

Recommendation Report for Approval of Reserved Matters Following Outline Approval

REF NO: P/167/25/RES

LOCATION: Land South of Summer Lane
Pagham

PROPOSAL: Approval of reserved matters following outline consent P/15/24/OUT in relation to the spine road. This application is in CIL Zone 4 (Zero Rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposal comprises the following: - The access from the estate road (on the adjacent site to the east) extending into the site as the main "spine road" and culminating in two turning heads. - An attenuation pond in the north-eastern area. - Drainage for the spine road including culverts, piped connections to the pond, shallow swales, a piped connection to a ditch on Summer Lane (north-eastern corner), and other drainage features. - Landscaping to the spine road and the edge of the pond - New 6m high lighting columns to the spine road (6 No.); and - Localised reinstatement of the ground after the drainage features have been buried. The drawings do show a turning head which could allow for a potential future vehicular link onto Summer Lane to the North. However, no actual vehicular access is shown or applied for - and nor could a new access be achieved through this reserved matters application. Following amendment, the plans also show the arrangements with respect to Horns Lane which were agreed in principle through the outline permission.
SITE AREA	Approximately 0.8 hectares.
RESIDENTIAL DEVELOPMENT DENSITY	Not applicable to this application.
TOPOGRAPHY	Appears flat but the site survey shows that the site falls from west to east and north to south.
TREES	There is a line of established, mature Black Poplars along the northern edge of the site with some smaller trees (Hawthorn/Field Maple) and a Willow. There are some smaller trees dotted along the eastern boundary. A further shorter line of Black Poplars sits adjacent to the southern boundary (but outside of the site area). Both of these Poplar groups are

protected by TPO. However, the proposals demonstrate that no protected trees are located in the area subject of this application. There are some drainage works proposed within the Root Protection Area (RPA) of a tree in the very north-eastern corner but this tree is not part of the TPO.

BOUNDARY TREATMENT

The boundaries are either open or formed by hedging/ditches/scrub planting.

SITE CHARACTERISTICS

The site is comprised of an existing field and part of an adjacent field. A ditch currently demarcates the western edge of the main field. Horns Lane lies adjacent to the eastern boundary. There are further ditches to the northern and eastern boundaries. Part of the eastern ditch also comprises a pond.

CHARACTER OF LOCALITY

The locality of the site is predominantly rural in character. However, the adjacent land to the east and south benefit from planning permissions for new housing and there is also an existing housing development to the north-east.

RELEVANT SITE HISTORY

P/136/25/NMA	Non material amendment following the grant of P/15/24/OUT (APP/C3810/W/25/3365661) relating to condition 3 (removal of drawing 05 to be replaced with drawing HTp/23 106/13/A).	Approve 20-10-25
P/15/24/OUT	Outline application with some matters reserved for a proposed residential development of up to 120 No dwellings including means of access into the site (not internal roads), with all other matters (relating to appearance, landscaping, scale and layout) reserved. This application is a Departure from the Development Plan and affects a Public Right of Way.	Refused 14-11-24 Appeal: Allowed+Conditions 29-09-25
P/35/24/OUT	Outline application with some matters reserved for a proposed residential development of up to 110 No. dwellings including means of access into the site (not internal roads), with all other matters (relating to appearance, landscaping, scale and layout) reserved. This application is a Departure from the Development Plan and affects a Public Right of Way.	App Cond with S106 16-04-25

Application P/15/24/OUT was granted on appeal for up to 120 dwellings. This followed an earlier committee approval for P/35/24/OUT. Application P/136/25/NMA approved a minor change to condition 3 as imposed on P/15/24/OUT.

REPRESENTATIONS

Pagham Parish Council originally stated objection concerning:

(1) The lack of detail regarding the road as shown and where exactly it would join the other roads in the estate and on the neighbouring development. The Parish concur with WSCC Highway comments and request that the further information sought by WSCC is provided.

(2) Why is there a potential exit shown onto Summer Lane. The Parish state that Summer Lane is unsuitable for the level of traffic generated from an estate of this size and access onto it must not be made possible, either now or in the future.

However, following the submission of a written response by the applicant, the Parish Council re-assessed the application and advised they no longer had any objections. The applicants response confirmed that no access is shown onto Summer Lane (there being approximately 15m between the edge of the turning head and the edge of Summer Lane) and that Highways were no longer objecting to the proposal (this was also confirmed by the Highways comments).

Two objections were received on the following grounds:

- Massive increase in traffic and parking issues.
- No planned infrastructure in place.
- No emergency access should be provided onto Summer Lane.
- The plans do not correspond with those approved by P/15/24/OUT relating to continued access to Church Barton House.

COMMENTS ON REPRESENTATIONS RECEIVED:

The following comments are made to the resident objections:

- The site already benefits from outline permission for up to 120 dwellings.
- The outline permission secures affordable housing (30%), a Pagham Harbour contribution, a secondary school transport contribution, and on-site BNG. There will also be CIL payments to fund local infrastructure.
- No vehicular access is proposed onto Summer Lane (only pedestrian/cycle access); and
- The plans have been amended to show the agreed arrangements to ensure continued private access to/from Church Barton House.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

WSCC HIGHWAYS - No objection with comments. They originally requested further information but following amendment and re-consultation, advised no objection and recommend no conditions. State that it is understood that the applicant will co-ordinate the required access with Foreman Homes on the delivery of the connection to their own spine road - and that a section 38 agreement will be pursued with WSCC following approval of this application.

WSCC DRAINAGE - No objection to the reserved matters application and recommend no further conditions.

ADC LANDSCAPE - No objection provided the 5 No. trees around the attenuation pond are set back 3m from the bank edge.

ADC ENVIRONMENTAL HEALTH - No objection to the spine road area and recommend no conditions.

ADC ECOLOGIST - No objection to the proposed landscaping but raise concern with the colour temperature of the proposed lighting which at 4,000 kelvin is too bright for this rural location. Because the site is located close to Pagham Harbour SSSI, all efforts to reduce light pollution should be considered. Request that 2700K be used instead as this is appropriate for bat activity.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted except as discussed below:

ADC LANDSCAPE - the 5 No. trees have been removed from the scheme as it is not possible to move them within the confines of the red edge area. They will instead be included in the reserved matters application/s for the rest of the site. An informative is included to this effect.

ADC ECOLOGIST - the applicant has revised the lighting temperature to specify 2,700 kelvin and the Council's Ecologist has advised no objection.

POLICY CONTEXT

Designations/Constraints applicable to the site:

- Current Flood Zone 1.
- Future Flood Risk 3a by 2111 (north-eastern corner).
- Risk of groundwater.
- Some areas of medium & high surface water flood risk (adjacent Horns Lane and within part of a drainage ditch in the south-western part of the site).
- Countryside.
- Within a Settlement Gap (Pagham to Selsey).
- Grades 2 and 3a Agricultural Land.
- Adjoining the Built Up Area Boundary (BUAB) and the Strategic Allocation ref SD2.
- Part of HELAA site refs 20P1 and 20P2 (Developable).
- Within Pagham Harbour Zone B.
- Within 2km of two Sites of Special Scientific Interest (SSSI).
- Area of Special Advert Control.
- Article 4 Direction ref 3/1/92 (prevents camping/moveable structures).
- A Foul sewer crosses the site.
- Adjacent to Public Right of Way (PRoW) ref PAG/100/3.
- Tree Preservation Orders TPO/P/1/24 and TPO/P/2/24; and
- CIL Zone 5.

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

DDM1	D DM1 Aspects of form and design quality
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
QESP1	QE SP1 Quality of the Environment

TSP1	T SP1 Transport and Development
WDM3	W DM3 Sustainable Urban Drainage Systems

PLANNING POLICY GUIDANCE:

NPPDG	National Design Guide
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD13	Arun District Design Guide (SPD) January 2021
PDS	Pagham Parish Council's Village Design Statement by PaghamPC

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood Development Plans. The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. There is no Pagham Neighbourhood Plan to consider as the emerging Plan was withdrawn in September 2020.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal complies with relevant Development Plan policies in that it would result in a development of an appropriate scale, layout and appearance which is not harmful to the character & appearance of the area, important trees or the amenities of existing and future residents.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

- (2) in dealing with an application for planning permission the authority shall have regard to -
- (a) the provisions of the development plan, so far as material to the application,
 - (aza) a post examination draft neighbourhood development plan, so far as material to the application,
 - (b) any local finance considerations, so far as material to the application, and
 - (c) any other material considerations.

OTHER MATERIAL CONSIDERATIONS

There are no other material considerations to be weighed in the balance with the Development Plan.

BIODIVERSITY NET GAIN

Biodiversity Net Gain (BNG) was secured by the outline permission and will be implemented in accordance with the conditions and legal provisions associated with that permission.

CONCLUSIONS

PRINCIPLE:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states applications should be determined in accordance with the development plan unless material considerations indicate otherwise. Outline application P/15/24/OUT agreed a development of up to 120 dwellings together with access from the adjoining development to the east and associated infrastructure.

The following matters were assessed and deemed acceptable through the determination of the outline application:

- Flood Risk.
- Highways Impacts.
- Loss of agricultural land.
- Impact on the countryside.
- Foul drainage.
- Surface Water Drainage.

COMPLIANCE WITH OUTLINE CONDITIONS:

It has been established by case law that applications for the approval of reserved matters (RM) must be within the ambit of the outline planning permission and must be in accordance with the conditions annexed to the outline planning permission. Certain conditions imposed by the outline set parameters for the nature and form of the RM submission and these are analysed below. When determining whether RM fall within the ambit of an outline planning permission the courts have allowed a little freedom of interpretation with the usual test being whether any changes make a material difference to the essence of what was approved.

Condition (3) as amended by P/136/25/NMA requires the layout be in accordance with the parameter plan and also the various plans relating to access including the arrangements in respect of maintaining private access to Church Barton House.

There is no conflict between the proposals subject of this RM site area and the drawings approved through the outline.

Condition (6) requires that the RM submission include full tree survey documents, full landscaping details including the use of native trees and compensatory planting on the basis of 2 trees/hedge units for every 1 lost, the use of triple staggered native hedging along the open western site boundary, a greater amount of Public Open Space than is policy compliant, boundary treatment details including hedgehog gaps, and full details of new external lighting.

As this RM submission is limited in area and scope, not all of these items are relevant. However, the proposal does include a tree survey confirming no trees are affected and also includes landscaping and lighting details.

The following conditions also required the submission of details as part of the RM submission.

- Condition (7) requires that the RM submission include details of electric vehicle charging points (EVCP), a levels survey, disabled parking space provision, cycle storage details (including elevations), and a coloured materials schedule,

- Condition (8) requires that the RM submission include details of the required public open space (POS) and play areas, including the management proposals.
- Condition (9) requires that the RM submission include details of the provision of M4(2) and M4(3) homes to meet the council's policies.
- Condition (10) requires that the RM submission include details of any temporary sales areas.
- Condition (11) requires that the RM submission include details of surface water drainage for each phase.

Conditions 7, 8, 9 and 10 are not relevant to the details included as part of this RM application. In relation to Condition 11 details pertaining to surface water drainage proposals for the spine road have been provided.

LAYOUT, APPEARANCE AND SCALE:

Arun Local Plan (ALP) policies D SP1 and D DM1 require development make the best possible use of land by reflecting or improving on the character of the site/surrounding area. The Arun Design Guide (ADG) is a material consideration in the determination of this application but has limited relevance to the scope of the proposed elements.

The Pagham Village Design Statement (PVDS) is around 18 years old but remains a material consideration in the determination of applications. The site falls in the 'Pagham Road' character area and the PDS states views over open fields are valued and should be preserved. However, it is material that outline permission for this site has been approved.

The proposal solely comprises the main spine road, the associated drainage system including an attenuation pond and swales, landscaping for these elements, and lighting columns. No houses are proposed at this stage. No consultees raise any significant concerns with these elements, and they are not so significant or impactful as to result in any policy conflicts.

The ADG requires that a successful movement framework should be easily accessible by all. Routes should be coherent, legible and link to existing routes. The proposed spine road will have public footway on both sides and this will tie in with the spine road for the adjoining site.

Furthermore, it should be noted that one of the approved outline drawings (as amended by the NMA) showed a proposed pedestrian/cycle access onto Summer Lane and the position of this broadly corresponds to the end of the turning head on the spine road.

The proposed lighting columns are the only aspect of this application that have scale to them. They are reflective of the standard specification used elsewhere in the district and so their height or design are acceptable.

In summary, there are no concerns with the layout, scale or appearance of these limited proposals and there is therefore no conflict with the relevant policies.

LANDSCAPING AND TREES:

ALP policy D DM1 sets out a requirement for the provision of landscaping. Policy ENV DM4 states TPO protected trees or those that contribute to local amenity should not be damaged or felled unless the development meets certain criteria including that the benefits outweigh the loss of trees or woodland.

Whilst the council's Tree Officer has not commented on the application, it is nonetheless clear from the submission that no protected trees are affected by the proposed works. The only aspect of the works that

might affect trees is the proposed connection from the pond to a new outfall within the existing ditch in the very north-eastern corner. These works will have to be constructed within the root protection area of a small tree, but it is not protected and there is no proposal to remove it. This is acceptable.

The proposed soft landscaping includes wetland meadow mix, flowering sward mix, pond edge mix, and general meadow mix. The council's Landscape Officer raises no objection to the proposals. Whilst the Ecologist states the inclusion of *Briza media* ("Quaking-grass") in the planting scheme for the swales is probably not required, he has no objection to its inclusion.

Originally, the submission had shown 5 new trees around the attenuation pond, however, advice from the Landscape Officer highlighted that these were within the required 3m offset distance from the water feature and as such tree roots could result in damage. Therefore, these were removed from this area as there was no space within this part of the red edge to accommodate both them and the 3m offset distance. New tree planting (including street trees) will instead be secured through the further RM application. As no trees are proposed to be removed, there is no requirement on this particular application for replacement tree planting.

The proposal is acceptable in respect of landscaping and trees and is in accordance with the relevant policies.

OTHER RELEVANT MATTERS:

(A) Parking, Roads, and Public Footpaths:

ALP policy T SP1 seeks to ensure development provides safe access on to the highway network; contributes to highway improvements (where appropriate) and promotes sustainable transport. Schemes should accommodate the efficient delivery of goods and supplies; give priority to pedestrian and cycle movements, be accessed by high quality public transport facilities, create safe and secure layouts for traffic, cyclists, and pedestrians, and provide appropriate levels of parking.

As per the outline permission, the vehicular access is from the adjoining development to the east and the new spine road will then cross over the line of Horns Lane. The plans, as amended, show that signage will be implemented to make it clear that Horns Lane is a private road and is not to be used by estate traffic. In addition, a gate will be installed 6m north of the new adoptable footway adjacent to the spine road to prevent access to the North on to Summer Lane except for vehicles permitted to use the private road. This reflects the details agreed at the outline stage (and referenced in outline condition 3).

WSCC Highways' earlier concerns with the proposals (concerning the need for more information) have now been resolved to their satisfaction and on this basis, it must be concluded that there is no conflict with policy T SP1.

(B) Surface Water Drainage:

ALP policy W DM3 states all development must identify opportunities to incorporate a range of Sustainable Urban Drainage Systems (SuDS) as appropriate to the size of development.

As noted elsewhere, outline condition (11) requires the drainage scheme to be approved concurrent with the reserved matters. As such, the applicant has included full details of the drainage proposals concerning the new spine road. These details have been reviewed by the Lead Local Flood Authority (as it was they who requested the condition) and they raise no objections to the RM application. On this basis, there is no conflict between the RM application and ALP policy W DM3.

(C) Impact on the Pagham Harbour Special Protection Area (SPA):

ALP policy ENV DM2 requires that new development likely to have an impact on Pagham Harbour which is in a 400m to 5km distance ('Zone B') of Pagham Harbour should make a financial contribution towards the provision of accessible natural open green spaces to serve the area. The application site lies within Zone B but is within approximately 90m of the Zone A boundary at the closest point.

The Council has an agreed mitigation scheme for applications within the Zone B area, and this requires the payment of a contribution towards the agreed mitigation scheme (which covers site wardening, a dog project, signage/interpretation, and monitoring). This payment was secured by the s106 agreement associated with the outline permission and so there is no conflict with Policy ENV DM2. This position was reviewed by the Planning Inspector, in consultation with Natural England, when the outline appeal was determined. This satisfied the separate requirement for a Habitats Regulation Assessment.

Recent case law has determined it may be necessary to apply the Habitat Regulations at each stage of a decision (such as at reserved matters stage and when discharging conditions). However, it is clear from the RM submission that the proposals align with those considered at outline stage and as such the previously agreed mitigation remains appropriate. A further appropriate assessment is, therefore, unnecessary.

SUMMARY:

This reserved matters scheme represents a first phase of the approved (up to) 120-dwelling scheme. It is limited in scope to the spine road and its associated elements. The proposal is acceptable in all respects and there are no conflicts with development plan policy. It is therefore recommended that this application be approved with the following conditions.

HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

COMPLIANCE WITH SECTION 106 DETAILS

None of the obligations set out within the S106 are to be considered as part of the approval of this application. Therefore, there are no conflicts between the reserved matters submission and the s106 agreement.

CIL DETAILS

This application is not CIL liable as no houses are included within this reserved matters application.

RECOMMENDATION**APPROVE CONDITIONALLY**

- 1 The development hereby approved shall be carried out in accordance with the following approved plans and documents:

1. Location Plan 13226/1010 Rev P1.
2. Lighting Plan S3 Rev P02.
3. Soft Landscape Proposals DLA-2313-L-01-Rev P05.
4. 13226_1451_C1 Estate Road External Works Details.
5. 13226_1551_C1 Estate Road Main Drainage Details Sheet 1.
6. 13226_1552_C1 Estate Road Main Drainage Details Sheet 2.
7. 13226_1553-C1 Proposed Culverts Sections.
8. 13226_1650_C1 Estate Road Drainage Layout.
9. 13226_1655_C1 Estate Road Overland Flow Routes.
10. 13226_1851_C1 Estate Road Site Levels and Contours.
11. 13226_1861_C2 Estate Road External Works Layout.
12. 13226_1951_C1 Estate Road Refuse Vehicle Track Path Analysis; and
13. Lighting Technical Note 4313-DFL-HLG-XX-TN-EO-13001-S3 Rev P02.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Arun Local Plan policies C SP1, D DM1, QE SP1 and T SP1.

- 2 The approved details of the landscaping in this phase shall be carried out in the first planting and seeding season, following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of amenity and of the environment of the development in accordance with Arun Local Plan policy D DM1.

- 3 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the NPPF.
- 4 **INFORMATIVE:** New tree planting that had been shown around the attenuation pond in the

north-eastern corner had to be removed to ensure a 3m offset from the top of the bank. It is expected that landscaping in this area will be enhanced as part of future Reserved Matters applications on the site.

- 5 INFORMATIVE: Erection of flow control structures or any culverting of an ordinary watercourse requires consent from the appropriate authority, which in this instance is West Sussex Lead Local Flood Authority. It is advised to discuss proposals for any works at an early stage of proposals.
- 6 INFORMATIVE: This approval does not discharge any of the conditions on the Outline permission. All outline conditions that require approval in writing will require separate applications to be submitted to discharge these conditions.
- 7 INFORMATIVE: The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981 (as amended), with only a few exceptions, it is an offence for any person to intentionally take, damage or destroy the nest of any wild birds while the nest is in use or being built. Birds nest between March and September and therefore removal of dense bushes, ivy or trees or parts of trees etc. during this period could lead to an offence under the act.
- 8 INFORMATIVE: This notice does not give authority to destroy or damage a bat roost or disturb a bat. Bat species are protected under Section 39 of the 1994 Conservation (Natural Habitats etc) Regulations (as amended), the 1981 Wildlife and Countryside Act (as amended) and the 2000 Countryside and Rights of Way Act. It is illegal to damage or destroy any bat roost, whether occupied or not, or disturb or harm a bat. If you are aware that bats roost in a tree(s) for which work is planned, you should take further advice from Natural England (via the Bat Conservation Trust on 0345 1300228) or an ecological consultant before you start. If bats are discovered during the work, you must stop immediately and contact Natural England before continuing.