permitted for a maximum height from ground floor to ridge of 15 metres for the hotel and for all other buildings 12 metres unless otherwise agreed in writing by the Planning Authority;

*Reason: To ensure that the scale and impact of the development on the landscape is acceptable.*

## Storage

5. Other than as required during the demolition and construction phase of the development or as shown on the Master Plan, there shall be no external storage of plant or materials within the employment areas identified in Areas B and C unless otherwise approved in writing by the planning authority.

*Reason: To ensure that there is no adverse impact on the environment arising from additional external storage.*

## Demolition

6. Before commencement of demolition in preparation for implementing of this permission, a scheme shall be submitted for approval to the LPA identifying the main phases and activities in the demolition and site remediation process and such demolition and remediation shall be carried out in accordance with that approval. The scheme shall include:

- a) measures for the provision and maintenance of appropriate vehicle parking and turning for construction traffic;
- b) measures to prevent the deposition of mud and debris on the public highway;
- c) measures for the control of noise providing that during the demolition of existing buildings and the construction of the development, the level of noise emitted from these activities shall not exceed a maximum of 70 dB (A) for temporary periods and 55 dB (A) at any other time, when measured at the nearest noise sensitive properties specified in the application; and
- d) measures for the control of dust.

*Reason: to ensure the appropriate control of demolition activities and protection of amenity.*

## Access and Transport

7. Prior to Commencement of Development within any Area of the site full details of a temporary scheme to ensure safe and effective access to that Area of the site during construction shall be submitted to and approved in writing by the LPA and constructed and completed in accordance with the approved details.

*Reason – In the interests of highway safety.*

8. Prior to the construction of any buildings within any Area of the site full details of the layout, visibility sight lines and specification of the access (or accesses) with the A283 shall be submitted in a Highway Scheme for approval in writing by the LPA. None of the buildings hereby permitted within any Area of the site shall be occupied until the access (or accesses) with the A283, and any associated works on the A283, serving that Area, has been laid out, constructed, surfaced, drained and completed in a phased manner or as a whole in accordance with approved details shown overall on figure 486/SK/010 Rev B. Specifically if development of the buildings in Area A occurs first no building shall be occupied until the access shown on figure 486/SK/011 Rev A has been completed in accordance with details submitted to and approved by the planning authority; or if development of the buildings in Area B occurs first no building shall be occupied until the

access shown on figure 486/SK/012 Rev A has been completed in accordance with details submitted to and approved by the planning authority.

*Reason – In the interests of highway safety and to ensure that transport infrastructure is appropriate to serve the development as proposed.*

9. Prior to the construction of any buildings hereby permitted within any Area of the site full details of the layout, visibility sight lines, drainage and specification of the roads (including any traffic calming features), footpaths, treatment of the underpass (including approaches and internal walls), parking areas, turning areas, loading and unloading areas and cycle parking facilities serving that Area shall be submitted to and approved in writing by the LPA.

*Reason – In the interests of highway safety and to ensure that transport infrastructure is of a standard appropriate to serve the development as proposed.*

10. No building within any Area of the site shall be occupied until the roads (including any traffic calming features), footpaths, parking areas, turning areas, loading and unloading areas and cycle parking facilities serving the building have been laid out, constructed, surfaced, drained and completed in accordance with plans, details and specifications submitted and approved in writing by the LPA.

*Reason – In the interests of highway safety and to ensure that transport infrastructure is appropriate to serve the development as proposed.*

11. Areas for access turning, loading and unloading of vehicles and the parking of vehicles and cycles, shown on the approved details, shall be clear of the public highway and such areas shall not thereafter be used other than for the purpose for which they are provided.

*Reason – To ensure that appropriate facilities exist to serve the development throughout its occupation and use.*

12. Prior to the occupation of any building within Areas A or B details of the proposed bus stop and bus loop must be submitted to and approved in writing by the LPA and constructed and completed in accordance with approved details.

*Reason – To ensure that appropriate public transport infrastructure is provided as proposed.*

13. Prior to Commencement of Development details of measures to prevent mud and debris being carried onto the public highway will be submitted to and approved in writing by the LPA and such facility shall be retained in working order and operated throughout the period of works on site.

*Reason – In the interests of road safety.*

14. Prior to Commencement of Development on any of the areas of the site parking provision will be made available within the area for use by contractors vehicles and other vehicles associated with the development in accordance with details approved by the LPA and such provision shall be retained for these purposes throughout the period of works on the area.

*Reason – To avoid undue congestion on site and consequent obstruction of access.*

### **Engineering Safety/Catch Ditches**

15. Before the construction of any building within Area B of the site, a scheme for the fencing or stabilisation of the adjacent rock faces and protection of the building and its users shall be submitted to and approved in writing by the LPA and thereafter shall be implemented and maintained in accordance with the details thereby approved.

### **Drainage/Groundwater Protection**

16. None of the buildings shall be occupied until works for the disposal of sewage have been provided to serve the building in accordance with details to be submitted to and approved in writing by the LPA.

*Reason: to ensure the provision of adequate foul waste disposal.*

17. Development shall not begin until measures for surface water drainage and the control of groundwater during construction have been carried out in accordance with details to be submitted to and approved in writing by the LPA.

*Reason: to ensure the appropriate protection of ground and surface water.*

18. Construction of piled foundations to any building approved by this permission shall not be undertaken until the method for piling has been submitted to and approved in writing by the LPA. The piling shall thereafter be undertaken only in accordance with the approved details.

*Reason: To comply with the requirements of the Environment Agency. The site contains potential areas of contamination and piling could lead to the contamination of groundwater in the underlying aquifer. The method of piling foundations for the development should be carried out to prevent the contamination of the underlying aquifer.*

### **Landscape design proposals**

19. No construction of any buildings shall take place within any of the individual Areas A, B or C until full details of both hard and soft landscape works for that area (but excluding landscaping to individual building plots in Areas A, B and C) have been submitted to and approved in writing by the LPA. These details shall include proposed finished ground levels or contours; boundary treatment; means of enclosure; hard surfacing materials; minor artefacts and structures (i.e. street furniture, play equipment, refuse or other storage units); proposed and existing functional services above and below ground. Details of soft landscape works shall include planting plans; written specifications; schedules of plant species, plant sizes and proposed numbers/densities of planting where appropriate; and

such work shall be carried out in accordance with an implementation programme agreed by the LPA.

*Reason: To ensure landscaping is an integral part of the development.*

20. Before the occupation of the first residential dwelling in Area A a scheme shall be submitted to the LPA for their approval for the laying out of the Public Open Space and Children's Play Area identified in Area A on the Master Plan and thereafter and prior to the occupation of the 50<sup>th</sup> dwelling in Area A, the Open Space and Children's Play Area shall be prepared (including installation of drainage where appropriate), constructed and landscaped and shall have installed thereon children's play equipment (in accordance with the scheme that shall include design, specification and layout) and the Public Open Space and play equipment and the means of access to these areas shall be maintained for the duration of the development.

*Reason: In the interests of amenity and the recreational needs of the area.*

21. Before the occupation of any building within Areas B, details of the landscaping scheme for the relevant building plot shall be submitted to and approved in writing by the LPA and shall be implemented in accordance with the approved scheme.

*Reason: to provide for the detailed landscape treatment of individual building plots.*

22. Before the construction of any buildings within Areas A or B, details of any earthworks or landforming measures consistent with the Master Plan shall be submitted to and approved in writing by the LPA. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. Development shall be carried out in accordance with the approved details.

*Reason: to provide an appropriate landform consistent with the Master Plan and intended uses and landscape scheme.*

23. Any soft landscaping which, within a period of 5 years from the completion of the development dies, is removed or becomes seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the LPA give written consent to any variation. All landscaping shall be retained as part of the development unless the LPA agrees in writing to its removal.

*Reason: To provide for the maintenance of the landscaping and planting and ensure its effective establishment.*

## **Recreation**

24. Prior to the occupation of the first dwelling in Area A a scheme detailing the measures to promote recreation will be submitted to the LPA comprising the following measures and thereafter shall be implemented and maintained in accordance with the approved scheme:
- a) visitor interpretation boards, particularly at key gateways from the Coastal Link into the site

- b) signage, particularly indicating the location of the hotel and restaurant/public house from the Coastal Link
- c) availability of toilets associated with the public house
- d) provision of disabled parking bays close to Coastal Link
- e) provision of a picnic area in the open space proposed in the northern part of Area A, adjacent to River Adur.

*Reason: To facilitate enjoyment of the AONB.*

### **Protection During Development**

25. No development shall take place on each individual Area A or B as identified on the Master Plan hereby approved, until there has been submitted to and approved by the LPA a plan showing the type and positions of protective fencing for existing landscape features to be retained on each individual Area A or B. The approved scheme shall be implemented and maintained during the course of development and no operations or other development of a temporary or permanent nature shall be carried out/on within the fenced off areas without the prior approval in writing of the LPA.

*Reason: To ensure important landscape and ecological features are protected and maintained as part of the development.*

### **Landscape Management**

26. A landscape management plan, including long term design objectives, management responsibilities, implementation and maintenance schedules for all landscape areas, other than privately owned domestic gardens and landscaping within individual building plots, shall be submitted to and approved by the LPA prior to the occupation of the area of the development. The landscape management plan shall be carried out as approved.

*Reason: to ensure the long term success and maintenance of the landscaping of the site in the interests of public amenity.*

### **Contamination**

27. No building shall be constructed until a scheme to deal with contamination of its plot has been submitted to and approved in writing by the LPA and which scheme shall include an investigation and assessment to identify the extent of contamination within the plot and where remediation is necessary, the measures to be taken to prevent pollution to groundwater or controlled waters or risk to buildings or the public when the site is developed.

*Reason: to provide for the remediation of potential contamination associated with the past use of the site.*

## **Lighting**

28. Before installation full details of the location, appearance, illumination levels and method of shielding/directing any external lighting on the site shall be submitted to and approved in writing by the LPA.

*Reason: To minimise the impact of light spill outside of the site in the interests of amenity.*

## **Nature Conservation**

29. No development hereby permitted shall be commenced on any individual Area A or B as identified on the Master Plan until a method statement detailing the methods to be adopted in demolition and construction to protect important wildlife and nature conservation habitats on each individual Area A or B has been provided for the approval of the LPA and the measures have been implemented and retained as approved for the duration of demolition and construction within the relevant Area.

*Reason: To protect key species and wildlife habitats during development.*

30. No development shall take place in any area until details of the proposed measures to enhance nature conservation have been submitted to and approved in writing by the LPA and these works shall thereafter be carried out as approved in a phased manner as the development progresses.

*Reason: To provide adequate protection for existing features and new habitat creation as part of the development.*

## **Nature Conservation Management**

31. A nature conservation management plan, including the proposed timescale and long term objectives, management responsibility and key tasks for the principal nature conservation habitats and important species within each site area shall be submitted to and approved by the LPA before development commences on that area. The management plan shall be implemented as approved.

*Reason: To provide for the long term development of the nature conservation resource.*

## **Restrictions on permitted development (Residential)**

32. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions or alterations under classes A, B, C and E of Part 1 of the Second Schedule of the 1995 Order shall be carried out, other than those expressly authorised by this permission.

*Reason: To provide for the protection of the landscape of the river valley and AONB.*



33. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of any dwelling house forward of any wall of that dwelling house which fronts onto a road.

*Reason: To provide for the protection of the landscape of the river valley and AONB.*

#### **Restrictions on permitted development (Business)**

34. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions or alterations under classes A, B, C and D of Part 8 of the Second Schedule of the 1995 Order shall be carried out, other than those expressly authorised by this permission.

*Reason: To provide for the protection of the landscape of the AONB.*

#### **Geological Interest**

35. No development shall take place within the vicinity of the Regionally Important Geological Site (RIGS) until fencing has been erected, in a manner to be agreed with the LPA, to protect those geological faces designated as a RIGS; and no works shall take place within the area inside that fencing without the prior written approval of the LPA.

*Reason: To provide for the protection of the geological interest of the site.*

#### **Managed Access to the RIGS**

36. A scheme providing for managed access to the RIGS for educational and study purposes shall be submitted to and agreed with the LPA and implemented in accordance with that scheme upon completion of the development.

*Reason: To provide for managed access to the RIG for educational and study purposes.*

#### **Noise – Post Development**

37. Unless otherwise agreed with the LPA, upon completion of the development, the level of noise emitted from the uses hereby permitted in Area B of the site shall not exceed 55 dB<sub>Laeq</sub> (A) between 0700 and 1900 Monday to Friday and 35 dB<sub>Laeq</sub> (A) at any other time, when calculated at the nearest noise sensitive properties identified on plan Figure 1 A PD.

*Reason: To provide for the protection of the amenities of sensitive properties.*

#### **Waste Management and Recycling**

38. Inert waste arising from the demolition and construction activities shall be recycled on site wherever practicable, except where this would give rise to a risk of pollution or other hazard.

*Reason: To provide for minimisation of traffic, the need for raw materials and ensure sustainable waste management.*

### **Archaeology**

39. No development shall take place on any of the individual Areas A or B until the developer has secured the implementation of a programme of archaeological investigation and recording for that relevant Area, in accordance with a written scheme which has been submitted and approved by the LPA.

*Reason: In order to ensure that adequate provision is made for the preservation or record of archaeological resources which may be present on the site.*

### **Underpass**

60. Details of the treatment of the approaches to and internal walls of the underpass will be submitted to the LPA for approval and implemented before the occupation of the 40<sup>th</sup> residential dwelling in Area A and the underpass will be retained following completion of the development for use by pedestrians, cyclists and emergency vehicles.

*Reason: In order to ensure that the appearance of the underpass is enhanced for aesthetic and security reasons.*

## LIST OF PLANNING CONDITIONS - HORSHAM DISTRICT

1. Application for approval of the reserved matters shall be made to the LPA before the expiration of 3 years from the date of this permission.

*Reason: In pursuance of Section 92 (2) of the Town and Country Planning Act 1990.*

2. The development hereby permitted shall be begun either before the expiration of 5 years from the date of the permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

*Reason: In pursuance of Section 92 (2) of the Town and Country Planning Act 1990.*

3. Approval of the details of the design and external appearance of each of the buildings (hereinafter called the "reserved matters") shall be obtained from the Local Authority before commencement of the construction of each of the relevant buildings and thereafter construction of each building shall be in accordance with that approval. These details shall include:

- d) building elevations and floor plans;
- e) the materials to be used on the exterior roof and walls of the building including samples where appropriate;
- f) existing and proposed levels including the finished floor levels..

*Reason: To ensure that the external appearance and the detailed plot access and landscaping is satisfactory in the individual Areas of the site as identified on the approved Master Plan before the commencement of development on each individual Area of the site.*

### Height

4. The maximum height of buildings hereby permitted within each part of the site shall not exceed the following:

- (i) In Area A no dwelling hereby permitted shall exceed a maximum height of two storeys to eaves level other than those shown marked in red on plan Figure PRV3 A, which shall be a maximum of three storeys to eaves level, and in all cases the ridge height shall be no greater than a maximum of 10 metres from ground floor to ridge (unless otherwise agreed in writing by the Planning Authority);
- (ii) In Area B development is permitted for a maximum height from ground floor to ridge of 15 metres for the hotel and for all other buildings 12 metres unless otherwise agreed in writing by the Planning Authority;
- (iii) In Area C a maximum height from ground floor to ridge of 16 metres unless otherwise agreed in writing by the Planning Authority.

*Reason: To ensure that the scale and impact of the development on the landscape is acceptable.*

## Storage

5. Other than as required during the demolition and construction phase of the development or as shown on the Master Plan, there shall be no external storage of plant or materials within the employment areas identified in Areas B and C unless otherwise approved in writing by the planning authority.

*Reason: To ensure that there is no adverse impact on the environment arising from additional external storage.*

## Demolition

6. Before commencement of demolition in preparation for implementing of this permission, a scheme shall be submitted for approval to the LPA identifying the main phases and activities in the demolition and site remediation process and such demolition and remediation shall be carried out in accordance with that approval. The scheme shall include:

- e) measures for the provision and maintenance of appropriate vehicle parking and turning for construction traffic;
- f) measures to prevent the deposition of mud and debris on the public highway;
- g) measures for the control of noise providing that during the demolition of existing buildings and the construction of the development, the level of noise emitted from these activities shall not exceed a maximum of 70 dB (A) for temporary periods and 55 dB (A) at any other time, when measured at the nearest noise sensitive properties specified in the application; and
- h) measures for the control of dust.

*Reason: to ensure the appropriate control of demolition activities and protection of amenity.*

## Access and Transport

7. Prior to Commencement of Development within any Area of the site full details of a temporary scheme to ensure safe and effective access to that Area of the site during construction shall be submitted to and approved in writing by the LPA, and constructed and completed in accordance with the approved details.

*Reason – In the interests of highway safety.*

8. Prior to the construction of any buildings within any Area of the site full details of the layout, visibility sight lines and specification of the access (or accesses) with the A283 shall be submitted in a Highway Scheme for approval in writing by the LPA. None of the buildings hereby permitted within any Area of the site shall be occupied until the access (or accesses) with the A283, and any associated works on the A283, serving that Area, has been laid out, constructed, surfaced, drained and completed in a phased manner or as a whole in accordance with approved details shown overall on figure 486/SK/010 Rev B. Specifically if development of the buildings in Area A occurs first no building shall be occupied until the access shown on figure 486/SK/011 Rev A has been completed in accordance with details submitted to and approved by the planning authority; or if development of the buildings in Area B occurs first no building shall be occupied until the