



## **Briefing Paper for Pagham Parish Council- 28 June 2019**

### **Review of Housing requirements and supply in Arun District**

1. I have made no secret of my professional criticism of the approach taken to such matters by the previous administration of Arun District Council and Senior Officers over the last 10 years and have actively used my professional experience and knowledge to professionally advise and lobby for changes to that approach. In essence my criticisms have been as follows:
  - The housing requirement to be included in the emerging Local plan both in terms of open market and affordable housing was being miscalculated and misrepresented
  - The housing strategy being developed to deliver the supply necessary to meet the housing requirement<sup>1</sup> was not the best alternative available, was ill conceived and could not be delivered
  - The Council's approach would leave the district wide open to planning by appeal because the Local Plan included a housing implementation strategy that would fail to maintain a 5 year land supply as required and
  - Would not ensure that housing requirements are met in a sustainable way that would ensure that the right numbers of houses are built in the right places at the right time supported by the right infrastructure.
2. In my view recent Officer reports to ADC members<sup>2</sup> demonstrate that all these failings have despite my best previous efforts (and those of any others) have come to pass and that the Local Plan edifice (including the strategic allocations at Pagham) was built on foundations of sand in this regard and has now collapsed as a result.
3. Notwithstanding the above facts, Officers continue to advise ADC members that this is the result of the following failings on the part of others:
  - recent planning refusals on some Strategic Allocations;
  - poor quality schemes delaying approvals;
  - developers unable to meet stated and committed timescales; and
  - developer/market factors outside of local authority control.
4. I disagree and my advice to Pagham Parish Council and them is the same as it always has been. The Local Plan was built on a self-evidently flawed housing strategy and it was only a

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<sup>1</sup> Which includes the Strategic allocations for 1200 houses at Pagham

<sup>2</sup> Planning Policy sub committee 18 June 2019 Agenda item 8

<https://democracy.arun.gov.uk/ie/listDocuments.aspx?CId=182&Mid=669&Ver=4> and DCC on 27 June 2019  
<https://democracy.arun.gov.uk/ie/listDocuments.aspx?CId=137&Mid=921&Ver=4>

matter of time before the degree to which this was out of date and obsolete would become self-evident and no amount of obscuration or deflection can disguise that fact.

5. Officers also advise their members that the answer to the problem (in due course) is to stick with the implementation of the flawed Housing Strategy through strategic allocations and add to the supply in the short term by approving applications for housing on sites all over the district regardless of location. In other words more of the same hap hazard process that has plagued this district for the last 10 years.
6. Once again I disagree and my advice to Pagham Parish Council and them is that the legitimate answer to out of date and obsolete Housing delivery policies in a local plan is not to keep applying them or a continuation of the same process that led to them being adopted in the first place but is in fact a review of the Housing strategy and policies that led to the problem and that this should be initiated and undertaken at the earliest opportunity as this act alone would underpin and support the advice that follows.

**What to do about existing Unimplemented Planning permissions pending that review?**

7. There are a number of unimplemented planning permissions for housing in the district that flowed from the failed housing strategy which includes that granted under Council reference P/140/16 OUT.
8. My separate report relating to P/140/16 OUT explains the procedures available to the LPA to revoke/modify any existing planning permissions where it considers it expedient to do so and this is equally applicable to any others elsewhere in the district. Therefore I advise that Pagham Parish Council pushes for the LPA to consider revoking/modifying P/140/16 OUT in accordance with that advice and that other do the same with regard to any others elsewhere that fall into this category.

**What to do about current applications and appeals pending that review?**

9. My separate reports relating to current planning applications/Appeals for sites in Pagham under Council refs: P/6/17 OUT, P/134/16 OUT, P/25/17 OUT and P/30/19 OUT contains advice about how to address those current applications and appeals which is equally applicable to others elsewhere in the district.
10. The failure of a LPA to be able to demonstrate a 5 year supply of deliverable housing sites is a material consideration that might weigh either for or against a proposal.
11. In the case of proposals that are considered to be in accordance with the development plan the fact the housing policies in a local plan are out of date and have failed to maintain a 5 year housing land supply and are under review may weigh against a proposal even though it is in accordance with the development plan and may cause a decision taker to give less weight to the development plan in the overall planning balance and indicate a refusal.

12. In a case where a proposal is considered to be contrary to the development plan the lack of an ability to demonstrate a 5 year HLS is a material consideration that may weigh in favour of a proposals despite that conflict but the weight to be given to that material consideration is a matter for the decision taker and should be applied according to the extent of that shortfall and what steps the LPA has taken to address it. Therefore the overall planning balance may still indicate a refusal.
13. In the case of a review of the Local Plan the issue of prematurity as a reason for refusal may also arise and paragraphs 48 – 50 of the NPPF 2019<sup>3</sup> explain how this issue can be applied.

#### **What to do about applications that may be submitted during the review?**

14. See above

#### **How must elected councillors and other members of the local authority consider planning applications?**

15. In view of the circumstances surrounding my advice and the battles still to come as a result of following my advice some members of Pagham Parish Council (and others) may find the following information and guidance helpful.

*“Local authority members are involved in planning matters to represent the interests of the whole community and must maintain an open mind when considering planning applications. Where members take decisions on planning applications they must do so in accordance with the development plan unless material considerations indicate otherwise. Members must only take into account material planning considerations, which can include public views where they relate to relevant planning matters. Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless it is founded upon valid material planning reasons”. **NPPG Paragraph: 016 Reference ID: 21b-016-20140306***

*Under Part 1 of the Localism Act 2011 each local authority is required to adopt a local Code of Conduct that sets out the expectations as to the conduct of members in carrying out their official duties. The local authority must also keep a register of members’ interests.*

*The publication Openness and transparency on personal interests: a guide for councillors gives practical information about members’ personal interests and the standards arrangements introduced by the Localism Act 2011. **NPPG Paragraph: 017 Reference ID: 21b-017-20140306***

#### **Can an elected member who has represented constituents interested in a planning application be accused of pre-determination or bias, if he or she subsequently speaks or votes on that application?**

*Section 25 of the Localism Act 2011 clarifies that a member is not to be regarded as being unable to act fairly or without bias if they participate in a decision on a matter simply because they have previously expressed a view or campaigned on it. Members may campaign and represent their constituents – and then speak and vote on those issues – without fear of breaking the rules on pre-determination. Members may also speak with developers and express positive views about development.*

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<sup>3</sup> <https://www.gov.uk/guidance/national-planning-policy-framework/4-decision-making#para48>

*A distinction can be drawn between pre-determination and pre-disposition. Members must not have a closed mind when they make a decision, as decisions taken by those with pre-determined views are vulnerable to successful legal challenge. At the point of making a decision, members must carefully consider all the evidence that is put before them and be prepared to modify or change their initial view in the light of the arguments and evidence presented. Then they must make their final decision at the meeting with an open mind based on all the evidence.*

**NPPG Paragraph: 018 Reference ID: 21b-018-20140306**

*Paul Collins BA (Hons) Dip TP MRTPI – 28 June 2019*

### Briefing Paper for Pagham Parish Council- 28 June 2019

**P/6/17 OUT: Outline application with some matters reserved for construction of up to 300No. new homes, Care home of up to 80No. beds, D1uses of up to 4000sqm including a 2 form entry Primary School, formation of new means of access onto Hook Lane & Pagham Road, new pedestrian & cycle links, the laying out of open space, new strategic landscaping, habitat creation, drainage features & associated ground works & infrastructure.**

#### Key details are

- Received/Validated by ADC January 2017
- Objections raised by Pagham Parish Council, Aldwick Parish Council, North Mundham Parish Council and Oving Parish and a large number of residents in essence because the proposals were (on the basis of evidence provided) considered to be contrary to numerous policies in the adopted Local Plan relating to the Pagham strategic allocations, landscape and Green Infrastructure, Nature conservation and the protection of Pagham Harbour, Transport and infrastructure provision.
- Recommended for approval subject to the agreement of a s106 by Officers at DCC on 13 November 2018 and 23 January 2019
- Determination deferred by members at DCC on 13 November 2018 and refused contrary to Officer advice by DCC on 23 January 2019 on the basis of a reason for refusal reluctantly recommended to them by the Group Head of Planning ( see minutes of the meeting<sup>1</sup> and the decision notice dated 24/1/19 on the application web file)
- Applicant appealed the decision on 20-02-19 and supported their appeal as required to do with their Statement of Case and draft Statement of Common Ground. Unusually they also supported their appeal with a Skeleton application for a claim of costs against ADC which they were not obliged to do.
- Pagham Parish Council requested and were granted "Rule 6 status"<sup>2</sup> at the appeal by PINS and the appeal is proceeding according to the following bespoke timetable imposed by PINS **copied at Appendix 1.**
- Pagham Parish Council has engaged a Planning Barrister to present their case and two witnesses to prepare and present evidence being me in respect of Planning evidence and Terra Firma in respect of landscape evidence. Witnesses for the Appellant and/or the Council are unknown.
- Pagham Parish Council has prepared and submitted its Statement of Case by the due date (18/4/19) as required and this is **copied at Appendix 2**

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<sup>1</sup> <https://democracy.arun.gov.uk/Data/Development%20Control%20Committee/20190123/Agenda/Minutes.pdf>

<sup>2</sup> This means that Pagham Parish Council is to be considered to be a main party at the appeal. They will be sent copies of the documents sent to PINS by the other main parties (eg the appellant, the local planning authority and any other Rule 6 parties) are governed by the same rules as the other parties regarding evidence exchange and reasonable behaviour and are entitled to appear at the inquiry and to cross-examine other parties. They are also liable for applications for costs being made against them by other parties if they behave unreasonably and can also make applications for costs if the other parties behave unreasonably.

## Issues arising

1. Section 78 Appeals like this must be determined by the Inspector on the following basis:

*“To the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (see section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 – these provisions also apply to appeals).*

*The National Planning Policy Framework represents up-to-date government planning policy and is a material consideration that must be taken into account where it is relevant to a planning application or appeal”. NPPG Paragraph: 006 Reference ID: 21b-006-20190315.*

2. Furthermore the Courts and guidance provided by the Planning Inspectorate makes it clear that any appeal is considered afresh and will be determined by an Inspector on the basis of the evidence before them at the time that the decision is to be made rather than on the basis of the evidence available at the date of the Council’s decision. This means that none of the parties at this appeal or the Inspector are restricted to considering only the original refusal reason issued by the Council and the Inspector is free to make up his or her own mind regarding the reasons for upholding or dismissing the appeal on the basis of the evidence before them.
3. For this reason it is best practice (and in my experience usual) for Officers to provide their members with an opportunity to review their case upon receipt of a planning appeal of this kind (particularly given the costs application made by Appellants) in order that they may consider the whether or not the appeal should be defended and if so whether or not the basis for that defence can be strengthened.
4. It is therefore unfortunate that Officers in this case did not facilitate such a process before sending the ADC Statement of case on 11 April 2019.
5. However this unfortunate position can be retrieved. Statements of Common Ground are not due until 27 August 2019 and evidence exchange is not due until 24 September 2019 so the new administration may be given the opportunity (via the DCC or Cabinet) to consider whether or not the case made can be more closely aligned with that to be made by Pagham Parish Council without worry of incurring any greater risk of a costs award against them if they did.
6. It is not unreasonable for the LPA to reconsider their appeal case in the light of the appeal being lodged (indeed it is best practice to do so) and it cannot be unreasonable for a LPA to consider adding to/or changing their case so as to take account of all relevant material considerations that have arisen since they made their decision and no additional costs would arise for any party if they did so provided they advised the other parties in this case that this was the case at the earliest opportunity and before the finalisation and submission of evidence in September.
7. Furthermore it is also usual best practice in such cases for Officers to proactively explore the extent to which they and Rule 6 parties can work together in order to improve the

authority's ability to defend any appeal but once again it is unfortunate that despite my best efforts Officers have not done so preferring instead (and somewhat bizarrely) to work more closely with the appellant and their representatives in this regard. Once again this is not an irretrievable situation at this date as I remain willing and able to participate in such a process on behalf of my rule 6 client provided it is likely to be undertaken in a positive manner by ADC Officers.

8. I am also bound to say that I found the Officers report to Cabinet on 3 June 2019 less than helpful to members, the public and/or the other parties at this appeal. Telling members in an open public report that they are unable to defend the refusal reason issued and must employ consultants to do so at a cost of 25k anyway is not a cost effective or efficient way forward to securing the successful outcome to the appeal that Pagham Parish Council, members and the public want and frankly seems to have been contrived by Officers<sup>3</sup> so as to prevent that successful outcome in an effort to vindicate the advice they have previously given.
9. Put simply Pagham Parish Council and I are satisfied that the reasons for dismissing the appeal set out in their Statement of Case are arguable and defensible with evidence but the issue is that we need to convince the Inspector that this is the case and this task will be a lot easier if Arun District Council (members and officers) worked with them and me to do so as they are legitimately entitled to do and Pagham Parish Council has repeatedly asked them to do.
10. In my view given the urgency of the situation and the level of public interest involved it would be appropriate for the ADC Officers to facilitate this process via the next committee cycle but that is of course a matter for them.

**Paul Collins 28 June 2019**

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<sup>3</sup> <https://democracy.arun.gov.uk/documents/g650/Printed%20minutes%2003rd-Jun-2019%2017.00%20Cabinet.pdf?T=1> minute 24

**TOWN AND COUNTRY PLANNING ACT 1990**  
**APPEAL BY Hallam Land Management Limited**  
**SITE AT Land north of Hook Lane, Pagham**

**INSPECTOR: Paul Jackson BARCH RIBA**

| <b>ACTION</b>                                                                                                                                                                                                                                              | <b>TIMETABLE</b>                                                                     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| Start date                                                                                                                                                                                                                                                 | 28.2.19                                                                              |
| Submission of questionnaire                                                                                                                                                                                                                                | 14.3.19                                                                              |
| Deadline for comments from interested parties                                                                                                                                                                                                              | 11.4.19                                                                              |
| Submission of statement of case (Local Planning Authority)                                                                                                                                                                                                 | 11.4.19                                                                              |
| Submission of statement of case (Pagham PC)                                                                                                                                                                                                                | 18.4.19                                                                              |
| Submission of statement of common ground                                                                                                                                                                                                                   | 27.8.19                                                                              |
| Submission of proofs of evidence                                                                                                                                                                                                                           | 24.9.19                                                                              |
| Witness names and anticipated duration for: <ul style="list-style-type: none"> <li>• opening and closing statements</li> <li>• evidence in chief</li> <li>• cross examination of other parties' witnesses</li> </ul> Copy of LPA event notification letter | 1.10.19                                                                              |
| Inquiry (time, date and venue)                                                                                                                                                                                                                             | 10.00, 22.10.19<br>Arun Civic Centre,<br>Maltravers Road,<br>Littlehampton, BN17 5LF |
| Estimated number of sitting days                                                                                                                                                                                                                           | 4                                                                                    |
| Decision issued on or before (Inspector decided cases)                                                                                                                                                                                                     | TBA <sup>1</sup>                                                                     |

<sup>1</sup> The target date for issue of the decision will be confirmed within 4 working days of the close of the inquiry.

**Paul Collins BA (Hons) DipTP MRTPI Chartered Town Planner**

**Town and Country Planning Act 1990**

**Section 78 Appeal proceeding by way of the Inquiry procedure**

**Appellant: Hallam Land Management Limited**

**Site Address: Land north of Hook Lane, Pagham, PO22 8AY**

**PINS REF: APP/C3810/W/19/3223144**

**LPA REF: P/6/17 OUT**

**Date of Inquiry: 22 October 2019**

**STATEMENT OF CASE ON BEHALF OF PAGHAM PARISH COUNCIL**

**Prepared by: Paul Collins April 2019**



## **Introduction**

1. This Statement of Case is submitted on behalf of Pagham Parish Council (“the Parish Council”). It has been prepared in accordance with Annexe J PINS Procedural Guide (2019).
2. The Parish Council was granted “Rule 6” status in March 2019. Since that time the Parish Council has reviewed the available material on the Council’s planning register and, via its planning consultant, has sought a number of clarifications from the main parties, including sight of the draft conditions list and draft planning obligation. The responses to these requests are awaited. The Parish Council has also requested to be a party to the Statement of Common Ground.
3. To ensure compliance with the bespoke timetable, the Parish Council has produced this statement of case on the basis of the information presently available. The Parish Council however reserves the right to amend or vary this Statement of Case promptly upon receipt of the outstanding matters from the planning authority.

## **The Case for the Parish Council**

4. The Parish Council acknowledges that Policy HSP2a of the Arun District Local Plan adopted on 18 July 2018 allocates some 5 separately owned parcels of land within the parish to collectively provide at least 1200 houses together with appropriate infrastructure in the form of SD1 Pagham South (400) and SD2 Pagham North (800).
5. However Pagham Parish Council also understands that this individual proposal for an individual site within the allocation must demonstrate that it can or will be delivered in accordance with criteria a) – q) of Policy HSP2, criteria a) – h) of Policy HSP2a and all other material development plan policies when considered in the light of all other later material considerations including relevant national planning policy within the NPPF February 2019, if the outline planning permission sought is to be granted by way of this appeal .
6. The appeal site comprises one of the 3 separately owned parcels of land which make up the total SD2 Pagham North Allocation and having regard to the evidence which is publicly available, the Parish Council is of the view that planning permission should be withheld for the following reasons:

- i. It has not been demonstrated that the scheme will deliver development of the type envisaged by ADLP Policy SP1a Strategic Approach or a comprehensive, master planned and integrated development which will accord with ADLP Policies HSP2 and HSP2a and related national policy in the NPPF 2019.
  - ii. Given the scale of the development proposed for the site it has not been demonstrated that the site can be developed in a manner that will preserve or enhance the quality and landscape character of its environs, the Bognor Regis to Chichester Gap or existing Green Infrastructure assets or contribute positively to the quality of that environment contrary to policies HSP2, HSP2a, LAN DM1, SD SP3, GI SP1, D SP1 and QE SP1 and, ENV DM4 of the Arun Local Plan (2018) and related national policy in the NPPF 2019.
  - iii. Given the scale of the development proposed for the site it has not been demonstrated that the site can be developed in a manner that will preserve heritage assets<sup>1</sup> including the setting of the nearby Grade II listed Rookery Farm and Grade II listed Nyetimber Windmill, contrary to policies, HER SP1, HER DM1 and HSP2a (b) of the Arun Local Plan (2018) and related standing advice from Historic England and national policy in the NPPF 2019.
  - iv. It has not been demonstrated that the development of the site can be undertaken in a manner that will safeguard the water quality of Pagham Harbour or on site habitats for protected species contrary to Policies HSP2a, ENV DM2, ENV DM4, ENV DM 5 of the Arun Local Plan (2018) and related standing advice from Natural England and national policy in the NPPF 2019.
  - v. It has not been demonstrated that the scheme will provide for the necessary infrastructure requirements,<sup>2</sup> to satisfy the requirements of policies H SP2, INF SP1, INF SP2, T SP1, T DM1, T SP3, W SP1 , W DM1 and W DM3.
7. On the basis of the evidence it has seen, the Parish Council is presently of the view that the above breaches collectively amount to a substantial departure from the aspirations of the

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<sup>1</sup> As defined in the Glossary to the Framework

<sup>2</sup> Infrastructure is defined in the Glossary of the Arun District Local Plan as being “*The facilities and services needed for a place to function. This includes roads and utilities as well as school places, GP surgeries, libraries, provision to promote health and wellbeing and many other facilities*”.

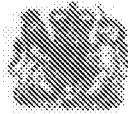
recently adopted development plan and that there are no material considerations which justify determining the scheme otherwise in accordance with the development plan.

8. The Parish Council will continue to work proactively with the main parties to minimise the issues in dispute through the statement of common ground process.

#### **Documents Lists**

9. In addition to the documents relied upon by the Council and the Appellant and any that are agreed as part of the forthcoming Statement of Common Ground process, the Parish Council will also rely upon:
  - i. The previous appeal decision on the site APP/C3810/A/99/1027004 (**Appendix 1**)
  - ii. The landscape report prepared on behalf of the Parish Council and submitted to the Council in the course of determination of the application (**Appendix 2**)

**Paul Collins BA (Hons) Dip TP MRTPI – April 2019**



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The Barton Willmore Planning  
Partnership  
6<sup>th</sup> Floor  
Venture House  
27-29 Glasshouse Street  
London W1R 6BW

Surrey, East & West Sussex Area Team  
Planning

Bridge House  
1 Walnut Tree Close  
Guildford  
GU1 4GA

APPENDIX ONE

Attn: Mr Iain Fellingog

Our Ref: APP/C3810/A/98/1027004  
Your Ref: 7682/A/

7 September 2000

Dear Sirs,

**TOWN AND COUNTRY PLANNING ACT 1990 -SECTION 78  
APPEAL BY PROWING HOMES/PROJECTS DIVISION  
OUTLINE PROPOSAL FOR RESIDENTIAL DEVELOPMENT AT HOOK LANE,  
PAGHAM, WEST SUSSEX  
APPLICATION NO. P/14/99**

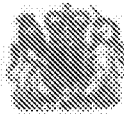
1. I am directed by the Secretary of State for the Environment, Transport and the Regions to say that consideration has been given to the report of the Inspector, Mr R S Foster MA MRTPI, who held an inquiry into your client's appeal against the failure of Arun District Council to determine, within the prescribed period, an application for outline planning permission for residential development (6.55ha), public open space (1.42ha), and structural landscaping (1ha) on land at Hook Lane, Pagham, West Sussex. A separate letter is enclosed dealing with the application for costs.
2. The Inspector, whose conclusions are annexed to this letter, recommended that the appeal be dismissed and outline planning permission be refused. A copy of the Inspector's report is enclosed.

**Matters Arising Following the Public Inquiry**

3. Since the inquiry, the Secretary of State received letters and enclosures from you on behalf of the appellant about the following matters:
  - (i) to confirm an amendment to provide a maximum of 175 dwellings on the appeal site and a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990;
  - (ii) later amendments to this undertaking;
  - (iii) a copy of West Sussex County Council's consideration of the Arun District Council local plan review; and
  - (iv) comments on the density of development on the site with regard to the new Planning Policy Guidance note No 3 'Housing' (PPG3) issued March 2000



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He has also received from Arun District Council letters and enclosures:

- (i) responding to the above matters;
- (ii) pointing out other appeal decisions; and
- (iii) other matters relating to the progress of the local plan.

This correspondence has been taken into account by the Secretary of State in determining this appeal but it is not considered to raise any matters requiring wider reference back to the inquiry parties, either under Rule 16 of the Town and Country Planning (Inquiry Procedure) Rules 1992, or in the interests of natural justice, prior to making his decision. Copies of this correspondence are not attached to this letter but can be made available upon written request to the above address.

Policy Considerations

4. In deciding this appeal, the Secretary of State has had regard to section 34A of the Town and Country Planning Act 1990 (inserted by Section 26 of the Planning and Compensation Act 1991) which requires him to determine the appeal in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises the West Sussex Structure Plan 1993 and the Arun District Local Plan 1993. The unadopted West Sussex Structure Plan 1998, the Arun District Local Plan review of 1996 and the Second Review Deposit Draft of the Arun District Local Plan of January 2000, are also material considerations.

5. Other material considerations which the Secretary of State has taken into account include Planning Policy Guidance note 1 (PPG1) 'General Policy and Principles', and the new PPG3 'Housing' published on 7 March 2000. The Secretary of State has considered whether and how the housing policies, identified by the Inspector as being important to the consideration of the proposal, have been changed by the publication of the revised PPG3 'Housing'. In his view, the relevant policies are either not changed by the new PPG3 or the changes would not alter the Secretary of State's decision on these appeals.

6. Arun District Council resolved on 19 October 1999 that, if they had been in a position to determine the application, they would have refused it. The Inspector quotes the reasons given by the District Council in paragraph 2 of his report.

Main Issues and Considerations

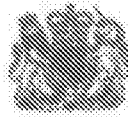
7. The Secretary of State agrees with the opinion of the Inspector that the main issues in his determination of this appeal are:

- (i) questions of housing land supply;
- (ii) sustainability aspects of the proposal;
- (iii) matters relating to strategic gap policy and the landscape; and
- (iv) the issue of prematurity in relation to the Second Review of the Arun District Local Plan.

8. The Secretary of State agrees with the Inspector's view, given in paragraph 108 of the Inspector's report, that there is a substantial shortfall in housing land supply in Arun District. The Secretary of State takes the view that Arun District Council could not show the availability of a



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five-year supply of housing land, as required by the 1992 version of PPG3, nor could they demonstrate plans, at the time of the inquiry, for sufficient land for housing to accommodate likely demand for five years as required by draft revised PPG3.

9. The Secretary of State agrees with the Inspector's views on the sustainability aspects of the proposal for the reasons he has given in paragraphs 110 to 114 of his report.

10. The Secretary of State agrees with the Inspector's views on Strategic Gap policy and the landscape for the reasons he has given in paragraphs 115 and 116 of his report.

11. Even if there is the possibility of delay in the local plan process in Arun District, the Secretary of State agrees with the views of the Inspector on *proximity* for the reasons he has given in paragraph 123 of his report.

Conclusions

12. Whilst the Secretary of State accepts that there is currently a shortfall in housing land supply, he takes the view that the site performs poorly on sustainability grounds, it has a potential role in helping to retain the separate identity of and amenity of settlements, and that the merits of this site should be examined in the context of the local plan.

13. Accordingly, for the reasons given above and in the Inspector's report, the Secretary of State accepts the Inspector's recommendation. He hereby dismisses your client's appeal.

14. A separate note is enclosed with this letter setting out the circumstances in which the Secretary of State's decision may be challenged by making an application to the High Court.

Yours faithfully,



Christine Horton

Authorised by the Secretary of State for  
the Environment, Transport and the Regions to sign in that behalf



GOVERNMENT OF THE SOUTH EAST

Tollgate House  
Houlton Street  
BRISTOL  
BS2 9DJ

File Ref: APP/C/1810/A/999/1027004

To the Right Honourable John Penson MP  
Secretary of State for the Environment, Transport and the Regions

Sir

I have the honour to report that on 7-10 December 1999 I held a public local inquiry at the Village Hall, Pagham into an appeal by Prowling Homes Projects Division against the failure of Arun District Council to determine within the prescribed period an outline planning application for development of land west of Hook Lane, Rose Green, Pagham for residential development (6.55ha), public open space (1.42ha) and structural landscaping (1ha). I inspected the site and its surroundings on 15 December 1999. At the inquiry applications for costs were made on behalf of both the appellants and the Council. Those applications are the subject of a separate report.

1. The appeal was recovered for determination by the Secretary of State by a direction made on 7 October 1999 because it 'raises issues relating to residential development on more than 6 ha of land'.

2. On 19 October 1999 the Council resolved that if they had been in a position to determine the application it would have been refused for the following deemed reasons -

*'The site lies in a rural area and the proposal, being unrelated to the needs of agriculture, forestry, recreation, the extraction of minerals or the disposal of waste, conflicts with policies C1 and C4 of the Structure Plan, policies C1 and C4 of the Structure Plan (not formally adopted), policy E3T6 of the Arun District Local Plan and policies GEN4, GEN10 and REB of the Arun District Local Plan Review Deposit Draft, which seek to protect the countryside, safeguard agricultural land and ensure that the amount of land taken for development is kept to a minimum, consistent with the provisions of high quality and adequate space within the built environment and to resist the consolidation of linear or sporadic development.*

*The proposal would involve development within the Chichester to Brighton Regis Strategic Gap and would threaten the objectives of maintaining the gap which are to prevent the coalescence of the settlements and retain their separate identities, it therefore conflicts with policy C3 of the West Sussex Structure Plan (not formally adopted) and policy GEN11 of the Arun District Local Plan Review Deposit Draft.*

*The proposal would constitute an alien intrusion in the countryside, detracting from the attractive open landscape and rural character of the area. The proposal is, therefore, contrary to policy C6 of the West Sussex Structure Plan, policy C7 of the West Sussex Structure Plan (not formally adopted), policies E3T6 and E3T7 of the Arun District Local Plan and policy GEN12 of the Arun District Local Plan Review Deposit Draft.*

*The Local Planning Authority is not satisfied that the development can be safely and adequately accessed and that there is capacity in the existing network to accommodate the extra traffic that would be generated. The proposal is, therefore, contrary to West Sussex Structure Plan policy T14 and policy T8 of the West Sussex Structure Plan (not formally adopted).*

*The site is not accessible to the rail network and does not comply with the terms of the policy implementation note 'Sustainable Transport 1999'. The proposal is, therefore, contrary to policy T1 of the West Sussex Structure Plan (not formally adopted) and policies GPN1 and TR1 of the Arun District Local Plan Review Deposit Draft.*

*No provision has been made for the construction of social housing as part of the development to meet the established local needs. Therefore, the proposal is contrary to policy H3 of the West Sussex Structure Plan, policy H4 of the West Sussex Structure Plan (not formally adopted) and policy HSG15 of the Arun District Local Plan Review Deposit Draft.*

*No provision has been made for the requirements of infrastructure directly required to service the proposed development. The proposal is, therefore, contrary to policy G4 of the West Sussex Structure Plan (not formally adopted).*

3 This report includes descriptions of the appeal site and its surroundings, the gist of the representations made at the inquiry, and my conclusions and recommendation. Lists of appearances, documents, plans, and photographs are appended.

#### THE SITE AND ITS SURROUNDINGS

4 The appeal site lies on the south coast plain immediately to the west of the edge of the built-up area of Bognor and forms part of a roughly triangular area mainly in agricultural use and enclosed by Hook Lane, Sefter Road and Pagham Road.

5 To the south east of this triangle residential development fronts the whole length of Hook Lane except for a play area on the eastern side of its junction with Sefter Road. To the west is generally open arable farmland within the shallow valley of a meandering watercourse (the Pagham Rife) while to the north is further farmland of a somewhat more enclosed nature. A small area containing three dwellings and some former farm buildings lies outside the boundary of the 'red' and 'blue' lines on the application plan at the junction of Sefter Road and Pagham Road.

6 The triangular area is generally level but has a slight fall towards a drainage ditch near its north western edge at Sefter Bottom. The northern boundary is marked by a mixed deciduous hedgerow and a similar, though less continuous, hedgerow runs along the Pagham Road frontage. The Hook Lane frontage is formed primarily by a wire fence with a mainly defunct hedge although a short length of more mature hedge remains at the northern end.

7 The appeal site itself amounts to about 8.97ha and forms roughly the eastern half of the triangular arable area described above. Its western boundary is generally unmarked on the ground.

8 From most locations along Hook Lane there are open views across the site to the north and west towards the hedges along Sefter Road/Pagham Road and a number of agricultural buildings beyond them. At much greater distance the South Downs can be seen clearly and features such as Chichester Cathedral and Goodwood Racecourse are also visible at certain points.

#### THE PROPOSAL

9 The application plan shows a brief illustrative indication of the appeal site divided by access roads from Hook Lane into 3 sections of residential development, totalling 6.55ha. A public open space of 1.42ha is shown at the northern end of the site and there are indications of

the locations of structure planting (totalling 1ha), including a new landscape boundary along the western edge of the appeal site

10 This scheme is developed further by the 'Development Concept Plan' in Doc 5 (D1, D2, D3) in which areas of higher and medium density are shown towards the centre of the site and lower density mainly to the south

11 The total number of dwellings proposed for the site is 178

12 The application is accompanied by main and supplementary unilateral undertakings (Docs 9 & 10), which very broadly provide for the following:-

- (1) Before occupation of the first dwelling, the developer to contribute the sum of £36,000 towards the improvement of local primary health care facilities in consultation with the West Sussex Health Authority
- (2) Within a specified time of the commencement of the scheme the developer to offer to sell 27% of the dwellings (or an appropriate land equivalent) to the New Downland Housing Association, or another Association, to be used as social housing and 3% of the dwellings as low cost housing (unless in the latter case these are provided by the developer)
- (3) Open spaces to be provided as part of the development in accordance with details set out in Doc 9
- (4) 0.3 acres of serviced 'community land' in an agreed location to be provided to Arun DC by the developer, together with a 'community contribution' of £70,000 towards provision of community services on the site, unless within one year of the commencement of the development the Council confirms that it does not intend to take transfer of the community site, in which case the developer shall pay £50,000 to Arun DC or its nominee to enhance existing community facilities and/or primary health care facilities
- (5) Before occupation of the last dwelling, the developer to commission the production of a piece of art costing between £25,000 and £50,000 for display at the site to the benefit of the community
- (6) Before occupation of the 100<sup>th</sup> dwelling the developer to provide screened recycling bins and a clothing bank at the community site
- (7) The developer to pay education contributions to the County Council in accordance with the detailed formulae set out in Doc 9
- (8) The developer to provide fire hydrants etc in accordance with details set out in Doc 9
- (9) The developer to provide library contributions in accordance with the formulae set out in Doc 9
- (10) Before the commencement of the development, mini-roundabouts to be completed at the junctions of Rose Green Road/Grosvenor Road, Saffer Road/Pagham Road, and Hook Lane/Pagham Road
- (11) Before the occupation of the 101<sup>st</sup> dwelling (excluding the affordable dwellings), various ancillary highway works to have been completed by the developer as follows:- works at the western end of Drift Road to construct 20-30m of footway/cycleway at either end of Frobisher Road to enable cyclists to by-pass junctions; works at Nyetimber Road, either to widen the existing footways to provide a footway/cycleway or to provide

carriageway markings for a cycleway reservation, the construction of a new controlled pedestrian crossing at Hains Lane, the provision of a cycle rack at Rose Green shops, and the construction of two new bus shelters at locations to be agreed.

13. The supplementary undertaking also commits the developer and the landowner not to commence development for residential purposes on any of the 'blue land' outside the appeal site but within the triangle referred to in paragraphs 4-7 above before 1 June 2006 without the prior consent of the District Council. This obligation is conditional on (i) the grant of planning permission on the current appeal site, (ii) the Secretary of State requiring the restriction to be imposed, (iii) the restriction not being imposed by means of any condition on planning permission for the appeal scheme, and (iv) the current development commencing. It is also subject to the terms of paragraph 3.12 of the deed to the supplementary obligation.

#### THE CASE FOR THE APPELLANT

##### Housing land supply in Arun District

14. The current statutory development plan comprises the West Sussex Structure Plan 1993 (WSSP93) and the adopted Arun District Local Plan 1993 (ADLP93). Policy III of the former requires Arun to provide 12,200 dwellings in the period 1989-2006. However, the intended replacement of the ADLP93 (the First Review ADLP, placed on deposit in January 1997) was never progressed to local plan inquiry stage and was finally abandoned. A planning vacuum has therefore developed in the supply of land in Arun District. The agreed table at Doc 12/19 shows that only 4870 dwellings had been built by 1998, leaving an outstanding residual requirement of 5890 to 2003 and 7310 to 2006.

15. Measuring this requirement against the current 5-year land supply, the same table shows a significant shortfall amounting either to 2330 on WSCC figures (or 3210 on ADC figures because the latter make more pessimistic assumptions about unidentified sites). 5-year land supply therefore amounts to either 2.85 years (WSCC) or 2.27 years (ADC).

16. ADC claims to be taking action to tackle the shortfall through preparation of the Second Review ADLP (SRADLP), due to be placed on deposit in January 2000. However, the new plan still does not make sufficient provision to remove the shortfall in supply against the requirements of WSSP93. The table indicates that the plan would leave a shortfall of 1370 on the WSCC figures or 2050 on the ADC figures. The 5-year supply would be increased only to 3.84 years (WSCC) or 3.26 years (ADC). If the 158 units resulting from the recent successful appeals at Courtwick Lane, Littlehampton and Arundel Road, Fortwell (Doc 4/26) are added to the provision made in the SRADLP the shortfall still only reduces to 1212 (WSCC) or 1892 (ADC). This is the equivalent of 3.97 years supply (WSCC) or 3.39 years (ADC).

17. Building rates realised during the period of the WSSP93 to date (ie 1989-1998) have been well below the provision required in the plan. ADC therefore prefers to rely on the 'past trends' approach. As the same table indicates, this approach produces a supply of 6.21 years (WSCC) or 4.95 years (ADC) judged against the residual requirement of the current development plan, a supply of 8.35 years (WSCC) or 7.10 years (ADC) measured against the SRADLP, and a supply of 8.65 years (WSCC) or 7.39 years (ADC) set against the SRADLP plus the supply stemming from the recent appeals.

18. The Council's approach is misconceived. It is wrong for the SRADLP to be prepared in partial conformity with the WSSP93 in the hope that, by the time the long delayed review of the WSSP is completed, the requirement to 2006 will include the writing-off of past non-provision. In any case review of the WSSP will not be completed before 2002 at the earliest. It is also significant that the 1998 review of the WSSP sought to embrace that approach but was rejected by the SGLLFR as making insufficient provision for new housing.

19 In the two appeal decisions at Courtwick Lane and Fostonwell the 'past trends' approach to the provision of housing land in Arun was considered but firmly rejected. The fact that the build rate in Worthing and Arun has been only 60% of the requirement (Doc 4/31 para 2.4) due partly to the recession in the housing market during the first half of the 90s and partly to lack of available land. There is no clear evidence to support the ADC's assertion that building rates would not rise if more land were to be made available.

20 The steps being taken by ADC to remedy the shortfall are insufficient. They amount to 'too little, too late' and do not comply with the advice in para 49 of PPG3. As to the first element of that advice, no instruction has been given to officers to mark the submission, or accelerate the processing, of applications for new housing. Rather, it has been resolved to 'take all steps necessary to resist attempts being made by some to undermine the planned system by pursuing development of the individual sites in an ad hoc way outside of the local plan review process' (Doc 13/14). The Council's view remains that all the sites in the list of outstanding applications and appeals (Doc 13/6) are outside the Build-Up Area (BUA) and therefore contrary to policy. Moreover, ADC's suggestion that, following the deposit period for the SRADLP, permission could be granted for appropriate objection sites not only ignores the terms of the above resolution but also the whole nature and purpose of the local plan inquiry process including the legitimate expectation of fair and equitable treatment of objection sites. If this course were pursued ADC would be subject to applications for judicial review by dissatisfied objectors with all the consequent further delay to the plan-making process. As to the second course suggested in PPG3, the Council confirmed that no steps were being taken to secure the provision of infrastructure for any sites.

21 Instead, the Council relies solely on the process of the SRADLP. However, the deposit plan meets only 64% (4700) of the residual requirement of 7330. This must raise serious questions as to whether the plan will receive a certificate of conformity from WSCC, given that the County would normally grant one only if provision was within plus or minus 10% of the requirement for the District (Doc 4/28, para 1.2). It also remains to be seen whether GOSF will enter a formal objection to the under-provision before the deadline of 13 December 1999 (Doc 4/32).

22 The SRADLP places heavy reliance on windfalls (1330 of 4700) despite the Council's view that Arun is 'full up in the BUAs'. Moreover, the new allocations (1230 of 4700) derive only from two locations, 1050 at North Bersted/Felpham and 180 at Toddington. As admitted by ADC, the former is a major project yet to be subjected to any EIA. Much of the site is Grade 1 agricultural land in an area where the strategic gap has still to be defined and there are considerable issues needing to be addressed, such as flood prevention, and the provision of roads and a rail station. The land falls within 3 separate sites and there is a need to bring together a number of land ownerships before effective development briefs can be prepared and development commenced. No formal consultation has yet been undertaken on either of the above options so there is no measure of support or probable opposition at present. There is certainly no real prospect that the larger option, in particular, will make any meaningful contribution to housing land supply in the immediate future.

23 In view of the extent of the shortfall carried into the SRADLP, and the likelihood of many objections to it, very little weight can be attached to the plan. The Council is likely to find itself having to face a protracted local plan inquiry and/or a delayed Inspector's report, as well as the real prospect of having to deposit substantive modifications and the probability of a second inquiry. Irrespective of legal challenges, including the potential from October 2000 of challenges arising from the Human Rights Act, it is increasingly unlikely that the SRADLP can be adopted by April 2002.

24 The SRADLP therefore cannot, and indeed is not intended to, enable the production of the necessary number of dwellings to reduce the shortfall to any material degree. Since the planned system is failing to deliver the appropriate level of housing provision in Arun the appeal system is the only mechanism for bringing forward sufficient new housing land.

#### The issue of prematurity

25 Although this issue does not form one of the deemed reasons for refusal, ADC alleges that the appeal proposals would cause 'cumulative effect' in the context used in para 47 of PPG3. However, the manifest shortcomings of this argument are demonstrated by the sheer scale and continuing nature of the shortfall in housing land. This is shown by the final version of Doc 13/8, a list of all the sites in Arun where there is currently an undetermined application or appeal for housing. Even if all these sites were to receive planning permission only 1431 extra dwellings would be added to the supply side, compared with the outstanding residual requirement to 2006 of 2530 (Doc 13/9). In any case, since all these sites are outside the BUA, their comparative merits and demerits will certainly differ.

26 Bearing in mind the planned underprovision of the SRADLP particular care needs to be given to the views expressed on the appeal application in April 1999 by the County Council (Doc 13/4 paras 3.3 & 5.2 p51-52). The same is true of the comments expressed by the Inspector in regard to concerns about prematurity in paras 17-19 of the Woodgate appeal decision dated November 1999 (Doc 4/21). In that case the Inspector was not informed by ADC about the scale of underprovision which would be made in the deposit draft SRADLP.

27 The circumstances of this case therefore do not fit with those discussed in para 47 of PPG3.

#### Sustainability issues

28 The committee report to ADC on the SRADLP (Doc 13/12) records that 'urban extensions (with urban infill) make the best use of the current geography of the provision of and access to goods and services' and represent 'the short term strategy best able to provide the infrastructure to support development'. The appeal scheme is an urban extension and the site is within reasonable walking distance of some local services at Pagham Road (6-7 minutes) and a greater number at Rose Green (12-13 minutes) (see Doc 4/2 and 29). While the provision of education and health facilities may not be geographically finely-tuned to the reception of growth at this point it is submitted that a sufficient range of opportunities are (and with the aid of the proposed contributions, can be) provided to achieve the aim of placing new development in a location which can help to reduce the need to travel.

29 The criteria at para 23 of the draft replacement of PPG3 are met in their entirety. Firstly, the Council accepts that urban extensions are necessary. Secondly, on the issue of location and accessibility, it is admitted that the site fully meets the requirements of the WSCC Policy Implementation Note (PIN) on Sustainable Transport, dated January 1999. This note was prepared with the aim of ensuring consistency in the interpretation and implementation of the requirements of PPG13 (Doc 4/23). The PIN requires that developments should be within 400m of a bus stop providing access to a frequent service with routes to appropriate destinations. 'Frequent' being defined as at least twice an hour in each direction during daytimes on Mondays to Saturdays, including the usual times of travel to and from work. In respect of rail travel, sites should be within 800m of a station or linked to one by bus services meeting the foregoing definition. As for cycling provision, sites should be linked to existing or potential cycle routes.

30 In this case the site has access to a twice-hourly daytime long-distance service running along Pagham Road en route from Bognor to Chichester and Guildford (reducing to once hourly between 20.21 and 21.21 and on Sundays). A twice-hourly local daytime route also runs

circuitously through Rose Green, including a short length of Hook Lane, en route to Bognor Town Centre and other outlying parts of the town (Doc 4/2 & 24)

31 The South Coast Cycle Route runs along Sefton Road to the immediate north of the appeal site en route from Bognor and Rose Green to Chichester (Doc 4/2 and 25) and the scheme makes certain provisions for increasing the safety and convenience of cycle travel (see para 10(11))

32 Turning to the third criterion of para 23 of draft PPG3 (capacity of existing infrastructure), the TIA (Docs 7 & 8), the undertakings (Docs 9 & 10), and the statutory consultation responses (Doc 13/4), - as affected in the latter case by the findings of the TIA and the provisions of the undertakings - all demonstrate that sufficient capacity either exists or can be provided

33 On criterion 4 (ability to build communities), the appeal site relates well to the existing local centres at Rose Green and Nyetimber which are the focal points of the existing community

34 Finally, on criterion 5 (physical constraints on the development of the land), there is nothing to prevent the appeal site from coming forward without delay unlike, certainly, the major of the two allocated sites in the SRADLP. The prospects of the second allocation are not yet known.

35 Turning to the sustainability of the appeal site compared with that of other sites suggested to ADC by objectors to the pre-deposit version of the SRADLP, the Council's sustainability matrix (Doc 13/10) is an unreliable basis for comparability. The Council has conceded that the appeal site's 'score' is better than indicated in the matrix and that it would now rank higher than some shown as more favourable. ADC accepts that the only heading under which it does not score positively is in respect of the adopted criteria concerning proximity to jobs, a factor that would be common to any new urban extension site within the wider Pagham area. However, in that context it should be noted that the long distance bus service and cycle route do provide opportunities to travel to the major employment locations at Chichester.

36 On the basis of the information in the TIA (Docs 7 & 8), together with the transport-related provisions of the undertakings (Docs 9 & 10), WSCC concluded that the appeal site is a sustainable location in transportation terms (Doc 13/6 p65)

37 As for the issue of the quality of the agricultural land, with an urban area surrounded by land of the best and most versatile quality, any urban extension will involve land of that standard. However, the consultant's assessment (Doc 4/26) confirms that the proposal raises no issues of farm viability. It is submitted that in this case the overriding need for new housing land outweighs the loss of 8.5ha of Grade 2 land.

#### Issues concerning the strategic gap and the landscape

38 There are two issues to consider. Firstly, would development be detrimental to the Bognor Regis-Chichester Gap Strategic Gap and secondly, would development of the appeal site cause unacceptable harm to the landscape?

39 Dealing first with the strategic gap, policy C5 of the WSSP91 establishes the concept of such gaps, including that between Bognor and Chichester, with the object of preventing coalescence and retaining the separate identity and amenity of settlements. The precise boundaries of the gaps are to be defined in local plans. Only land which it is essential to keep generally free from development in order to secure the objects of the policy on a long term basis is to be included within them. Policy C5 further states that within the policy framework set by policy C1 (countryside protection), development within strategic gaps will be permitted only in

compelling circumstances. In this case the serious shortage of housing land and the lack of harm caused to other development plan policies provide the necessary compelling circumstances

40 The boundaries of this particular gap have not yet been defined in an adopted local plan for Arun (although they have been so defined within Chichester). The SRADLP generally draws the boundary of the gap tight against the BUA, except for the proposed allocated areas. It therefore follows Hook Lane and includes the whole of the appeal site (Plan folder C/CBA1 & 2). However, there is no empirical work to demonstrate how this choice of line fits with the advice on the selection of boundaries given in the WSSP93, particularly the need for them to take account of the long-term and to follow recognisable physical features. At this time the SRADLP boundary cannot be regarded as immutable because (a) it does not take account of the future development needs of the area, even in the shorter term, and (b) it does not contribute to the wider landscape or countryside to the north and west because of its limited visibility from these areas within the gap.

41 Looking towards the site from the north and west from within the generally flat rural landscape the land forming the Pagham Road/Selfer Road/Hook Lane triangle land is not perceived as an important component of the landscape and does not contribute to the overall appearance of the gap because the robust mature hedgerows along Pagham Road and Selfer Roads provide a firm means of enclosure. In the 'traveller's mind' test posed by paragraph 2.12 of WSSP93 no harm would be caused to the purposes of the gap if development were to take place as proposed. While the appeal site is clearly visible as open land across Hook Lane from the BUA to the east and, as such, contributes to its setting, the latter forms a dominant element in the local landscape and an urbanising influence on the former.

42 The issue of the precise boundary of the gap is really one for the SRADLP but it is not necessary for the land within the triangle to be included. Pagham Road/Selfer Road would be the most logical and appropriate boundary in this area. Alternatively the structural landscaping belt could provide a recognisable future boundary serving the same purpose.

43 Turning to broader visual considerations, development of the site would clearly lead to change in its current appearance and the amenity that it provides when viewed from Hook Lane. However, there are no special landscape designations covering the land and it is well contained by the hedgerows along Pagham Road and Selfer Road. These would both remain, backed in each case by an undeveloped area of open space. The detailed layout of the development could also provide for a range of further mitigation measures. These could include planting along Hook Lane, the possible preservation of certain views from Hook Lane across the site, and the provision of pedestrian routes across through the site, including links to the new footpath/cycleway through the structural landscaping belt as shown in the concept plan (Doc 5/DHFW3). The latter would comprise a substantial belt at least 5m in width including mature trees planted at 2-2.5m in height with an understorey of shrub planting. An effective screen could be formed within 10 years. There is also no reason why views currently enjoyed from Hook Lane should not continue to be perceived from this new footpath/cycleway.

44 In sum, there is no case for dismissal of the appeal on grounds of demonstrable harm on visual grounds. If the need for the development is established this is an obvious and appropriate site on which to meet it.

#### **Issues raised by third parties**

45 Traffic related matters. The Transportation Impact Assessment covers all those matters raised with the appellants by WSCC and they are satisfied with its findings. Concern was not expressed by WSCC that the amount of traffic generated by the development would have any significant worsening effect on safety conditions between the site and Chichester or on AM peak

hour queuing at the two relevant junctions where local roads coming from the south join with the Chichester Bypass (A27)

46 Risk of flooding etc: The views of the statutory consultees (the Environment Agency, Southern Water and Portsmouth Water Company) are before the inquiry as responses to ADC's consultation (Doc 13/4). None has raised objection to the principle of development.

47 Ecological value of the site: The findings of the ecological appraisal commissioned by the appellants (Doc 6/G) are that the species-rich hedges along Pagham Road and Sefton Road (which would both be classified as 'important' under the Hedgerow Regulations) are the only habitats identified as having nature conservation value. No badger setts were recorded and any loss of foraging areas would be negligible. There were no habitats of value for roosting or hibernating bats or any other protected species. It is likely that the site supports a range of bird species typical of farmland and urban fringe habitats. The proposed structural landscaping would add value to the existing hedges. In addition to the content of the report it is submitted that while overwintering birds such as Brent Geese and Lapwings would no longer be able to forage on the areas to be developed, the other parts of the triangle would remain open for foraging, as would the extensive areas of surrounding countryside.

48 Views of Chichester Cathedral: Such views could be protected, where appropriate, by allowing vistas along proposed access roads and/or omitting certain sections of planting.

49 Appellants' interest in the site: Prowings' interest in the land is long term. They have held the appeal site under option since 1988, together with the other 'blue' land within the triangle, having previously identified its potential after earlier development of some of the existing local housing. At the 1990 inquiry into the ADLP93 they were unsuccessful in having the site allocated due to the adequate supply of land at that time, while their attempt to pursue the matter through the ADLP96 ended when ADC resolved to discontinue the process of preparing that plan. The proposal has now been pursued to appeal because of the continuing unwillingness of ADC to find adequate solutions to the housing shortfall through either the local plan or the development control processes.

## THE CASE FOR ARUN DISTRICT COUNCIL

### Housing land supply in Arun District

50 There is no disagreement about the factual position set out in Doc 13/19 (and described in paragraphs 14-17 above). A mid-range figure shows a land supply of 3+ years, while the WSSC figures show a greater amount. This conclusion was supported by the Inspector in the Woodgate appeal decision (Doc 4/21).

51 PPG3 gives advice about the weight to be afforded to such a shortfall. In particular, para 53 stresses that even where the shortfall is significant this will generally point primarily to a need to review the plan. This is exactly what the Council is in the course of doing, with the SRADLP about to be placed on deposit in January 2000.

52 Whereas the shortfall in housing land is currently measured against the WSSP93 this is increasingly out of date. The forthcoming review of the Structure Plan will provide new requirements from a fresh base date, probably 1998. The housing land requirement in Arun may then be adjusted either upwards or downwards. The SRADLP therefore adopts a short-term pragmatic approach, taking account of the current uncertainty at regional and county level, so as not to prejudice or predetermine these longer term matters.

53 The Council contends that house-building rates within Arun have been well below the level provided for in the WSSP93 and are likely to remain so for the immediate future. The SRADLP therefore approaches the issue of land release on the basis of past trends, rather than the residual method. This would allow for an average build rate over the next 5 years of 587 pa. This is much closer to the rate of 541 pa achieved in the period 1989-1998 (embracing both boom and bust periods) than it is to the rate of 916 pa that would be necessary to catch up with the full residual shortfall implied by the WSSP93.

54 These arguments have yet to be fully examined through the local plan process, drawing on a thorough District wide analysis of options. That is the only way of exploring the matter properly.

55 As indicated in paragraphs 52 and 53 of PPG3, land supply calculations can rarely be exact and decisions on individual applications should not turn too precisely on calculations of 5-year land availability. Even where there is a substantial shortfall, land availability considerations should not be regarded as overriding all other factors. Nevertheless, the Council is (through the process of the SRADLP) undertaking the process of releasing land in more appropriate locations than the appeal site insofar as this is prudent at present.

56 In the meantime the appeal site lies in an area of open countryside where any large-scale development would be visually prominent and seriously conflict with countryside protection policies such as C1 of WSSP93 and EVT6 & 7 of ADLP93.

#### *The issue of prematurity*

57 The case falls four-square within the circumstances of para 47 of PPG3. Firstly, the SRADLP has been approved by the Council and is to be placed on deposit in January 2000 before the determination of this case. Secondly, the appeal proposals are of significant scale (175 dwellings) and the cumulative effect of allowing them would also be significant, especially in terms of the precedent that would be set for undermining the local plan process. This is apparent from the growing number of applications and appeals that are already in the pipeline (Doc 13/8). Indeed applications for two substantial residential schemes were lodged on the day immediately preceding the opening of the inquiry. One of these was for an even more substantial site to the north of the current appeal site across Selter Road (Doc 13/7). This proposes about 300 houses on a site of 13.4ha.

58 The Council is seriously committed to a firm timetable for the local plan (Doc 13/11) and aims for adoption by about April 2002. Although the appellants have suggested that delay could occur for a number of reasons, including the possible refusal of WSCC to grant a certificate of conformity on grounds of insufficient housing provision, ADC officers believe that WSCC officers will recommend that a certificate be granted. The Worthing Local Plan has already been certified in conformity with the WSSP93, even though its housing provision was some 23% below that required by the structure plan. That District suffers from very similar heavy constraints on capacity to those applying in Arun.

59 Release of the appeal site would prejudice the process of the SRADLP. The site is intended to accommodate 175 dwellings and is therefore larger than the sites the subject of the appeal decisions concerning Courtwick Lane (118 dwellings) and Fontwell (40 dwellings). It would almost certainly set a precedent for the future development of the 'blue land' occupying most of the rest of the triangle, notwithstanding the undertaking not to pursue development of that land before June 2006 (Doc 10). In addition it would set a strong precedent for granting permission on the nearby large, and very recent, application site referred to above, to the north of Selter Road.

60 The issue of prematurity was considered thoroughly by the Inspector in dismissing the appeal concerning a site in Woodgate (Doc 4/21). Considerable weight needs to be given to this decision because it is the most recent. The position on housing shortfall was therefore very similar. The Inspector supported the view that important housing decisions should be considered as part of the local plan review and, moreover, since that inquiry the SRADLP process has progressed to deposit stage.

61 The Woodgate decision takes account of the earlier Courtwick Lane and Fontwell decisions but reaches the view that, notwithstanding those cases, the point is imminent at which the SRADLP process could become seriously prejudiced. It therefore represents clear support for the plan-led system. Although the appellants suggested that the weight to be accorded to it should be reduced because the Inspector was not aware of the alleged shortfall being made in the SRADLP there is no evidence to suggest that he would have reached a different conclusion if he had been made aware of this. His clear view was that 'if balanced and well informed decisions on housing land allocations are to be made, including comparative assessments of competing sites, it is important that they are made in the context of the local plan'. Even if the SRADLP does provide insufficient land, the Woodgate decision can be seen as supportive of ADC's position that releases made outside the local plan should only be made after a full comparative review of candidate sites.

#### **Sustainability issues**

62 A judgement on the sustainability of this site is a comparative issue which should be reached as part of the process of the SRADLP. In the deposit plan the Council is trying to follow Government guidance with respect to the juxtaposition of housing with employment/retail centres and the need for an integrated approach to planning and transport policy. The land releases in the SRADLP represent an integrated package which is entirely consistent with the principles of sustainability (Doc 13/21 & 22). The proposed allocations at North Bersted provide supporting infrastructure in the form of a missing west-east link in the strategic road network and are integrated with traffic management proposals for Bognor and improvements to the rail network. The sites are close to the various facilities of the town centre and therefore minimise travel distances.

63 Although the appeal site is an urban extension (the type of strategy option which the Council considers most sustainable in principle) it is not the only option of this type. The extent of other possible options for meeting development pressures is shown by (a) the list of other outstanding residential applications and appeals (Doc 13/8) and (b) the sites included within the 'sustainability matrix', a desk top comparison of the relative merits of sites put forward as 'omissions objections' to the pre-deposit draft of the SRADLP, (Doc 13/10).

64 It is recognised that the appellants have done what they can to deal with issues of sustainability but the physical location of the site (6 miles from Chichester centre and 4 miles from Bognor centre) prevents the appellants convincingly addressing its separation from major social and retail centres. That position has not fundamentally changed since the Local Plan Inspector concluded in 1990 (Doc 13/15) that the site was not well related to major employment areas in Bognor. Given the level of public transport links and the anecdotal evidence of local residents about the lack of attraction of public transport as a realistic alternative, it is only realistic to conclude that residents at the appeal site would travel by private vehicles, even to the relatively minimal local facilities and certainly to the nearest major centres.

65 Although predicted traffic movements may well be within the capacity for the local urban and rural highway network, and other technical highway requirements may be met, the release of such a large site in this location falls a long way short of meeting wider national and

local principles of sustainable development. This lack of sustainability may not be a determining factor if there were no better available options, but that is not the case here.

66 The problems of integrating new residents into the local infrastructure of health care and education have also been described by local residents and representatives, including the likely inadequacy of the financial provisions of the undertaking in making good these deficiencies in practical terms. These views are expressed clearly in the 861 letters submitted to the Council in response to the application, only one of which supported it (see the 7 level arch files forming Doc 18).

67 In terms of agriculture, this is Grade 2 agricultural land protected from development except in compelling circumstances by policy C4 of WSSP93, supported by policy EVT6 of ADLP93. Similar protection is continued in policy Area12 of the SRADLP. It is well farmed and there are no urban fringe problems that diminish its usefulness.

**Issues concerning the strategic gap and landscape considerations**

68 Policy C5 of the WSSP93 requires the appellants to demonstrate 'compelling circumstances' before planning permission can be granted within the Chichester-Bognor Regis strategic gap. The principle of strategic gap policy is well-established and it has been accepted by the appellants that the local plan process is the appropriate forum for defining the detailed boundary of the gap. It needs to be stressed, as the explanatory paragraphs in the WSSP93 indicate, that the gap is a land-use policy not related to landscape quality. Its aim is to prevent confluence and retain the separate identity and amenity of settlements.

69 The boundary proposed in the SRADLP is the appropriate one, being drawn along the edge of the present settlement boundary. It would be inappropriate to make changes to this boundary on a piecemeal basis in advance of the local plan inquiry. Little weight should be given to the appellants' suggestion that the Pagham Road/Selfer Road boundary hedge is more appropriate or, alternatively, that the proposed structural planting would provide a suitable boundary. These suggestions were tempered by the appellants' perception of the significance of the housing shortfall.

70 Views across the appeal site from Hook Lane are expansive, to Chichester Cathedral and the South Downs, and are mainly free of peripheral developments except for a farm and farm cottages along Pagham Road. The land is actively farmed and has a distinct rural character with no degradation by urban fringe uses. While the existing hedges in Pagham Road and Selfer Road would, with further reinforcement, restrict opportunities for views into the site from the countryside, rooflines would be visible and the new housing would change the character of these roads, making development appear to protrude significantly out into open countryside. Any new screen planting in the proposed landscape belt would be an alien feature largely out of place in this open and largely treeless landscape.

71 The greatest impact on landscape views would be perceived from Hook Lane where the open aspect would be entirely lost. Despite the flat topography and the layers of intervening hedges, development would also be perceptible in views from the rural footpath to the north leading from the edge of South Mundham to Copyhold Farm.

72 Thus, as well as the policy need to preserve the strategic gap, arising from policy C5 of the WSSP93 and GEN11 of the SRADLP, the scheme would be contrary to policy C6 of the WSSP93 and related policies of the ADLP and SRADLP.

## THE CASE FOR INTERESTED ORGANISATIONS AND INDIVIDUALS

73. Pagham Parish Council endorses the District Council's case. In its view the proposal is a substantial and inappropriate departure from the statutory development plan and is also contrary to the unadopted WSSP and the deposit draft ADLP.

74. The development would not be consistent with the policies and vision for a more sustainable pattern of development set out by the Government and by SERPLAN. Clearly defined policies resisting development in the countryside should be supported. No opportunity should be given for arbitrary and uncoordinated development. That would represent the antithesis of proper planning. This is a test case by which the credibility of the planning system in this local authority area can be judged.

75. The appeal site offers panoramic views across open countryside to the South Downs including features such as Kingley Vale, Chichester Cathedral, Trundel and Halmaker Wind Mill. This beauty is appreciated not only by residents of Hook Lane but by all living in the Pagham area. Support for the protection of such countryside can be found in paragraph 2.14 of PPG7 and policy GEN3 of the ADLP1993. The 860 objections to the scheme received by Arun DC show the value placed on this natural asset by local people.

76. If permission were to be given this important part of Pagham's rich heritage would be irreversibly lost and a trigger for further applications for development would be created.

77. Nothing has changed since the site was dealt with at the 1990 inquiry into the ADLP. At that time the Inspector concluded that the site was not well related to the major employment areas in Bognor Regis.

78. The Council is not routinely opposed to all new development. It has supported a number of housing developments considered to be appropriate in location, scale and design and sustainable within the framework of the existing community. However, it is clear that the current housing land allocation shortfall in Arun has become part of a vexed and ongoing political dispute at Parliamentary level. In the meantime, decisions to release land other than that already allocated for development will prove costly for Pagham.

79. This grade 2 agricultural land has been successfully farmed for over 200 years and continues to be so on a crop rotational basis and in accordance with national guidance in PPG7. There is no reason why the landscape of farms and winding lanes that has evolved over centuries should be replaced by the proposed sudden and dramatic change. Growers have been sitting on this land and are seeking merely to exploit the potential increase in land value. They have made no effort to contribute to a structured plan-led process based on the constraints of the existing BUA.

80. Protection of the strategic gap is vital because it provides an all-important buffer to safeguard the village against unnecessary encroachment of the development into the surrounding countryside. The Summer Lane decision (Dec 17) is relevant in this respect, as is the Woodgate decision.

81. Infrastructure issues are also important. Employment opportunities in the parish have declined and are very limited. Peak hour traffic queues on local roads are indicative of the number of residents who have to travel to work by car. The rural route from Pagham towards Chichester is reputed to be the busiest non-classified road in the county and has recently witnessed further fatalities due to the speed and volume of traffic using what is little more than a country lane. Increased loads due to the development could not be addressed by any road improvements in the vicinity of the site. Rather, the main effect of the proposed roundabouts would probably be more pressures for further encroachments into the strategic gap.

82. The existing infrastructure for education, health, public transport, and foul/stormwater drainage in Pagham are all at capacity. Significantly increased investment would be needed to address all these deficiencies. There are also concerns about the effects of the development on natural drainage in the area. Lengthy discussions with the Environment Agency about its flood relief scheme, involving diverting more water down the Pagham Rife, have shown a continual change in information regarding the true extent of the flood plain. This instils little confidence that further building over of naturally absorbent land would not add to the certain yet unquantified risk and extent of flooding in the area.

83. The appellants' evidence centres on selective quotes from PPGs. It ignores the existence and strength of the opposition to the scheme. Much of the appellants' case is based on the alleged insufficiency of housing land and the time that the new local plan will take to be adopted. This effectively acknowledges that the development is contrary to the provisions of the current development plan and the emerging revisions to it.

84. On the issue of the building rate necessary to make up for past 'underprovision', the appellants have ignored the current skills shortage in the building trades, to the extent that some builders are being driven to adopt prefabricated methods in order to cope.

85. Arthur White spoke on behalf of the Pagham & Nymtamber Residents Association, an organisation representing 50% of the population of that area. He referred to the lack of capacity in local infrastructure and the lack of valid reasons for reaching any different conclusion about the appeal site from that at the 1990 local plan inquiry.

86. Mr D Raythorne spoke on behalf of the Governors of Rose Green Junior School. The school has a full pupil-role. If it had to absorb the 61 or so children aged 7-11 that could be living at the appeal site it would either have to grow by a further class of 30 in every age group or try to cope with the difficult educational and financial implications of mixed age classes below full class size. Either way, it would need more accommodation in the form of classrooms, hall-space, library-space and toilets.

87. Gary Woods spoke on behalf of the Governors of Rose Green Infants School. This school also has a full pupil-role. There are already two mobile classrooms and the school hall cannot accommodate all the pupils at once. Major rebuilding would be required to cope with a further 70 or so children. In addition the school is at the end of a cul-de-sac and the existing congestion at the start and end of the day would be made worse.

88. Dr M G Ridley spoke as head of Grove House Surgery, covering Rose Green, Nymtamber and Pagham (plan F). This is a practice with 6 GPs, 24 other employed staff and 14 visiting staff employed by other agencies. A new surgery had been built in Rose Green in 1994 and extended twice since then. A minor branch clinic at Pagham Beach serves as an outpost for that community on an appointments-only basis. It is not permanently manned and all records have to be taken to the site.

89. Pressures on the practice are intense. There are about 2050 patients per doctor rather than the 'best practices' figure of 1800. Furthermore, 35% of the practice's patients are aged 65+ and 19% are aged 75+, twice the national averages in these vulnerable age groups requiring a disproportionate amount of health care.

90. It would not be easy to take on a further GP even if the Health Authority decided this was appropriate. The Rose Green surgery and the outpost at Pagham Beach are already used to capacity and there is no further land for expansion at Rose Green. Bognor is a closed area for GP recruitment, despite the shortages.

91. The Health Authority is the body responsible for strategic planning of access to care and would have to make plans to absorb pressures if the appeal were allowed. However, the sum offered through the undertaking would fall a long way short of what would be needed in terms of buildings and staff, so there would be a requirement for a substantial input of public funds.

92. Dr Ridley accepted that the Authority's initial objection in April 1999 had been replaced with further letters to Prowings in August and Arun in November (Doc 16). However, he was concerned about the practicability of further building works at Pagham, discussed in those letters, as a solution to the problem that would be posed by more patients resulting from the appeal scheme.

93. The nearest General Hospital at Chichester is also operating at capacity with a waiting list of more than a year for outpatient appointments in some departments and a further 18 months for some operations. Transport to the hospital from Pagham is difficult, with no hospital cars and few buses.

94. Geoffrey King spoke as Chairman of the Mill Farm Residents Association. Mill Farm is a park home site 400m from the appeal site and is a former residential holiday home park now being converted to permanent park homes for over 40s. This involves no further encroachment onto agricultural land or the strategic gap, no demands on local schools and little peak hour traffic generation. None of this is true of the appeal proposals, they would spoil the local countryside and create a concrete jungle.

95. Mick Britton felt that the appellants' arguments relied on Arun's lack of a strategy, but it was not right for this to be left to be resolved by predatory developers following the profit motive.

96. Mr D Foster said that the developers were quick to produce a range of benefits to answer individual points of objection to their scheme, but their approach would lead to one field after another being built on. What was needed was a more overall strategy based on bottom-up thinking.

97. Mr T Wright was concerned that development on the site would interfere with natural drainage through the sub-soil from the Kaise Green area (plan D) via the appeal site to Beffer Bottom. In his view existing drainage problems in the nearby built-up area could be exacerbated if the scheme were to be implemented.

98. Vivienne Carline said that some people already had to send children to the primary school at North Mundham, but this is also nearly full. She repeated concerns about the capacity of local health care.

99. Ray Radmall referred to the written representations submitted by the Pagham Conservation Volunteers covering policy objections to the scheme. He also referred to the flood risks threatening low-lying areas of the coastal plain in this area and his lack of confidence in the ability of the Environment Agency to predict uncertain flood events or apply effective control of developments affecting surface water drainage in the area between the Downs and the sea.

100. Over the past 2-3 years information about the peak volumes of surface water discharging via the Pagham Rife had shown a tendency to rise, while the risks of incursions of seawater at Pagham Wall had also increased (Plan E). These factors could place the appeal site at risk. In the meantime, it was unclear how surface water would be held on the appeal site, where it would drain to (especially in times of flood), and how it would affect natural drainage systems in the locality.

101. Written representations are at Doc 3. Southern Water refers to the lack of capacity at Pagham wastewater treatment works and the local wastewater pumping station at Nyetimber.

Crescent. Therefore to make best use of infrastructure the development should not connect to the sewers in Hock Lane but to the Carlson Avenue pumping station or the gravity sewers in Deth Road and Frohisher Road to the east of the site. There are no public surface water sewers in the vicinity so surface water would need to discharge to local land drainage ditches and storm water storage would probably be required.

102 A large number of letters of objection from local residents also and reinforce the points made at the inquiry by the Parish Council and other local speakers.

103 Mr S Jupp writes the only letter of qualified support for the scheme. He expresses grave reservations about the planning system in Arun becoming appeal-led but supports this scheme as an urban extension which is better than the Council's chosen option at Bersted.

### INSPECTOR'S CONCLUSIONS

104 In my view the main issues in this case can be considered under 4 headings: (i) questions of housing land supply, (ii) sustainability aspects of the proposal, (iii) matters relating to strategic gap policy and the landscape, and (iv) the issue of premature in relation to the SRADLP.

#### Housing land supply

105 The appeal site is not within the built-up area as defined in the adopted ADLP93. Development here would therefore be contrary to countryside protection policies C1 of the approved WSSP93 and EVT6 of the ADLP. However, policy EVT6 does provide for justified exceptions where substantial benefits, including social benefits, are provided. The provision of necessary housing land could be considered one such benefit.

106 Against a requirement set by the WSSP93 for the provision of 12,200 new dwellings in Arun in the period 1987-2006 only 4870 had been built by 1998, leaving a residual balance for the period of 7330 [14].

107 Unfortunately the local plan process, to which one would look for resolution of this issue, has been seriously delayed in Arun. The ADLP93, drawn up against the background of an earlier approved structure plan, has not yet been replaced. A first review of the local plan was placed on deposit in January 1997 but never progressed to inquiry stage and was abandoned [14]. The second review (SRADLP) was only placed on deposit in January 2000 [16]. Consequently there is no up-to-date local plan that has yet been issued.

108 Looking at the 5-year land supply situation for 1998-2003, based on provision in the adopted ADLP93, there was a residual requirement for 5890 dwellings, equivalent to between 2.27 and 2.85 years [15]. There has since been a marginal increase in supply of 158 as a result of the Courtwick Lane and Fomwell appeal decisions [16]. However, the shortfall is still substantial and must therefore be given significant weight in determining this appeal, in accordance with paragraph 53 of PPG3.

109 The Council prefers to look at supply in terms of past building rates, pointing out that completions have taken place at the rate of 541 pa in the period 1985-98 whereas the residual method would require an accelerated completion rate of 616 pa to catch up with the WSSP93 provision [53]. It would certainly represent an impressive speeding up in the rate of development if completions were to be achieved at that level, so to that extent I have some sympathy with the Council's view. However, there was no hard evidence from either the appellants or the local planning authority about the relative extent to which the past low completions rate has been due to market conditions on one hand or an absence of available sites

on the other. Overall I do not think the past low building rate should greatly diminish the weight to be attached to the shortfall, measured against the present statutory plan.

#### Sustainability aspects of the proposal

110 Policy provides that development on agricultural land of the quality of the appeal site will be permitted only in compelling circumstances [67]. This approach is continued in the deposit draft of the SRADLP although the Council accepts that housing development needs will require encroachments onto high quality land at North Bersted [22]. Moreover, it appears that any steps to reduce the present size of the housing shortfall will inevitably require development of some of the high quality agricultural land that is common around the edge of the Bognor area. Nonetheless, the site is actively farmed and does not have the appearance or character of land with urban fringe problems or a weakened potential for agricultural use. I therefore consider that its loss is a material factor in this appeal.

111 Turning to the site's location in relation to services and employment, it lies at the western edge of the Bognor urban area about 4 miles from the town centre and 6 miles along country roads to Chichester [64]. As the 1990 Inspector observed, the site is not well related to the major employment areas of Bognor [64]. A small number of local shops and services are to be found in Pagham Road and a greater number about 12-13 minutes walk away in Rose Green [28] but the doctor's surgery there is under pressure [88-93] and the local infant and primary schools have full pupil rosters [86-87]. The appellants would make contributions towards local education, medical and library services [12], and the providing authorities for these matters have withdrawn their objections, but the evidence of persons responsible for managing and delivering these services on the ground indicates that there could, in practice, be a considerable period of difficulties and readjustments before the new population would be absorbed. Although in my experience it is rarely practicable to make a wholly comfortable fit between new housing development needs and immediate adequate capacity in the receiving area, I consider these matters to be disadvantages of the current proposals.

112 On the issue of transport links, the site complies with the County Council's non-statutory Policy Implementation Note (PIN) on Sustainable Transport in terms of walking distances to bus stops served by routes to appropriate destinations including Bognor town centre and railway station and Chichester [29-30]. These routes meet the somewhat limited minimum requirements of the PIN for half-hour frequencies and the scheme includes provision of new bus shelters. However, it seems to me that the site's location on the perimeter of the built-up area and its distance from town centres and employment areas would not realistically contribute to national aims of reducing travel by private vehicle.

113 As for cycling, the scheme makes provision for some limited improvements of benefit to cycle users in and near Hook Lane [31]. However, there was little evidence on the ground that the local section of the 'South Coast Cycle Route' between Bognor and Chichester along Selter Road and Pagham Road currently amounts to more than a signposting exercise. The route follows a winding lane carrying a fair volume of fast moving traffic and seemed to me to have very little appeal as a safe haven for cyclists.

114 The site comprises an urban extension, the type of solution preferred by the Council for meeting growth needs in Arun [63]. However, on an overall judgement of all the above matters I consider that the scheme suffers material disadvantages as a sustainable option for meeting Arun's housing needs.

#### Strategic gap policy and the landscape

115 Until the eventual adoption of the SRADLP it will be unclear whether or not the proposed inclusion of the appeal site within the defined boundaries of the Chichester-Bognor

Regis Strategic Gap will endure [19-40]. However, in the meantime, I consider that Elm & Lane provides a strikingly clear edge to the BUA in this part of Bognor. In my experience this is an unusually clear visual break between town and genuinely open countryside.

[116] Employing the 'traveller's mind' test from para 2.12 of the WSSP93 is assumed to me that (in the perception of those travelling towards the north-west) the scope and rural nature of the gap between Bognor to the east and Chichester, identified by the spire visible across the flat landscape, could hardly be more apparent. I agree that the existing and potentially reinforced Pagham Road and Selter Road hedges (as well as the proposed new structural planting) mean that the site's contribution may be less clearly marked in the perception of those travelling through the gap towards Bognor. In view of the relatively large extent of the Chichester-Bognor gap line of this particular site would not, in itself, have any major effect in terms of scale or character. However, this does not invalidate the appeal site's potential role in helping to retain the superior identity and amenity of settlements or the validity of applying the compelling circumstances test pending resolution of the final boundary through the local plan process.

#### The issue of prematurity

[117] The SRADLP makes further provision of housing land but, because of its general reliance on past building rates, it still does not cater for the full requirement of the WSSP93. In 5-year land supply terms, the plan would increase provision to between 3.54 years and 3.26 years, or 3.97 years and 3.39 years if the two recent appeal sites are included [116]. Overall in 2006 the SRADLP meets only about 64% of the requirements of the WSSP93 and it remains to be seen whether or not a certificate of conformity is issued [21]. Furthermore, the practicability of even the proposed level of provision remains to be tested against a number of possible constraints to the realisation of the major proposed site at North Binstead [22].

[118] A large number of objections to the pre-deposit draft of the SRADLP concerned sites that were not allocated for housing development [63] and there are many sites in Arun which are currently the subject of applications and appeals for housing development [63]. It therefore seems certain that the future inquiry into objections to the SRADLP will be greatly concerned with the issues of (a) how much housing land should be allocated to satisfy the requirements of the WSSP93, including the 'residual' versus 'past building rates' debate, and (b) where the required provision should best and most practicably be made. Clearly there are complex matters requiring to be addressed in the context of a comprehensive comparative evaluation of all the available options of the kind envisaged in the sequential approach to the release of housing land outlined in draft PP9.13. In view of the level of potential controversy I believe that the appellants may well be correct in suggesting that the Council's draft timetable for adoption of the plan by April 2002 is optimistic [23].

[119] In the meantime the question arises whether the relative merits of this particular candidate site can be adequately assessed in isolation and whether its release would be premature in relation to the SRADLP.

[120] Summarising the merits of the appeal site in relation to sustainability, I have concluded above that this is high quality actively farmed land with continuing potential for agricultural use, the loss of which would be contrary to WSSP93 policy. While the scheme would be an urban extension the site is not well related to town centres or major sources of employment. Although non-statutory guidance criteria for access to bus routes would be met it seems unlikely that the scheme would realistically contribute to national aims of reducing travel by car. Also, a period of difficulties would be likely to be encountered in absorbing the new population into local educational and health facilities.

[121] As to the strategic gap, pending definition of the boundary through the SRADLP, Elm & Lane provides a very clear break between town and country. In my view the appeal site has a

strong potential role in helping to retain the separate identity and amenity of settlements, especially when viewed from the south-east.

122 The above factors together represent significant material planning constraints or objections to the development of this site which have to set against the weight to be attached to the substantial shortfall in housing land, calculated on the residual method, and the likelihood of a continuing period of uncertainty before that matter is resolved by adoption of the SRALP.

123 The number of dwellings proposed in this case (175) does not make this site individually 'large' in relation to the present shortfall, however that is calculated. Nonetheless, a residential development of 6.55ha (net) is hardly insignificant. Furthermore, as indicated in para 47 of PPG1, 'cumulative' effects also have to be taken into account. It is evident that geographical circumstances in Arun, and Bognor in particular, produce a highly-constrained situation so that many other potential urban extensions have planning objections which (though possibly clearly distinguishable in detail) are similar in general terms to those applying to the appeal site, eg high grade agricultural land and a contribution to strategic gaps. The 'blue land' associated with the appeal site and the recent application site north of Sefton Road are two examples near the appeal site. In my view the relative merits of all the possible candidate sites can only be effectively examined within the context of the local plan, even though this may be a difficult and extended process. Progressive reduction of the shortfall on a piecemeal basis by selection of sites through S78 appeals must inevitably be a far less satisfactory and appropriate method, leading to a growth and highly undesirable element of 'first come, best chance of being chosen'. This route could also reduce the opportunity for other, perhaps bolder, solutions to emerge through a plan-led approach.

#### Overall conclusion on the above issues

124 It has to be recognised both that the shortfall is substantial and that the local plan review process in Arun may be further delayed by the complexity of (and likely scale of dispute over) issues concerning housing land availability. Nevertheless, despite these factors, I consider that there are significant planning objections to the development of this site. In my view these objections outweigh the contribution that the site would make to relieving the immediate shortfall and make it premature to decide in favour of development of the appeal site at this stage.

#### Other matters

125 From my inspection I can understand local residents' concerns about conditions at the AM peak hour along the rural roads into Chichester and their junctions with the A27. However, I see no reason to disagree with the findings of the Transportation Impact Assessment that the development would not, in itself, materially worsen these conditions [45].

126 In view of the low-lying nature of the coastal plain I can also understand why residents should be concerned to ensure that the development did not add to any flood risks in the area. Nonetheless, the relevant authority (the Environment Agency) has not objected to the principle of the scheme [46].

127 As for matters of ecology and wildlife conservation, the ecological survey [47] indicates that the Sefton Road/Pagham Road hedgerows are the principal items of interest on the site. The scheme would retain and reinforce these features.

## CONDITIONS

128 The first two pages of Doc 19 set out 10 conditions suggested by the Council, if permission were to be granted. Although I believe these all cover matters requiring the imposition of conditions I have some comments on the details, as set out below.

129 In respect of conditions 3 and 4 (relating to archaeology) I agree with the appellants that in view of (a) the desk-top evaluation that has been carried out (Doc 4/27) and (b) the absence of any comment by the County Archaeologist, work on site could go hand in hand with development. Consequently the two conditions applied in the Fortwell case (see page 3 of Doc 19) would provide a suitable substitute for conditions 3 and 4 suggested by the Council.

130 In respect of conditions 5-7 (concerning surface water and foul drainage) the subject matter of these conditions could be combined into one, requiring details of surface water and foul drainage disposal system, to be submitted to and approved by the local planning authority before the commencement of development and completed before the occupation of any houses.

131 I consider it appropriate to include specific conditions covering landscaping, especially the proposed structural landscape planting on the western edge of the site, which would be intended to incorporate a footpath and cycleway (see page 5 of Doc 19). In my view the model landscaping conditions from the former Circular 1/85 could be adapted to cover approval of details and timed implementation of this feature, together with all other proposed landscaping.

132 As for the appropriateness of a condition guaranteeing no development of the 'blue land' before 2006 (see page 4 of Doc 19), the appellants have shown preparedness to cover this matter by the unilateral undertaking but would prefer it to be entered for by condition if it is actually required at all. In my view such a restriction is necessary because it is too early to say whether this particular land will be required and its development at present would only exacerbate infrastructure issues.

133 It is a matter of law whether a condition or undertaking is the more appropriate but in my view it is not desirable to attempt to control by condition the timing of a development which is not the subject of a planning application for development, still less a permission.

134 Finally, I consider that it would be appropriate to limit the number of dwellings to a maximum of 175, the number sought by the appellants.

## RECOMMENDATION

135 I recommend that the appeal be dismissed and that outline planning permission be refused.

## APPLICATIONS FOR COSTS

136 I am submitting a separate report and recommendations on the applications for costs that were made at the inquiry.

I have the honour to be  
Sir  
Your obedient Servant



R. S. FOSTER

# **Review of housing site P 6 I7 OUT Hook Lane**

**09 April 2018**

## **LANDSCAPE EVIDENCE BASE**

**ON BEHALF OF PAGHAM PARISH COUNCIL.**



**The terra firma Consultancy Ltd.**

Suite B, Ideal House, Bedford Road, Petersfield, Hampshire, GU32 3QA



## LANDSCAPE COMMENTS

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### 1. Introduction

The Terra Firma Consultancy have been instructed by Pagham Parish Council in April 2018 to prepare a critique and assessment of the landscape evidence given in the Landscape Visual Impact Assessments and Masterplan / Landscape Framework Strategies submitted by the applicant relating to one of four housing allocation sites situated along the northern edge of the settlement of Pagham, West Sussex.

### 2. Purpose of comments

This Statement is a technical report in support of Pagham Parish Council's Representations.

A statement has been prepared for each site basis and should not be viewed as a comparison or cumulative impact exercise.

The Statement concludes with an opinion on the implications for landscape character.

This statement sets out:

1. Introduction
2. Purpose of comments
3. Documents reviewed
4. A review of Landscape Character and context
5. Relevant LCA and LCT. Special qualities and sensitivities.
6. Site observations
  - Key landscape features – indicators of character, condition and value
  - Other considerations
7. Development Proposals
  - Landscape Capacity (Landscape Condition, value and sensitivity)
8. Impacts arising from development
  - LVIA Methodology
  - Implications for landscape attributes and views
9. Comment on masterplan design, mitigation proposals and extent of development
  - Predicted effects
  - Layout
  - Views
  - Mitigation
10. Summary / Conclusion

### 3. Documents reviewed

#### *Outline submission*

Landscape and Visual Impact Assessment prepared by Urban Wilderness (January 2017)  
Landscape Masterplan Option A and B, drwg 167/P/003 rev D  
Development Framework drwg 167/P/006 Rev D

#### *Reference publications*

Landscape character assessments of West Sussex and Strategy for the West Sussex Landscape (2003), West Sussex County Council,  
Sussex Historic Landscape Characterisation (HLC), August 2010  
Arun Landscape Study (2006) by Hankinson Duckett Associates (2006) and Landscape Character and Capacity and LCT figures.  
Arun District Council landscape Character Plan (2006)  
Arun District Adopted Local Plan (2003-11)  
Emerging Arun Local Plan 2011-2031  
SPG: Open Space and Recreation Standards, Arun District Council  
Draft Pagham neighbourhood Plan (2014-2029)  
Pagham Village Design Statement (PVDS), November 2007  
Arun Green Infrastructure Study (AGIS)  
Green Infrastructure Study and maps by parish (June and Nov 2012) by Arun DC, Arun District Council  
Open Space sport and recreation study by PMP March 2009.

#### *Other relevant documents*

Provisional Regional Agricultural Land Classification map (AL007) by Natural England and TIN049 Technical Note.  
RSPB Pagham Harbour Local Nature Reserve Management Plan (2013-2018)  
Sussex Black Poplars Partnership, Sussex Wildlife Trust

### 4. A review of Landscape character and context

National, County and District level landscape character assessments relevant to this site are given below:

|          | Publication                                                                                                                  | <ul style="list-style-type: none"> <li><b>Application P_6_17_OUT Hook Lane</b></li> </ul>                                                                                                                                                             |
|----------|------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| National | National Character Assessment by Natural England                                                                             | <ul style="list-style-type: none"> <li>NCA 126 South Coast Plain.</li> </ul>                                                                                                                                                                          |
| County   | Landscape character assessment of West Sussex, and Strategy for the West Sussex Landscape (2003), West Sussex County Council | <ul style="list-style-type: none"> <li>LCA SC9 Chichester to Yapton Coastal plain</li> </ul>                                                                                                                                                          |
| District | Arun Landscape Study – Landscape Character types (LCT)                                                                       | <ul style="list-style-type: none"> <li>L2 Medium / small scale arable (covers the site).</li> <li>The adjacent landscape is identified as L1b (large – scale open arable) to north and V5a (medium to large-scale rife landscape) to west.</li> </ul> |

|          |                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------|-----------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| County   | Sussex Historic Landscape Characterisation (HLC), August 2010                                                               | <ul style="list-style-type: none"> <li>HLC Type: Informal fieldscapes; modern field amalgamation; post medieval to modern.</li> <li><b>Abundant.</b> Modern field rationalisation or amalgamation is identified by 50% or more of lost boundaries, creating large fields. Fields often retain some of the historic characteristics of the enclosed form they originated from; this is often evident from the external boundaries.</li> <li>In NW corner Settlement; HLC Type historic dispersed, small farmstead / cottage; post medieval and woodland regenerated scrub.</li> </ul>                                                            |
| District | Arun Landscape Study – Sensitivity, Landscape Value                                                                         | <ul style="list-style-type: none"> <li>Landscape Structural Zone Analysis Zone 1.</li> <li><b>LCA 6 Rose Green Coastal Plain: Landscape Sensitivity = Slight. Landscape Value = Slight.</b></li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| District | Arun Landscape Study – Landscape Character Area (LCA) and its Landscape Capacity (based on sensitivity and landscape value) | <ul style="list-style-type: none"> <li><i>LCA 6 Rose Green Coastal Plain - landscape capacity is <b>high</b>. 'Rose Green Coastal Plain (LCA 6). Open arable landscape on coastal plateau adjacent to existing settlement, hard edge, no intervisibility with Chichester'.</i></li> <li><b>This is a</b> landscape character area of low sensitivity and low landscape value which, from a landscape perspective, <b>could accommodate significant allocations of development</b>, subject to having regard for the setting and form of existing settlement and the character and sensitivity of adjacent landscape character areas.</li> </ul> |
| Local    | Green Infrastructure network for Pagham Parish. Arun DC                                                                     | <ul style="list-style-type: none"> <li>Green Infrastructure corridor (GIC) and within Strategic Gap and West Bognor Regis GI Corridor.</li> <li>No Key GI assets present.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

## 5. Relevant LCA and LCT - Key Characterises and sensitivities

### i. County Level: Landscape Character appraisals

Reference documents: Landscape character assessment of West Sussex, and Strategy for the West Sussex Landscape (2003), West Sussex County Council. Landscape character assessment identifies 42 unique areas across West Sussex and provides land management guidelines for each character area. The site falls within SC9 Chichester to Yapton Coastal plain.

| SC9 Chichester to Yapton Coastal plain                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Description</b></p> <p>This Character Area extends from Chichester in the west to the edge of the Arun Valley in the east, and around Bognor Regis to the south. Over time a large part of this area has been reclaimed from the sea, and remains below the current high spring tide level. It comprises a mainly flat, open landscape crossed by meandering rife. Dominated by highly productive arable fields and modern farm buildings, it has a fragmented hedgerow and hedgerow tree pattern. The spire of Chichester Cathedral is a widely visible feature.</p> |

#### **Key landscape characteristics and sensitivities**

- Low lying flat open landscape.
- Meandering rife and straight drainage ditch systems, with associated unimproved grassland and edged by reed beds.
- A low density of hedgerows and hedgerow trees with occasional shelterbelts.
- Scattered, historically nucleated villages with mixed building materials of flint, brick, half timber and stone.
- Large farmsteads along roads, and on dead-end tracks.
- Long views to Arundel, the Downs and to the distinctive spire of Chichester Cathedral.
- The relatively open character of much of the area allows long views so that village church towers are important landmarks in views.
- The urban fringes associated with Bognor are particularly obvious.
- Important medieval churches with spires which distinguish this otherwise flat landscape.
- Large regular fields, mostly the product of Parliamentary enclosure.

#### **Key visual characteristics and sensitivities**

- Key views to the South Downs, Chichester Cathedral
- Fragmentation and loss of hedgerows and connections between hedgerow and woodland.
- Replacement of mature treescape.
- Changes in drainage patterns.
- Development on settlement edges of Bognor
- Loss of distinction between different settlements due to urban expansion.
- Changes in transport infrastructure due to urban development pressures.

#### **Key Landscape issues**

- Urban development pressures, especially in the gaps between settlements
- Major road improvements.
- Loss of mature elm trees in the 1970's and 1980's due to Dutch Elm disease.
- Loss of floodplain and wet woodland due to changes in agricultural drainage practices.
- Loss of tree and hedgerow cover from agricultural intensification since World War II.
- Management and possible realignment of sea defences due to predicted sea level rises will have significant implications for landscape over the coming decades.

### Guidelines for Development

- Create a new, large scale tree and hedgerow framework which complements the open intensively farmed landscape, whilst maintaining significant views of Chichester Cathedral, the South Downs and local features.
- Maintain and strengthen field boundaries such as hedgerows and shelterbelts.
- Link up existing remnant hedgerows and tree lines to re-establish coherent field boundaries and wildlife corridors.
- Encourage a full tree survey of the area with a view to conserving and managing existing feature tree groups and individuals.
- Establish landscape management plans for urban edges, notably Bognor Regis, to enhance the distinction between the urban and rural landscape.
- Restore and strengthen the landscape of the gaps between settlements.
- Encourage landscape enhancements around villages and on their approaches.
- Establish new vegetation features by the planting of hedgerows and tree clumps in field corners and along roadsides, especially those approaching settlements.
- Encourage the planting of shelter belts around horse paddocks, using native species, to give visual and wildlife benefits.
- Promote sympathetic design of new road schemes, particularly associated with transport infrastructure for Bognor Regis.
- Restrict extensive areas of tree planting to poorer quality agricultural land.
- Maintain and enhance the landscape and biodiversity of rifes and other existing habitats. Reprofile banks and encourage more diverse flora by lengthening clearance cycles.
- Enhance the visual prominence of rifes through the establishment of waterside vegetation features.
- Maintain, restore and enhance floodplain woodland and associated species, including native black poplar, where appropriate.

## ii. District Level: Landscape Character appraisals

Reference documents: Arun Landscape Study, Technical Appendices Table A: Landscape Character Assessment Hierarchy, Table B: Local Landscape Character Types. Arun District Council commissioned this study in 2006 to assess the physical and environmental constraints on development of green field land in the District with a view to identifying the capacity of the Arun District landscape to accommodate future development.

### LOCAL LANDSCAPE CHARACTER AREA: No. 6 Rose Green Coastal Plain

County Landscape Character Area: C1 Chichester to Shoreham Coastal Plain  
C. Lower Coastal Plain  
C1. Chichester to Shoreham Coastal Plain

#### Wider Context

- Low-lying flat, open landscape
- Meandering rifes and straight drainage ditches
- A low density of hedgerows and hedgerow trees with occasional shelterbelts
- Large-scale arable farming and market gardening
- Scattered, historically nucleated villages with mixed building materials of flint, brick, half-timber and stone.
- Large farmsteads along roads and on dead-end tracks
- Long views to the Downs and to the distinctive spire of Chichester Cathedral

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Description</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Arable fields bisected by B2166.<br>Heavy urban influence from Bognor which abuts to the south.                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Key landscape characteristics and sensitivities</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Large open arable field with insignificant boundary vegetation.<br>Paddocks in corners of fields adjacent to Bognor.                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Key visual characteristics and sensitivities</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| None given                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Key settlement characteristics and sensitivities</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| None given                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Landscape Sensitivity</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| SLIGHT for reasons below: <ul style="list-style-type: none"> <li>• Inherent Landscape Qualities (intactness and condition): Open arable, no Landscape features.</li> <li>• Contribution to distinctive settlement setting: Agricultural fields abut hard urban edge.</li> <li>• Inconsistency with existing settlement form / pattern: On coastal 'plateau', adjacent to settlement.</li> <li>• Contribution to rurality of surrounding landscape: Open, urban edge</li> <li>• Contribution to separation between settlements: No intervisibility with Chichester.</li> </ul> |

### iii. Local Level Landscape Character appraisals

Reference documents: Arun Landscape Study, Table C: Local Landscape Character Areas – Summary Description. Site specific and local level given based on the WSCC SC9.

|                                                                                                                               |
|-------------------------------------------------------------------------------------------------------------------------------|
| <b>GROUP L: COASTAL PLAIN</b><br><b>LCT L2 Medium small scale arable</b>                                                      |
| <b>Description</b>                                                                                                            |
| Intensive arable farmland                                                                                                     |
| <b>Key landscape characteristics and sensitivities</b>                                                                        |
| Medium-small fields across relatively flat or gently undulating landform<br>Field boundaries include ditches, fencing, hedges |
| <b>Key visual characteristics and sensitivities</b>                                                                           |
| Greater sense of enclosure as compared with large-scale arable farmland (L1)                                                  |
| <b>Key settlement characteristics and sensitivities</b>                                                                       |
| None given                                                                                                                    |

## 6. Site Observations

The site is 17.2 ha in size and lies along the north of Nyetimber / Pagham. The site is enclosed on three sides by roads. To the east of the site and housing overlooking Hook Lane defines the settlement edge, beyond which the small scale field pattern edged by mature hedgerows and field trees gives a sense of enclosure. This sense of enclosure, continuous hedges and irregular field pattern extends to the west and north.

The site contains many features that contribute to the landscape defined in the NCA 126 South Coast Plain and LCA 6 Rose Green Coastal Plain.

While the national, broad scale assessment of the NCA 126 South Coast Plain gives a good indication of the wider character its relevance is limited. For smaller sites that involve

developments of the type proposed it is more instructive to consider the specific attributes that define the landscape character at a more localised level.

Fieldwork has indicated that landscape sensitivities and development considerations contained within two other assessments: LCA SC9 Chichester to Yapton Coastal plain and LCT L2 (Medium / small scale arable) should be considered.

#### **iv. Key Landscape features - indicators of character, condition and value**

The following key characteristics of landscape character have been noted on the site, and against which the landscape and visual effects should have been judged.

The key attributes are:

##### *Land use*

- Evidence of past livestock grazing and productive arable production.

##### *Field pattern*

- Medium-small agricultural field pattern. Similar in size and character to fields extending to the north.
- Internally crop / grassland dominates with structural vegetation absent.
- Field pattern reinforced by hedgerow boundaries
- Single ditch crossing the site forms an integral part of the field system and wider drainage system linked to Pagham Harbour.

##### *Soils*

- Grade 2 (very good) agricultural land.
- Heavy clay prone to waterlogging

##### *Topography and Drainage*

- Generally flat between 5-6m AOD. A single ditch crosses the site.

##### *Trees and vegetation*

- Along Hook Lane the hedge boundary treatment becomes fragmented with a mix of post and barbed wire fencing and traditional Sussex rail fence the dominant (and visually permeable) treatment.
- Along the grass verge of Pagham Road, mature hedge and field trees creates a sense of enclosure and contribute strongly to the lanes distinctive rural character.

##### *Views*

- Limited and distant views of the South Downs hills to the north from footpath on Hook Lane.
- Along Pagham Road the continuous, well maintained vegetation provides a high degree of enclosure to two sides of the site, limiting views across the landscape to the west.

##### *Access - Public Rights of Way and adopted footpaths*

- Footpaths across the site are absent. A single highway adopted footpath runs parallel to the site boundary along Hook Lane. No public access (other than a layby on Sefter Road) exists around the site boundary to the north and west.
- A footpath along the edge of the caravan site a short distance to the south, enables residents close to Hook Lane and Nyetimber to easily access open countryside.
- This limited footpath network is likely to result in a limited number of public places from which the site and development will be visible from.

##### *Listed Buildings and Cultural Heritage Assets*

- No listed buildings present on the site. The site does not contribute to the landscape setting to any listed buildings, Scheduled monuments or Registered Parks and Gardens.

## **v. Other considerations**

*Influence of adjacent / sensitive landscape character areas (Pagham Harbour Local Nature Reserve)*

- The site does not meet the reserve boundary, however the boundary of the reserve (compartments 6.10 and 6.13) and boundaries of Pagham Harbour SPA, SSSI and Ramsar are within close proximity to the site and within walking distance.

## **7. Development proposals**

Development of Land North of Hook Lane Pagham:

Outline application with some matters reserved for construction of up to 300No. new homes, Care home of up to 80No. beds, D1uses of up to 4000sqm including a 2 form entry Primary School, formation of new means of access onto Hook Lane & Pagham Road, new pedestrian & cycle links, the laying out of open space, new strategic landscaping, habitat creation, drainage features & associated ground works & infrastructure. This application is a Departure from the development plan.

### **i. Landscape Capacity**

*Definition:*

*'Landscape capacity is defined as the extent to which a particular area or type of landscape is able to accommodate change without significant effects on character; or overall change in landscape type. It reflects the inherent sensitivity of the landscape itself and its sensitivity to the development in question; and the value attached to the landscape, or to specific elements within it'. Arun Landscape Study.*

In relation to this study:

- *a medium, low or negligible rating for landscape capacity indicates that development would have a significant and detrimental effect on the character of the landscape as a whole and, or, on the setting to existing settlement or outstanding assets within the District.*
- *A rating of Medium/High or High/Medium identifies a landscape character area with the capacity for limited development, in some areas, having regard for the setting and form of existing settlement and the character and sensitivity of adjacent landscape character areas.*
- *High or very high capacity identifies landscape character areas of low sensitivity and low landscape value which, from a landscape perspective, could accommodate significant allocations of development, subject to the same caveats set out above for landscape character areas with High/Medium capacity.*

Based on other appraisal findings we would not agree with the Landscape Capacity Study and LVIA that this landscape character area is of low sensitivity and low landscape value which, from a landscape perspective, could accommodate significant allocations of development.

The relevant point here is that development should *"have regard for the setting and form of existing settlement and the character and sensitivity of adjacent landscape character areas."* This is dealt with below.

## **ii. Landscape Condition**

We would agree with the LVIA that the overall landscape condition is 'fair' based on the criteria for landscape condition (Table 2 9). Some sign of erosion of character and management evident.

## **iii. Landscape Value**

There is a concern over the lack of justification given regarding the LVIA establishing landscape value, which in turn determines the overall landscape sensitivity.

Landscape value is defined in the LVIA based on GLVIA (20013, p80) states:

*"...the relative value that is attached to different landscape by society, bearing in mind that a landscape may be valued by different stakeholders for a whole variety of reasons....Landscape or their other component parts may be valued at the community, local, national or international levels."*

The weight of local opinion and values attached to this landscape (and specifically the site) is clearly given within the Pagham Village Design Statement (PVDS). The value attached to this landscape and place by the local community and its characteristic features, such as trees, places to sit and enjoy the surroundings and local walks that may not be immediately obvious.

Whilst the site lacks a landscape-related designation and listed buildings, this does not necessarily mean the site (and LCA) is without value. To use only 'rarity of landscape' and designations as a basis for determining value and not give sufficient weight to the strength of opinion of the local population.

Pagham Village Design Statement (PVDS) indicates this is a landscape and field that is highly valued by the local community. The PVDS identifies (para. 3.16 and 3. 23) the landscape (and specifically including the site) is highly valued. The site therefore appears to form part of a locally valued landscape worthy of protection under NPPF paragraph 109. Combining a higher landscape value with 'fair' landscape condition would have a notable effect on the overall judgement of sensitivity.

The ability to appreciate the wider views and field by local residents on a daily basis should be given further consideration. The Low landscape value should be questioned.

## **iv. Landscape Sensitivity**

For the reasons given above in determining landscape value it is not possible to entirely agree with the statement indicating the site, its immediate surroundings and that of LCA 6 is of low sensitivity.

## **8. Impacts arising from Development**

Based on a review of the development reports, illustrative masterplans, frameworks and Landscape Visual Impact Assessment (LVIA), our thoughts and comments are as follows:

## **i. LVIA Methodology**

The assessment methodology and criteria for determining the effects and the resulting level of significance is at times difficult to understand (relying on judgements not fully explained), however in general the appraisal is produced in-line with GLIVA guidance. The lack of a ZTV to inform the extent of representative viewpoints is in this instance less of an issue. Views of the site are generally limited, but with views to the north. There is a lack of information given regarding the landscape opportunities and constraints. A link between this and the masterplan layout should be more evident, to justify decisions being taken.

The appraisal refers to the key characteristic NCA 126 and in particular LCA 6 identified within the Arun landscape Study. However there is a missing reference to West Sussex County Council's landscape character assessments of SC3, SC4 and SC9 and LCT L2 which all contain useful guidance on landscape key characteristics, value, and sensitivities.

## **ii. Implications for landscape attributes and views**

- a) Maintaining 'open' farmland, a characteristic attribute of the Strategic gap - Development would undermine the physical and visual separation of settlements.
- b) Views of the South Downs hills and important building landmarks - The masterplan layout does not preserve the view to the north, a key characteristic of LCA 6 and SC9. The development layout will entirely remove the open-field views and countryside setting of Hook lane.
- c) Providing access into the site will necessitate the removal of the hedge along Pagham Road to accommodate visibility splays and potential new signage increasing urbanisation along what is a rural and attractive route, border on both sides by mature hedges. The magnitude of this effect has received limited mention and may be greater than appreciated.
- d) The coastline provides feeding grounds for internationally protected populations of waders and wildfowl. (p6). Arable fields provide vital feeding grounds and any subsequent loss of fields and grazing, particular within SSSI influence zones would be detrimental and considered in the consideration of landscape value.
- e) NCA 126 (SE03) identifies the need for development to '*reduce the amount of nutrients entering the harbour of Pagham; and that new development should seek to incorporate the best possible waste reduction measures including Sustainable Drainage Systems (SuDs)*'. Two eco-system services dominate; that of regulating water quality, diffuse pollution which has the potential if not dealt with on site through filtration and SuDs measures to affect the internationally protected Pagham harbour, and the need for provide on-site flood storage capacity. The concern is the attenuation areas shown in the masterplan appear to be more 'indicative' and not convincing in terms of the actual spatial requirement and practicalities.

Therefore the magnitude of effects given in the LVIA are not entirely a true reflection as cannot be accurately determined until further detail on the extent and treatment applied to hard surfacing, roads and path is provided.

The complete alteration to the characteristic drainage network seen throughout LCA 6 will be lost, albeit provided in a different guise with benefits to biodiversity and GI outweighing the loss to landscape character.

- f) NCA 126 acknowledges grassland and hedges as a vital resource vital to a landscape character dominated by crop production. The presence of this habitat and any loss on the site should be reflected in the landscape value and magnitude of change and mitigation measures incorporated. It is doubtful that this has been recognised.
- g) Whilst the masterplan seeks to reinforce and restore missing attributes of landscape character NCA 126 in line with opportunities to improve the landscape (SE04), developing the site is against its a key principle, that of “restoring the traditional field patterns of the rural peninsular, through the replacement of lost hedgerows and improvement to the condition of existing hedgerows through replanting gaps”.
- h) Within this NCA the proportion of grade 2 agricultural land is 25%, second only to urban use. Grade 2 and good quality soils are found predominantly to the east of Chichester harbour and is a contributing factor in the character of this farmed landscape. Although it's a small area the productive nature should still be a factor and recognised. Any loss of this valuable resource should be avoided.
- i) Development will include stripping and storage of topsoil and minor re-profiling on contours. Both operations have the potential to completely alter and damage (if not handled correctly) the natural soil resource, landform and drainage. All attributes of the landscape character.
- j) The tranquillity of this landscape is a notable key characteristic. Tranquillity mapping by CPRE indicates the site has a moderate to high level tranquillity. The increase in traffic movements and noise generated by additional houses and public facilities will have a detrimental effect on perception of a 'quiet, countryside edge'.
- k) PVDS indicates residents have concerns over any development that would result in loss of privacy arising from high density developments. The influx of a new population and the generated vehicle movements created by any development on the site would greatly alter the perception of the countryside, the tranquillity and add pressure to the footpath network and roads leading to Pagham harbour. The lack of connections possible, from a site bounded by roads on all three sides further compounds the ability of the masterplan to deliver alternative, safe walking and cycle routes. For the majority of residents the need to drive from the site will inevitably increase vehicle movement and have a degree of impact on the quality and tranquillity of adjacent Landscape Character Areas.
- l) Relating to the opinion that there will be 'no impact on the wider LCA' (6.45). We would strongly disagree with this statement. The LVIA then goes on to contradict itself by stating *“with regard to impacts at a local level, the character of the LCA will change around the site”, “the existing hedge planted to the north and west limits inter-visibility of the site to the wider landscape”* and as a result *“whilst the character of the site will change the effects of this change on the wider LCA will be limited”*.

Saying the site is invisible and therefore that the development has no effect on landscape character, in this case LCA 6 and NCA126 makes this judgement flawed. The effect on landscape character is not only restricted to whether a site can or cannot be seen. The presence or absence of inter-visibility is only one of the many factors under consideration.

## 9. Comment on Masterplan design, mitigation proposals and extent of development

Even in areas which are judged of high to medium landscape capacity it is generally acknowledged that their development should still be carefully considered to ensure new development is sensitively integrated in to the wider landscape, ensuring the protection of key landscape characteristics, features and positive views. The relationship between new development proposals and existing settlement patterns is especially important to consider, ideally demonstrating a landscape-led approach and using appropriate mitigation measures to reduce adverse effects as far as practically possible.

The guidance and policy 3 targets taken from the Draft Pagham Neighbourhood Plan (2014-2029) identified in the LVIA are particularly pertinent. We are not convinced that the density of development and extent of green infrastructure in the masterplan meets with the target stating “a significant proportion of any major development should have a feeling of space and a sense of place in the wider landscape, rather than being an extension of urban sprawl” (p17)

### i. Predicted landscape effects

Extracted from the LVIA:

- *NCA 126 is of low landscape value and low sensitivity (para. 9.6). Combined with a low magnitude of change and Minor Adverse impact (not significant). The development results in an overall Low Adverse magnitude of change at regional level and a Moderate Adverse magnitude of change at local level.*
- *LCA 6 is low landscape value and low –medium sensitivity. Combined with a Minor to Moderate Adverse magnitude of change equates to a Minor Adverse impact (not significant).*
- *The site is of low landscape value and low sensitivity. Combined with a high magnitude of change equates to a Moderate Adverse impact. The impact of development on landscape character is no more than Slight to Moderate Adverse. (para.9.7)*
- *Overall impacts on landscape character and resources are considered to be of slight adverse significance, once new planting has established. (para . 9.2)*
- *This landscape is considered to have the capacity to accommodate change of the type proposed and to assimilate this development into the landscape with only minor effects in the longer term(para.9.12)*
- *“Only a small part of NCA 126 affected and no key characteristics will be lost” (6.44)*

The summary put forward in the LVIA summarises the landscape impacts at year 0 as a High magnitude of change, leading to **Moderate Adverse** effect. This would be reduced to Minor

Adverse (not significant) by year 15. The impact on the key characteristics of LCA 6 is a negligible impact and overall development will have no effect on the wider NCA 126.

Elsewhere in the LVIA it mentions the alteration imposed by this development on the key characteristics and individual attributes of the site specific, local and national character areas would be '*no more than Slight to Moderate Adverse or less after new planting*'). This contradicts the 'negligible and no effects' comment made above.

## **ii. Comment**

From Fieldwork and reviewing the landscape character appraisals we believe the above statements makes light of the effects on individual and cumulative attributes that contribute in defining the landscape character of NCA 126, LCA6 and SC9.

We also believe the impact of development on landscape character will be greater than Moderate Adverse for the following reasons:

- a) It remains unclear in the report how the 'low sensitivity to change' has been arrived at for NCA 126. This judgment appears to have been made without a given source of published evidence.
- b) It should be acknowledged that the development would result in the loss of a typical arable field, which is a key characteristic and erosion of the wider LCA 6 character.
- c) The appraisal does not identify fully all of the landscape attributes potentially affected by the development, and the magnitude of change incurred. Key characteristics of the WSCC SC9 Chichester to Yapton Coastal plain character area and LCT L2 have not been referred to within the appraisal.
- d) It is not clear from the LVIA if the assessment findings have taken into consideration and appraised the development against other key landscape characteristics, such as:
  - The sense of 'openness' and rural aspect overlooked by the settlement edge,
  - the change to the linear drainage network that is a feature of the characteristic field pattern
  - the alteration of the flat topography,
  - The loss of valuable resources such as productive, quality soils
  - The potential impacts to the tranquillity of SC4 Pagham Harbour resulting from increased visitor footfall and car journeys to and from the site.
- e) The possible in-direct consequences arising from surface water run-off and pollutants entering the drainage system is a concern. It remains unclear if the development proposals will affect adjacent character area of Pagham Harbour.
- f) The specific effects on tranquillity and light pollution arising from the introduction of new highway infrastructure, street signage and street lighting associated with residential and school sports / public buildings has not been specifically mentioned. This should ideally be included in the initial appraisal, with potential issues and predicted impacts designed out within the layout before further forms of mitigation are applied.

- g) It is impossible to agree with the opinion that the scale and type of development could be assimilated into the landscape with **only minor effects in the longer term**.
- h) The proposed increase in tree cover added internally with the masterplan is not in keeping with the character of the area.
- i) The judgement that only minor effects will exit over the long term relies heavily on the assumption that the extent of mitigation planting included within the masterplan, especially the new boundary planting and semi-mature trees will protect the landscape character indefinitely. Large trees for instant impact can be difficult to establish without high levels of input and cost (hence establishment has been known to fail). To ensure any mitigation planting is effective measures through the planning process suitably worded conditions covering maintenance and replacement planting covering the 15 year period (and agreement who would be responsible post construction) would need to be seriously considered.

### iii. **Layout - protecting features of Landscape character**

- j) Quality of design and layout - The layout of the development ignores the development criteria set out in the PVDS which calls for a development layout that contributes in a positive way to the overall street scene. The masterplan proposals seek to create a complete separation between the existing settlement edge and the new development along Hook Lane.

No integration or relationship with the road has been made and any adverse visual effects, particular seen from the east is wholly reliant on mitigation planting which is ephemeral, unlikely to be in character, difficult to establish and prone to pressures to remove over longer term. The use of architectural devices and aspect of good urban design should be considered.

- k) The high density of the proposed residential layout and limited external space given to individual properties does not match the surrounding residential setting. This intensification of the existing settlement edge character would be completely altered and noticeable when arriving from the north, south and east.
- l) One of the key characteristic features of the LCA and NCA is the low levels of tree cover across the *“open, exposed coastal plain”*. It goes on further to describe *“in between development and transport links, is a farmed landscape of large open fields with few trees and hedgerows”* (p7). The scale of indicative tree planting within the masterplan is unlikely to be a realistic strategy. Such planting cannot be guaranteed to remain in place opening up views of buildings. Altering the layout to provide more space around the boundaries could ensure new planting intended for screening / mitigation purposes could be well established and retained over the long-term. This might be a better approach?
- m) The masterplan does do not give an indication of the planting strategy or the type of tree species under consideration. The introduction of non-natives and inappropriate species

with the potential to escape the domestic setting and impact on the management of sensitive sites and LNR would be a concern.

- n) The proportion of the site given over to green infrastructure is lower than would be expected, however its inclusion would improve the GI landscape condition and address the ambitions of the Arun Green Infrastructure Plan (2012).

#### **iv. Layout – visibility**

The fieldwork, assessment methodology and identification of viewpoints within the LVIA appears sound. The high sensitivity rating applied to assessing the visual effects involving residents and walkers on the public rights of way and footpaths is to be expected.

Statement of Common ground:

- It is apparent that places from which the development may be visible are indeed restricted to positions close to the site, given the limited footpath network.
- Views over open land to the west (PVDS) from Hook Lane are severely limited by hedges and trees along Pagham Road verge and site boundary.
- Protection of views that contain Chichester cathedral (identified as a key feature of the West Sussex landscape character area SC9) are not relevant to the angle of views found.

#### **v. Layout - appreciation of landscape character and place.**

Views of the South Downs hills are a point of interest and notable feature on the horizon to the north, contributing to appreciation of the surrounding landscape character (of SC9). The placement of the tallest proposed buildings (restricted to 11m) and housing (9.5m restricted height) will remove this important view which contributes to the sense of place.

For the public walking along Hook Lane and Footpath 114 the ability to appreciate views across countryside leads to a perception of rural character which is in direct contrast to the settlement edge.

The 'Development criteria' set out in the Pagham Village Design Statement (PVDS) specifically makes reference to this point and opinion is clear; that *"the open fields west of Pagham Road and those abutting Hook are considered especially sensitive and valued areas"* and the need to *"maintain open-field views and the countryside setting at Hook Lane"* Development of this site would go against strong local opinion.

Regarding views from Sefter Road (illustrated by viewpoint 1) the predicted magnitude of change (arising from development) is indicated as a little lower than expected based on fieldwork.

The assessment findings for views from illustrated viewpoints 2, 3, 6, 7 and 8 are as expected. No further comment required.

#### **vi. Layout – Addressing views**

The following explanation given under Significance (2.19-2.21) *'any residual Moderate to Major and Major effects are considered to be significant during operation of the development whilst only major effects, as a result of their temporary nature, are considered significant during construction'*.

The LVIA summary (7.10 and 9.3) finds from Hook lane (viewpoints 4 and 5) the predicted visual effects are Moderate to Major Adverse significance during operation of the development (and hence 'significant'); with the medium to high adverse magnitude of change experienced during construction, thought to be reduce to Moderate Adverse (not significant) with new planting along the boundary.

This is reflected in the subsequent comment made in relation to viewpoint 5 Hook Lane, which recognises not only the effect on *"the proposed housing would create a significant change in view, diminishing the visibility of the site, the view to the South Downs and the overall character of the Place. This view, while taken from the bench, is representative of the change in view experienced by most residents along Hook Lane"*. We would argue that the magnitude of change would be greater and would result in a major adverse effect, rather than a moderate effect.

From viewpoint 4 Hook Lane, looking north the magnitude of change arising from either masterplan option is likely to be higher than moderate indicated. It is more likely to be a major adverse effect for residents and walkers based on the arrangement and height of buildings in close proximity to the site boundary, based on residents living on the settlement edge having a higher than usual expectation of being able to access and interest in the countryside on their doorstep.

- The masterplan indicates the entire field of view, scale and type of view composition and features will be completely and permanently altered.
- The loss of farmland (the site) and the long-distant views towards the South Downs hills;
- and intervening farmland reduces the perception and experiential qualities associated with a sense of space, being on the edge of settlement looking outwards into rural countryside and the strategic landscape 'gap'.

For drivers and residents traveling along Hook Lane on a daily basis the perceived change from rural with views across open field will be a sense of enclosure on both sides caused by the introduction of new urban elements and proposed semi-mature tree planting will continue to increase from year 1 onwards.

The LVIA concludes views of the proposed development would be well screened from north and west. We are in agreement with this opinion, however we consider the conclusion relating specifically to the predicted impact of development on views from Hook Lane and footpaths (identified as Moderate to Major Adverse with residual effect reduced to Moderate Adverse by year 15 is much lower than it will likely to be in reality.

The LVIA findings conclude *'the magnitude of visual change as experienced by visual receptors as medium adverse (Table 3 p9) when development is viewed as a whole'* but then does not go on to clearly identify how this relates to significance in Table 4: Significance of change to landscape and Visual Receptors e.g. Major, Moderate, Minor or Negligible.

From our fieldwork and review of the masterplan we believe the predicted visual effects relating to this settlement edge and for residents and members of the public will be greater than the outline submission indicates, erring more towards the Major Adverse (and significant) rating given in table 4 and visual effects during both construction and operation. Based on the LVIA methodology given, the resulting visual effects would be considered significant and *'very important in the decision making process'*.

#### **vii. Layout – appropriate mitigation proposals?**

The LIVA acknowledges there is scope for the layout and architectural design to be altered to mitigate visual effects.

The mitigation measures outlined in Section 8. indicates new housing heights would be restricted to two storeys (9.5m) across the site and other facility buildings restricted to 11m. Both will remove the public's ability to appreciate the long-distant views looking north. Repositioning the public open space as a means of retaining views the length of the site north-south and repositioning the larger, taller buildings within the site layout might be a more appropriate form of mitigation.

The master plan indicates a high percentage of trees internally and the provision of a 10-20m buffer with new hedging and semi-mature trees planted along the site boundary facing Hook Lane and housing. This raises two concerns, firstly the scale of tree planting does not match or reflect the local landscape character described earlier and secondly the visual effect arising from the introduction of the viewing mound into an essentially flat, landscape appears not to have been mentioned as part of the visual appraisal.

The inclusion of a viewing mound (assuming this is proposed to mitigate the acknowledged loss of long-distant views seen from the public domain) is an unnecessary feature and is not in keeping with the flat landscape character. Mitigation measures might be better addressed by revision to the internal layout. It is unlikely that a viewing mound placed inside the development would deliver any form of public benefit.

## **10. Summary / Conclusion**

### **i. Landscape character**

For all of the reasons given above the loss of important views and the overall perception of the site in defining the local countryside setting on the edge of a well-established, lower density settlement would result in an adverse impact on the landscape character.

Further justification regarding to what extent the opinions set out in the PVDS have been considered and how these have been addressed and resolved within the masterplan layout should be requested from the applicant.

### **ii. Visual**

Based on our fieldwork and professional judgment the adverse, long-term and permanent visual effects, particularly when viewed from Hook Lane and overlooking residential properties cannot be adequately mitigated. The long-term effectiveness of the mitigation measures proposed cannot be guaranteed beyond the first 5 years post construction.

### **iii. Overall conclusion**

It is our opinion that a high proportion of the relevant key characteristics of the landscape character would not be protected by the proposed masterplan and density of development. The wider landscape character is highly unlikely to remain intact with significant levels of loss e.g. quality soils, views of the South Downs, alteration to drainage and field pattern, habitat, albeit balanced by new boundary hedge planting and protection of Pagham Lane's enclosed character.

We believe the proposed development as it stands will have a direct, adverse and significant landscape impact on all of the key landscape characteristics that contribute to the wider landscape character.







### **Briefing Paper for Pagham Parish Council- 28 June 2019**

**P/134/16/OUT: Outline application for the development of up to 280 dwellings (including affordable homes), land for a replacement scout hut, land for an Ambulance Community Response Post Facility and land for either a 1FE primary school or care home. Provision of a primary vehicular access from Sefter Road and demolition of No. 80 Rose Green Road and creation of a pedestrian and emergency only access. Provision of Public Open Spaces including associated children's play areas, landscaping, drainage and earthworks. This application also falls within the parish of Aldwick**

### **Land North of Sefter Road & 80 Rose Green Road Pagham**

#### **Key details are**

- Received/Validated by ADC 13-12-16
- Objections raised by Pagham Parish Council and a large number of residents et al on the basis of a conflict with adopted ALP policies pertaining to strategic allocations, green infrastructure and Chichester – Bognor Gap gap, landscape, ecology, heritage, drainage, transport and infrastructure.
- DCC at its meeting on 13 November 2018 resolved to approve the application subject to a Draft S106 and conditions.
- Following the Committee Pagham Parish Council asked that ADC reconsider that decision in the light of relevant material considerations<sup>1</sup> before issuing the decision and finalising the S106 but Officers have thus far declined to do so, the S106 has not been signed and the decision is not yet issued.

#### **Issues arising**

1. Given recent events, the ever changing material considerations, the length of time that has now elapsed since the resolution to grant (8 months and counting) the case for returning the application the DCC for reconsideration before any s106 is signed or a decision issued is now unequivocal and unassailable and any decision that was issued without such reconsideration would be extremely vulnerable to a successful JR Challenge.
2. Pagham Parish Council and/or others may, therefore, legitimately continue their efforts to persuade ADC Officers to give their newly elected members the opportunity to reconsider the position as a matter of public interest and before being exposed to the risks of a legal challenge.

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<sup>1</sup> In accordance with the principles established by relevant case law



### **Briefing Paper for Pagham Parish Council- 28 June 2019**

**P/25/17/OUT: Outline application for the development of up to 280 dwellings (including affordable homes), land for a replacement scout hut, land for an Ambulance Community Response Post Facility and land for either a 1FE primary school or care home. Provision of a primary vehicular access from Sefter Road and demolition of No. 80 Rose Green Road and creation of a pedestrian and emergency only access. Provision of Public Open Spaces including associated children's play areas, landscaping, drainage and earthworks. This application also falls within the parish of Aldwick**

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- DCC at its meeting on 13 November 2018 resolved to approve the application subject to a Draft S106 and conditions.
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#### **Issues arising**

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2. Pagham Parish Council and/or others may, therefore, legitimately continue their efforts to persuade ADC Officers to give their newly elected members the opportunity to reconsider the position as a matter of public interest and before being exposed to the risks of a legal challenge.

---

<sup>1</sup> In accordance with the principles established by relevant case law



**Briefing Paper for Pagham Parish Council- 28 June 2019**

**P/30/19 OUT: Outline application with some matters reserved for the construction of up to 300 No. new homes, a care home of up to 80 beds, D1 uses of up to 4,000 sqm including a 2 form entry primary school, the formation of new means of access onto Hook Lane & Pagham Road, new pedestrian & cycle links, laying out of open space, new strategic landscaping, habitat creation, drainage features & associated ground works & infrastructure. This application may affect the setting of a listed building (resubmission following P/6/17/OUT).**

**Key details are**

- Received/Validated by ADC 02-04-19
- Objections raised by Pagham Parish Council and a large number of residents et al.
- The PPC letter of objection is dated 1<sup>ST</sup> May 2019 but is not on the file at the current date so is **copied at Appendix 1.**
- Pagham Parish Council was subsequently asked to comment further and this **correspondence and e mails are copied at Appendix 2 as these are not on file either.**
- The statutory determination period expires on 2 July 2019 and no extension of time appears to have been sought or agreed by Officers.

**Issues arising**

1. There is more than enough evidence on the file to enable Officers to conclude that the application should be refused under delegated powers for the reasons stated by Pagham Parish Council on or before the statutory determination date of 2 July 2019 but there is no evidence that they intend to do so.
2. Alternatively Officers could have prepared a report for the DCC on 10 July 2019 recommending that the application be approved so that Members might properly consider the matter and the representations made but they have not done that either.
3. They could also prepare a report recommending approval for the next DCC on 7 August 2019 to enable due process to be followed but there is no evidence that they are doing this either.
4. Therefore, Pagham Parish Council, the public and ADC Members are being left in limbo and the outcome of the application is now entirely in the hands of the applicant and their advisors given their statutory rights to appeal against the Councils failure to determine the application within the statutory period.
5. In my view this is yet another example of a total abdication by Officers of their development management responsibilities to the public and ADC Members not only in respect of this case but also others elsewhere in the district but that is a matter for ADC members and Officers to address and resolve and not Pagham Parish Council.

6. Pagham Parish Council has provided Arun District Council with all the evidence and reasons why this application should be refused the Outline planning permission sought at the earliest opportunity and can only continue to say that they should do so.

**Paul Collins 28 June 2019**

# PAGHAM PARISH COUNCIL

The Village Hall, Pagham Road, Pagham, Bognor Regis PO21 4NJ



*All correspondence to be addressed to the Clerk*

---

David Easton  
Planning Department  
Arun District Council  
Maltravers Road  
Littlehampton  
BN 17 5LF

BY EMAIL

1<sup>st</sup> May 2019

Dear Mr Easton

*P/30/19/OUT - Outline application with some matters reserved for the construction of up to 300 No. new homes, a care home of up to 80 beds, D1 uses of up to 4,000 sqm including a 2 form entry primary school, the formation of new means of access onto Hook Lane & Pagham Road, new pedestrian & cycle links, laying out of open space, new strategic landscaping, habitat creation, drainage features & associated ground works & infrastructure. This application may affect the setting of a listed building (resubmission following P/6/17/OUT) - Land north of Hook Lane Pagham*

I write to provide the representations of Pagham Parish Council in respect of the above application by the date of 2 May 2019 as specified by Arun District Council.

As is made clear in the description, this is a resubmission of an identical application made under Council ref: P/6/17 OUT which was previously refused by Arun District Council for the reason specified on the notice dated 24 January 2019 which read as follows:

*"The increased vehicle movements generated by the application will exacerbate the capacity issues on the local highway network and the mitigation measures proposed are insufficient to overcome the safety concerns resulting from the additional vehicle movements contrary to policy TSP1 of the Arun Local Plan".*

The applicants have made that decision the subject of an appeal (PINS Ref: APP/C3810/W/19/3223144) which is to be heard by way of a Public Inquiry currently scheduled to take place on 22/10/19.

Arun District Council has submitted their requisite Statement of Case in respect of that appeal which indicates that the Council intends to defend that refusal reason and the appeal and Pagham Parish Council has been made a Rule 6 party at the appeal and it too has provided its requisite Statement of Case (copy attached) which states that in addition to the refusal reason issued by ADC it considers that planning permission should be withheld for the following reasons:

- i. It has not been demonstrated that the scheme will deliver development of the type envisaged by ADLP Policy SP1a Strategic Approach or a comprehensive, master planned and integrated development which will accord with ADLP Policies HSP2 and HSP2a and related national policy in the NPPF 2019.*
- ii. Given the scale of the development proposed for the site it has not been demonstrated that the site can be developed in a manner that will preserve or enhance the quality and landscape character of its environs, the Bognor Regis to Chichester Gap or existing Green Infrastructure assets or contribute positively to the quality of that environment contrary to policies HSP2, HSP2a, LAN DM1, SD SP3, GI SP1, D SP1 and QE SP1 and, ENV DM4 of the Arun Local Plan (2018) and related national policy in the NPPF 2019.*

*iii. Given the scale of the development proposed for the site it has not been demonstrated that the site can be developed in a manner that will preserve heritage assets including the setting of the nearby Grade II listed Rookery Farm and Grade II listed Nyetimber Windmill, contrary to policies, HER SP1, HER DM1 and HSP2a (b) of the Arun Local Plan (2018) and related standing advice from Historic England and national policy in the NPPF 2019.*

*iv. It has not been demonstrated that the development of the site can be undertaken in a manner that will safeguard the water quality of Pagham Harbour or on site habitats for protected species contrary to Policies HSP2a, ENV DM2, ENV DM4, ENV DM 5 of the Arun Local Plan (2018) and related standing advice from Natural England and national policy in the NPPF 2019.*

*v. It has not been demonstrated that the scheme will provide for the necessary infrastructure requirements of policies H SP2, INF SP1, INF SP2, T SP1, T DM1, T SP3, W SP1, W DM1 and W DM3.*

Given the foregoing and the fact that the current application appears to be identical to that which is the subject of the ongoing appeal, Pagham Parish Council considers that the current application should not be determined by Arun District Council until such time as the outcome of the appeal is known.

However, if the application is presented for determination by officers before that time the application should be refused for all of the above reasons as on the basis of the evidence it has seen, the Parish Council is presently of the view that the above breaches collectively amount to a substantial departure from the aspirations of the recently adopted development plan and that there are no material considerations which justify determining the scheme otherwise than in accordance with the development plan.

Pagham Parish Council requests that this letter and the attached document are placed on both the relevant files for P/6/17 OUT and P/30/19 OUT and reserves the right to comment further in respect of P/30/19 OUT once the many statutory and non-statutory consultee responses in respect of that application are received and made available to us.

Yours faithfully

Nicola Swann  
Clerk & RFO  
Pagham Parish Council

CC: Karl Roberts, Neil Crowther, Claire Potts

**paul collins**

---

**From:** [REDACTED]  
**Sent:** Wednesday, June 19, 2019 1:22 PM  
**To:** paul collins  
**Subject:** FW: Hook Lane, Pagham - P/30/19/PL  
**Attachments:** N Crowther re P.30.19.OUT 120619.pdf

[REDACTED]

Nicola Swann  
Clerk & RFO  
Pagham Parish Council  
[REDACTED]

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**From:** Nicola Swann  
**Sent:** 12 June 2019 10:21  
**To:** Neil Crowther <Neil.Crowther@arun.gov.uk>  
**Cc:** Cllr. David Huntley <[REDACTED]> Cllr. June Hamilton <[REDACTED]>  
Peter Atkins <[REDACTED]>; Dawn Hall <[REDACTED]>  
**Subject:** RE: Hook Lane, Pagham - P/30/19/PL

Dear Neil

Please find attached a response agreed at our Planning Committee yesterday evening.

Kind regards

[REDACTED]

Nicola Swann  
Clerk & RFO  
Pagham Parish Council  
[REDACTED]

---

**From:** Neil Crowther <Neil.Crowther@arun.gov.uk>  
**Sent:** 31 May 2019 15:21  
**To:** Nicola Swann <[REDACTED]>  
**Cc:** Cllr. David Huntley <[REDACTED]>; Cllr. June Hamilton <[REDACTED]>  
Peter Atkins <[REDACTED]>; Dawn Hall <dawn.hall@paghamparishcouncil.gov.uk>  
**Subject:** RE: Hook Lane, Pagham - P/30/19/PL

Nicola,

As soon as possible really. We are having discussions with various parties about the potential for additional mitigation and what this may include and the applicants will be investigating the potential for these matters before we present the application to committee for consideration and we would welcome your input.

Many thanks, Neil



**From:** Nicola Swann [REDACTED]  
**Sent:** 31 May 2019 12:35  
**To:** Neil Crowther  
**Cc:** Cllr. David Huntley; Cllr. June Hamilton; Peter Atkins; Dawn Hall  
**Subject:** RE: Hook Lane, Pagham - P/30/19/PL

Councillors have not yet discussed this – do you have a timescale in mind?

Best wishes

[REDACTED]

Nicola Swann  
Clerk & RFO  
Pagham Parish Council  
[REDACTED]

**From:** Neil Crowther <[Neil.Crowther@arun.gov.uk](mailto:Neil.Crowther@arun.gov.uk)>  
**Sent:** 29 May 2019 15:34  
**To:** Nicola Swann <[REDACTED]>  
**Cc:** Cllr. David Huntley <[REDACTED]> Cllr. June Hamilton <[REDACTED]>  
**Subject:** RE: Hook Lane, Pagham - P/30/19/PL

Ms Swann,

Can you confirm whether you will be responding to this email? We have some matters which we will be raising with the applicants but would appreciate your input in this process.

Many thanks, Neil

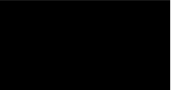


**From:** Nicola Swann [REDACTED]  
**Sent:** 16 May 2019 10:29  
**To:** Neil Crowther  
**Cc:** Cllr. David Huntley; Cllr. June Hamilton  
**Subject:** RE: Hook Lane, Pagham - P/30/19/PL

Dear Neil

Thank you for your email – I will put this to our Councillors and come back to you.

Best wishes

  
Nicola Swann  
Clerk & RFO  
Pagham Parish Council  


---

**From:** Neil Crowther <[Neil.Crowther@arun.gov.uk](mailto:Neil.Crowther@arun.gov.uk)>

**Sent:** 13 May 2019 15:47

**To:** Nicola Swann <>

**Cc:** Cllr. David Huntley <>; Cllr. June Hamilton <>

**Subject:** Hook Lane, Pagham - P/30/19/PL

Dear Pagham Parish Council,

You will be aware of the previous planning application being refused planning permission on this site. The reasons for refusal were based on capacity issues and inadequate highways mitigation.

As planning officers we are in a difficult position as we have been unable to obtain any clear instructions about what these issues specifically relate to and we now have a change in ADC councillors which means that these questions will now never be answered by the decision makers.

Therefore, the purpose of my email is to find out if Pagham Parish Council are able to assist in identifying any additional highways mitigation measures that might be included within the proposals that the applicants could consider before the determination of the current application or if there are specific areas where there is insufficient or inadequate mitigation proposed. Any comments would be on a 'without prejudice' basis and would be to try and explore additional matters for the benefit of our committee as decision takers.

From looking at your reps there is some reference to the width of Pagham Road, safety of the junction of Lower Bognor Road/Pagham Road and safe routes for cyclists.

Your assistance would be appreciated.

Regards, Neil

---

Neil Crowther | Group Head of Planning, Arun District Council | Location: First Floor, Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF

Internal: 37839 | External: +44 (0) 1903 737839 | E-mail: [neil.crowther@arun.gov.uk](mailto:neil.crowther@arun.gov.uk)

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**PAGHAM PARISH COUNCIL**  
**The Village Hall, Pagham Road, Pagham, Bognor Regis PO21 4NJ**



*All correspondence to be addressed to the Clerk*

---

Neil Crowther  
Arun District Council  
Maltravers Road  
Littlehampton  
BN17 5LF

BY EMAIL

**WITHOUT PREJUDICE**

12<sup>th</sup> June 2019

Dear Mr Crowther

RE: P/30/19/OUT

Further to your request for suggested mitigation measures in relation to the impact of above-numbered application dated 13<sup>th</sup> May 2019, Pagham Parish Council would make the following comments on a WITHOUT PREJUDICE basis.

Pagham Parish Council has expressed its concerns regarding the proposal for 1200 new homes in Pagham and the associated journeys which would be created taking residents out of Pagham, particularly towards Chichester and the strategic A27 network. Any mitigation measures required would need to address ALL the proposed homes, not just those which are the subject of this application.

The Council has expressed its concerns regarding the suitability of Pagham Road for an increase in the number of vehicles on the scale proposed under this and the other strategic allocation developments SD1 and SD2. Mitigation would be required to solve the problems experienced by residents using this road on a daily basis.

Pagham Road is the single access for the community to the strategic road network. It is a winding, undulating country lane, originally intended to serve a series of small rural farmsteads. In places the ditches which serve the neighbouring farmland are less than 2ft from the road and as a result there are issues with drainage and safety, particularly during periods of wet or wintry weather. This problem exists for the whole length of the Pagham Road. Advice from our Traffic Consultant 2020 indicated that the cost of improvements to widen the road (which would necessitate culverting the ditches either side of the road) and consequently reduce the danger would be prohibitive. We cannot therefore suggest an economically viable mitigation measure for this issue.

The width of the road is also an issue when it is used by cyclists. It is almost impossible to pass a cyclist on the road and as a result traffic is delayed and the cyclist faces danger from frustrated motorists. Whilst the strategic sites for Pagham have suggested improvement to the cycle path network, there are no details to show how this would work. If ultimately it reintroduces cyclists further up Pagham Road it is of no use. Currently it would be unwise to introduce any more cyclists onto a road which is known to be dangerous.

The mitigation proposed for the Lower Bognor Road/Pagham Road under the previous application was simply to pay a sum to WSCC in order that they spend it elsewhere to encourage motorists to use alternative routes.

The junction is already considered to be unacceptably dangerous locally so having no physical mitigation measures at that location is irresponsible. The Council would expect to see this junction treated with the gravity it deserves. Again, it is assumed the cost of effective improvements would be unworkable for any developer.

There are also well documented concerns regarding access to A27 strategic road network, with designs for a realigned Vinnetrow Road junction being introduced at DCC on 25<sup>th</sup> October 2018 which had not been consulted upon. What are the plans for delivery of the improvements to the Whyke Hill junction?

In addition, we would point out that no account has been taken of the effect of seasonal traffic on the local road network. Pagham is a tourist destination, and in the summer months traffic increases significantly.

The accesses proposed for the Hook Lane development would introduce a further access onto Pagham Road, which is considered dangerous. The Council cannot understand why, when mitigation measures are required to other junctions onto Pagham Road, more accesses are being permitted.

Yours sincerely

A black rectangular box redacting the signature of Nicola Swann.

Nicola Swann  
Clerk & RFO  
Pagham Parish Council



**Briefing Paper for Pagham Parish Council- 28 June 2019**

**P/140/16/OUT: Outline application for access only - mixed use development comprising of up to 400 dwellings, a care home with up to 70 beds, a Local Centre comprising up to 2000sqm of A1/A2/A3/D1/sui generis floorspace, provision of land for a 1FE primary school (with sufficient space to ensure that it is expandable to 2FE), provision of land for a scout hut, safeguarding of land to help link the site to the Pagham Harbour Cycle Route & other community uses including public open space & allotments with some matters reserved.**

**Land South of Summer Lane & West of Pagham Road Pagham.**

**Key details are**

- Received/Validated by ADC 21-12-16
- Objections raised by Pagham Parish Council and a large number of residents et al on the basis of a conflict with adopted ALP policies pertaining to strategic allocations, green infrastructure and Chichester – Bognor Gap gap, landscape, ecology, heritage, drainage, transport and infrastructure.
- DCC at its meeting on 24 October 2018 resolved to approve the application subject to a Draft S106 and conditions.
- Following the Committee Pagham Parish Council asked that ADC reconsider that decision in the light of relevant material considerations before issuing the decision and finalising the S106 but Officers declined to do so.
- The decision and S106 pursuant to the DCC resolution is dated 22-11-18
- Pagham Parish Council challenged the ADC decision by way of a Judicial Review and that challenge which seeks a quashing of the decision and this was heard in court on 25 June 2019 and was defended by ADC and the Applicants as an interested party and all parties have sought their costs be paid. The judge has reserved judgement saying that the parties may expect a substantive and costs decision by 9 July 2019.

**Issues arising**

1. Essentially there are two possible JR Challenge outcomes as follows:
  - a. The judge may uphold the JR Challenge in favour of Pagham Parish Council , quash the decision and order ADC to pay their costs or
  - b. The judge may find in favour of ADC and dismiss the challenge and order Pagham Parish Council to pay ADC costs
2. Firstly it is relevant to note that in either case the public purse will be paying the costs.
3. Secondly neither outcome necessarily brings an end to the matter because
  - a. all parties have a right of appeal against any judgement issued

- b. even if the planning permission granted were quashed it is highly likely that the applicant would resubmit the application so that it can be properly and lawfully reconsidered by ADC and ADC Members would be entitled to do so and refuse the permission if they considered that there was now a case for doing so and
- c. In the event that PPC loses the case they will be entitled (in all the circumstances) to ask that ADC gives consideration exercising their power to revoke or modify the permission under section 97 of the 1990 Act as amended or ask that the Secretary of State do so under section 100 of the 1990 Act (as amended). See below

## **Revocation**

- 4. Local planning authorities have power under s97 of the Town and Country Planning Act 1990 to make an order revoking or modifying a planning permission, prior to it being implemented, where they consider it expedient to do so. They should have regard to the development plan and to any other material consideration<sup>1</sup>. This is not a routine justification since the fact that planning permission was granted indicates that the development was considered acceptable at the time. If an order is opposed, it has to be confirmed by the Secretary of State before it can take effect.
- 5. The Secretary of State has power, under s100 of the Town and Country Planning Act 1990, to revoke or modify a planning permission granted by a local planning authority. Revocation or modification can only be made before a planning permission is implemented. The Secretary of State can use these powers as he thinks fit, after consultation with the local planning authority. Such intervention by the Secretary of State can only be justified in exceptional circumstances. However, the Secretary of State will generally use this power only if the original decision is judged to be grossly wrong, so that damage is likely to be done to the wider public interest.
- 6. Where orders come before the Secretary of State the decision will be taken only after considering the evidence by way of written representations, a hearing or a public local inquiry. The more controversial cases will almost inevitably go to inquiry.

## **Compensation**

- 7. In July 2012 the Supreme Court ruled that when local planning authorities are deciding whether or not to revoke or modify a planning permission they are entitled to take into account the compensation they could have to pay. Lord Carnwath in the Supreme Court in case R (Health and Safety Executive) v. Wolverhampton City Council [2012] 1 WLR 2264, said:

*In simple terms, the question is whether a public authority, when deciding whether to exercise a discretionary power to achieve a public objective, is entitled to take into account the cost to the public of so doing. Posed in that way, the question answers itself. As custodian of public funds, the authority not only may, but generally must, have regard to the cost to the public of its actions, at least to the extent of considering any case whether the cost is*

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<sup>1</sup> Which would include whether or not the development plan is up to date or under review

*proportionate to the aim to be achieved, and taking into account more economic ways of achieving the same objective.*

8. In England and Wales the rules relating to compensation where planning permission has been revoked are set out in section 107 of the Town and Country Planning Act 1990. There is a liability for a local authority to pay compensation in respect of:

- expenditure rendered abortive by the order (e.g. expenditure on preparation of plans for the purposes of works);
- for any other loss or damage directly attributable to the revocation or modification.

Section 107(3) of the Act makes clear that compensation is not payable in relation to any works carried out before the planning permission (which is being revoked by the order) was granted.

9. Pagham Parish Council and Arun District Council may wish to review this case in the light of the foregoing after the outcome of the JR is known but it does seem to me that all the circumstances applicable here strongly suggest that it would be expedient in the public interest for Arun District Council to revoke or modify the permission if requested to do so.

**Paul Collins 28 June 2019**