

Recommendation Report for Outline Consent

REF NO:	P/178/21/OUT
LOCATION:	Land West of Pagham Road Pagham
PROPOSAL:	Outline application with all matters reserved (except access) for the construction of up to 106 new homes, formation of access onto Pagham Road, new pedestrian and cycle links, the laying out of open space, new strategic landscaping, habitat creation, drainage features and associated ground works and infrastructure. This application is a Departure from the Development Plan and may affect the setting of a Listed Building.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Although layout is a reserved matter, an indicative layout has been provided which shows the new homes set in from all boundaries with buffer planting/Public Open Space (POS) and a circular footpath to the boundaries. Also indicated is a drainage pond in the north western corner and a play area within an area of POS in the south eastern corner. Access will be from Pagham Road just south of the existing access onto the field. The access will be 6m wide (reducing to 5.5m as it enters the site) with 2m footpaths on both sides (linking in with the existing on Pagham Road) and visibility splays of 2.4m by 104m to the north east & 2.4m by 62m to the south west. A separate pedestrian access is shown indicatively in the very south eastern corner and reflects an existing situation. The application proposes to commit to the provision of real time information screens at the nearby north and south bound bus stops.
SITE AREA	4.91 hectares.
RESIDENTIAL DEVELOPMENT DENSITY	21.5 dwellings per hectare.
TOPOGRAPHY	Predominantly flat to the front but slopes away to the western (rear) end.
TREES	All trees are to the site boundaries and the application identifies one of these (T4 - roughly mid-way along the northern boundary) as being category B with all others category C. All trees and the majority of the hedgerows are indicated to be retained.
BOUNDARY TREATMENT	Mix of hedges and low post & rail fencing.
SITE CHARACTERISTICS	Existing agricultural field fronting and accessed from Pagham Road. The land is in arable and there are periphery hedgerows (including along the frontage) and small tree

groups within these boundaries. The means of access serves a small number of residential properties situated to the north of the site.

CHARACTER OF LOCALITY

Edge of settlement location sandwiched between a large residential mobile home park (Mill Farm - approx. 270 homes) and small urban two storey housing development to the south and a collection of more rural in nature residential dwellings plus a very small residential mobile home (Fieldview - 4 homes) to the north. There are listed buildings to the north and south. To the rear of the site is a small wooded copse area which includes a pond that is connected to the Pagham Rife and to a drainage ditch running adjacent to (but outside of) the site's northern boundary. The site is opposite an agricultural field which has been allocated as a strategic residential site (and has outline and reserved matters permission). There is a bus stop (and pavement leading up to it on the site frontage).

RELEVANT SITE HISTORY

P/132/20/RES	Approval of reserved matters following P/30/19/OUT for 300 No. new homes, internal roads, footpaths & cycleways, car parking & landscaping. This application affects the setting of a listed building & falls within Strategic Site H SP2, CIL Zone 1 (Zero Rated).	ApproveConditionally 10-09-21
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).	App Cond with S106 02-09-19

No relevant history for the site but the strategic site opposite (Hook Lane) has the benefit of permission under P/30/19/OUT for 300 new homes, an 80 bed care home, 4000m2 of D1 uses including a 2 form entry primary school. The Reserved Matters (P/132/20/RES) has agreed the details of the 300 houses.

REPRESENTATIONS

Pagham Parish Council's objection is set out in full on the website but in summary, their concerns are:

- No requirement for housing in addition to the approved Pagham strategic developments as these will propose additional housing on the 1.45ha of land previously earmarked for Schools (so about 49 extra

homes), the proposed care home provision on the strategic sites has not been taken into account and other sites have been approved in the area. Cumulatively, the overall Pagham contribution is therefore 1191 against the total strategic requirement of 1200 therefore this development is not required;

- Development in the strategic gap;
- Although the site was shown in a previous iteration of the Pagham Neighbourhood Plan this was before the strategic sites were allocated and was not taken forward;
- Disturbance to the mostly elderly residents living at Mill Farm;
- Lack of infrastructure in the area and no evidence of how necessary infrastructure will be delivered within 5 years;
- Foul and surface water flood risk;
- No pre-submission consultation with the Parish Council; and
- Existing pavements not suitable for walking.

82 letters of objection as summarised below:

- Loss of valuable agricultural land;
- Harm to Countryside and the Strategic Gap;
- Pagham has had enough new development and will see a 35% increase on the existing number of houses;
- "Not currently developable" status within the HELAA;
- Increased traffic & congestion;
- Existing road network is not safe for vehicles or cyclists and there is heavy reliance on street parking
- New junction will interfere with safety of existing accesses;
- WSCC Highways incorrectly state that the access is within the 30mph zone and this may affect the visibility splay requirements;
- Field currently used by Sefton Farm workers to access facilities in Pagham and without it, there would be no safe route for them;
- Insufficient local infrastructure (Doctors, Dentists, Schools);
- Insufficient local jobs;
- Need more affordable not market homes;
- High Flood Risk Area and risk of displacing water elsewhere;
- Current drainage objection to proposals and the ditch is not in applicants control;
- Insufficient foul sewage capacity at Pagham with increased risk of discharge into rivers/sea;
- Harm to amenities of Mill Farm residents and dwellings to the North (privacy & light);
- Harm to existing residents' views;
- Harm to existing wildlife habitat within a Biodiversity Opportunity Area;
- Harm to Pagham's appeal as a tourist destination;
- The Mill Farm Estate is not out of character and does need to be screened by new development;
- Harm to the setting of Listed Buildings; and
- Odour pollution from proposed Foul Treatment Plant.

COMMENTS ON REPRESENTATIONS RECEIVED:

The comments of the Parish Council and objectors are noted, and the majority of the objections are considered in the conclusions section with the exception of the following:

- It is accepted that the Pagham allocation in the Arun Local Plan was for only 1200 homes however, notwithstanding the strategic allocations, there is an overall housing land supply shortfall across Arun and a need to increase the supply preferably in sustainable edge of settlement locations. It should be noted that the Local Plan housing strategy included the use of non-strategic allocations and windfall sites;
- Although it is always encouraged, there is no planning requirement for pre-submission community

consultation;

- The status of the site in the HELAA has not changed but this does not prevent an application from being submitted;
- WSCC confirmed that the access design and visibility splay requirements are not affected by the set speed of the road but rather were calculated by the recorded traffic speeds;
- It may be possible, through a private agreement for agricultural workers to continue to walk through the development to reach Pagham Road;
- The Councils Drainage Engineers do not object to the drainage method. Discharge to the ditch would require the agreement of the landowner and this would be considered at future detailed design stage;
- There is no right to a view in planning law; and
- This site is some distance from the Pagham Beach tourist area.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ENVIRONMENT AGENCY - Object due to the absence of an acceptable Flood Risk Assessment (FRA). The current FRA does not correctly identify flood risk at the site including with reference to climate change.

NATIONAL HIGHWAYS - no objection provided that the development provides a contribution of £90,100 (indexed from 2016 prices) towards mitigation of the A27 Whyke Hill junction. Any future Construction Management Plan (CMP) state that construction traffic will seek to avoid using the Strategic Road Network (SRN) during network peak hours of 08:00-09:00 and 17:00-18:00 and any loose loads on vehicles using the SRN will be adequately sheeted.

NATURAL ENGLAND - should the development discharge treated effluent into the Solent European site then it is necessary to assess the nutrient content of the discharge and carry out an appropriate assessment under the Habitats Regulations.

SUSSEX POLICE - no objection but list a number of advisory notes regarding improving security.

WSCC MINERALS & WASTE - no objection as will not prevent or prejudice the operation of the safeguarded waste operation at Seftor Farm particularly due to the distance from it (300m+) and intervening development.

WSCC LEAD LOCAL FLOOD AUTHORITY - no objection:

- Surface water mapping shows site is at low risk from surface water flooding, but this risk is based on modelled data and should not be taken as meaning the site will/will not definitely flood in these events;
- The area of development is shown to be at high risk from groundwater flooding based on current mapping, but this is modelled data only and should not be taken as meaning the site will/will not suffer groundwater flooding;
- A watercourse runs along the northern boundary of the site; and
- No records of historic surface flooding within the confines of the site.

WSCC FIRE & RESCUE - no objection subject to conditions to secure new fire hydrants.

WSCC HIGHWAYS - no objection subject to conditions to secure the access, a CMP and bus stop improvements plus s106 legal agreement to secure a Travel Plan and associated monitoring/auditing fee. Comment:

- The submitted speed survey data is acceptable;
- No concerns with the submitted future traffic modelling taking account of cumulative development;
- Modelling indicates the development would have a negligible impacts on those junctions modelled;
- The development would add traffic to Pagham Road and the B2166 but the increase in traffic will be minor compared with existing flows;
- The applicant has agreed to bus stop improvements (addition of real time bus screens);
- The access has been the subject of a Stage One Road Safety Audit (RSA) which raised only a single problem relating to the need to provide a suitable pedestrian crossing point and the scheme designer has resolved to provide this as part of the detailed design;
- Access by walking, cycling, and passenger transport is reflective of that for the approved P/30/19/OUT application. There are no in principle issues. It is accepted that a number of services are within reasonable walking distance of the development and that suitable facilities exist to accommodate those trips expected to result from the proposed development;
- There is no specific cycle infrastructure in the immediate area and cyclists will consequently have to share existing road space with other vehicular traffic but routes towards Bognor Regis are well lit and subject to 30mph restrictions;
- Even if improvements were possible to the less ideal routes towards Chichester, the scale of development currently proposed is not such that this would generate significant increases in cyclists to justify the delivery of a new cycle route all the way to Chichester.
- Funding has been secured as part of P/134/16/OUT, P/140/16. OUT & P/30/19/OUT to enable the provision of an off-road cycle route starting at Summer Lane and thereafter using existing public rights of way to connect through to South Mundham. From South Mundham, there are bridleways that can then be used to reach Chichester; and
- The development benefits from the 600 bus service stopping directly outside on Pagham Road which provides a 20 minute service frequency at peak times, dropping to 30 minute frequency at off-peak times towards Chichester and Bognor Regis.

ADC CONSERVATION OFFICER - the proposal will not result in any harm to the setting of the Listed Rookery Farmhouse to the north but will result in 'less than substantial harm' to the Listed Nyetimber Windmill to the south (and on the lower end of the scale). It should be determined in accordance with the NPPF, the relevant policies in the Development Plan and the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended). Comment as follows:

- Rookery Farmhouse and Nyetimber Mill (both Grade II Listed) are close to the site;
- There are other heritage assets in the surrounding area but no intervisibility between these and the site due to topography, vegetation and intervening development;
- The development of the site would not have a direct physical impact on designated heritage assets;
- There has not been any historic ownership link between the site and Rookery Farmhouse for some time and the presence of intervening development/vegetation means that that there would be no clear views between the farmhouse and the site;
- The site does not contribute to the significance of the farmhouse and as a result the development would not harm the asset's significance;
- Development took place post listing of Nyetimber Mill to its West, South and East which significantly altered its setting and is not necessarily positive;
- Its top section is still visible from Pagham Road when approaching from the north which means that it acts as a local landmark; and
- It is proposed to maintain a development free zone in the south-eastern corner of the site so as to maintain the sight line from Pagham Road and this should be conditioned.

ADC POLICY - the site is outside the Built Up Area Boundary (BUAB) and in the Strategic Gap so contrary to the relevant policies. The site is in a Biodiversity Opportunity Area where development is

expected to protect and enhance natural features. The site is in the Pagham Harbour Zone B.

ADC ENVIRONMENTAL HEALTH - requests consideration of air quality issues. Requests conditions relating to electric vehicle charge points, contaminated land, internal noise levels, external lighting, a CMP, construction hours and noise from proposed substations.

ADC HOUSING STRATEGY & ENABLING MANAGER - request that the application provide 32 affordable dwellings consisting of 21 x affordable rented and 8 x First Homes with the mix broadly in line with that set out in the Strategic Housing Market Assessment (SHMA) and where possible for a proportion of the rented units to be set at a rent level of 60-65% of open market rent.

ADC ECONOMIC DEVELOPMENT - no objection subject to a condition to secure an employment & skills plan for the construction phase.

ADC DRAINAGE ENGINEERS - no objection subject to standard conditions. State:

- Discharge rates should be restricted to greenfield rates;
- Prior consent will be required to drain to the adjacent watercourse;
- Ground raising is discouraged;
- SuDS features should not be included in POS requirements; and
- The submitted drainage strategy should not be listed in any approval.

COUNCILS ECOLOGIST - no objection subject to conditions to secure bat mitigation, retention of bat suitable trees, protection & enhancement of hedgerows, control lighting, check vegetation for birds nests before removing, general landscape & habitat enhancement, use a precautionary approach in respect of reptiles, carry out a pre-commencement search for water voles, provide a 5m buffer to the ditches during construction, search the site for hedgehogs prior to commencement and provide a long term landscape/habitat management plan. The application must provide a payment towards the Pagham Harbour mitigation scheme. Request confirmation that the Public Open Space (POS) with footpaths to the site periphery will be a dark area.

No responses from ADC Tree or Landscape Officers.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted and will be addressed in conclusions section except as discussed below:

NATURAL ENGLAND - A written response was issued to Natural England on 14/02 to say that:

- It is understood that the rules on waste water discharge and nutrient assessment only apply to districts bordering the Solent;
- The consultation response does not mention Pagham Harbour and clearly only refers to sites which discharge into the Solent. The Pagham Waste Water Treatment Works discharges into the English Channel via the Pagham Harbour, so not into the Solent;
- Natural England raised this previously in November 2020 on an application for residential development on Summer Lane to the south (P/97/20/PL). ADC wrote at the time querying this and Natural England subsequently submitted a revised response omitting this requirement and referring instead to the need to consider recreation disturbance on the Pagham Harbour SPA.

It was requested that Natural England provide a revised response referring to the need to consider recreation disturbance on the Pagham Harbour SPA but they have not provided any further advice. As this site lies in the Pagham Harbour Zone B it would be necessary to consider the harm to the Pagham

Harbour SPA and (if approving), secure the appropriate contribution towards mitigation and carry out an appropriate assessment.

ADC POLICY - As according to the Local Plan proposals map, only the very western part of the site is within the biodiversity opportunity area.

ADC ENVIRONMENTAL HEALTH - The applicant provided an Air Quality Assessment during the application.

COUNCILS ECOLOGIST - the applicant has not provided any confirmation in respect of whether the periphery areas will be dark spaces however a condition could be imposed to specify that the future layout should ensure that dark buffer areas are provided that are free of new lighting.

POLICY CONTEXT

Designations applicable to site:

- Outside the Built Up Area Boundary (BUAB);
- Within a designated Strategic Gap (Bognor Regis to Chichester);
- Grades 3a/3b Agricultural Land;
- Predominantly Flood Zone 1 but with Flood Zone 2/3 at the rear;
- Pagham Harbour Zone B;
- 2km of Bognor & Pagham SSSI;
- In part within a designated Biodiversity Opportunity Area;
- In part within 500m of an existing Waste Site;
- Setting of nearby Grade II Listed Buildings; and
- CIL Zone 5.

DEVELOPMENT PLAN POLICIES

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

AHSP2	AH SP2 Affordable Housing
CSP1	C SP1 Countryside
DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM1	ENV DM1 Designated Sites of Biodiversity or geographical imp
ENVDM2	ENV DM2 Pagham Harbour
ENVDM3	ENV DM3 Biodiversity Opportunity Areas
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
HDM1	H DM1 Housing mix
HERDM1	HER DM1 Listed Buildings
HERSP1	HER SP1 The Historic Environment
HSP1	HSP1 Housing allocation the housing requirement
LANDM1	LAN DM1 Protection of landscape character

OSRDM1	Protection of open space,outdoor sport,comm& rec facilities
QEDM3	QE DM3 Air Pollution
QEDM4	QE DM4 Contaminated Land
SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
SDSP3	SD SP3 Gaps Between Settlements
SODM1	SO DM1 Soils
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems

[West Sussex Waste Local Plan 2014:](#)

West Sussex Waste W2 Safeguarding Waste
Management Sites

PLANNING POLICY GUIDANCE:

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

SUPPLEMENTARY POLICY GUIDANCE:

SPD12	Open Space,Playing Pitches & Indoor& Built Sports Facilities
SPD13	Arun District Design Guide (SPD) January 2021

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.

Where applicable, Neighbourhood Development Plan's, once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area. There is no Neighbourhood Plan to consider as the emerging Pagham 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 conflicts with the Arun Local Plan in that it would result in development outside of the

defined settlement boundary & within the strategic gap and the loss of valuable agricultural land. In addition, the submitted Flood Risk Assessment does not correctly consider all sources of flooding.

Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:

"In considering whether to grant Listed Building Consent for any works, the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

The proposal preserves the setting of the nearby Listed Buildings due to the proposed development free zone in the south eastern corner of the site which maintains views of the Listed Windmill from Pagham Road.

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

It is considered that there are other material considerations to be weighed in the balance with the Development Plan and these are set out in the Conclusions section below.

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.

The Council published its Authority Monitoring Report (AMR) for 2020/21 and this shows the Housing Land Supply (HLS) decreased from 3.3 years to 2.42 years. This reflects a more rigorous assessment of housing trajectories following recent appeals including the very recent appeal concerning Land South of Barnham Station.

On the basis of the new AMR, the policies most important for the determination in the ALP (C SP1, SD SP2, SD SP3, SO DM1) have reduced weight as Arun cannot demonstrate an adequate supply of housing land.

Arun Local Plan:

Policy H SP1 sets out an overall provision of 20,000 new homes through the Local Plan phased over the plan period to 2031 (so an average of 1,000 per year). It specifies 1200 of these are to be delivered through the Pagham Strategic sites. The approved residential site opposite forms part of the Pagham North allocation and will secure at least 300 of the total 800 home provision plus an 80 bed care home.

Policy H SP1 states that additional non-strategic allocations will be made across the District, through reviews of Neighbourhood Plans and in cases where there is no up-to-date Neighbourhood Plan, through the publication of a "Non-Strategic Site Allocations Development Plan Document". There is no emerging

Pagham Neighbourhood Development Plan and it is no longer planned to prepare the Non Strategic Sites document with the Local Plan instead being subject to a formal review. The Councils proposed HLS for the Local Plan period was to comprise of windfall sites and 'deliverable' HELAA sites.

Policy C SP1 states residential development in the countryside outside the BUAB will not be permitted unless it accords with policies in the Plan which refer to a specific use or type of development. None of these relate to the proposal. Policy SD SP2 states development should be focused within the BUAB. The proposal conflicts with ALP policies C SP1 and SD SP2.

The site lies in a defined Strategic Gap and ALP policy SD SP3 states development in such areas will only be permitted where it does not undermine the physical and/or visual separation of settlements, compromise the integrity of the gap (including with reference to other existing development), it cannot be located elsewhere and maintains the character of the undeveloped coast.

The proposal would conflict with this policy as it has not been proven that it has to be located here. Whilst it is accepted that the site is a gap between developments and so the site's development will not extend the built development form of Pagham towards Chichester, the proposal will still harm the integrity of the gap by urbanising a presently semi-rural edge of settlement location.

The National Planning Policy Framework (NPPF):

The NPPF is an important material consideration in determining planning applications. As the Council cannot demonstrate a 5-year HLS, para 11(d) of the NPPF and the application of the 'presumption' for sustainable development is triggered.

This states where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (including for applications involving the provision of housing where a 5-year HLS cannot be demonstrated), planning permission should be granted unless (i) the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

Part (i) does apply to this determination as part of the site lies in an area at high risk of flooding. Notwithstanding, for completeness, the part (ii) test will still be applied at the end of this report.

Other Material Considerations

The Council's Action Plan (June 2019) made a series of recommendations to boost housing delivery. This includes relying on the 'presumption in favour of sustainable development' until such time as the 5-year housing land supply is re-established and the HLS is progressed through plan making. It recommended the Council consider inviting applications from landowners/developers on 'deliverable' HELAA sites to re-establish the 5 year housing land supply.

It is acknowledged the site is not listed as deliverable in the HELAA (indeed it is stated to be 'not developable') however the HELAA does note it to be immediately adjacent the BUAB and accessible to services, jobs, leisure and transport. The HELAA states the site could contribute to the sustainability of the area albeit that infrastructure and landscaping would need to be considered.

In January 2022 the government published Arun's most recent Housing Delivery Test (HDT) results and showed that Arun achieved 65% triggering the application of the presumption in favour of sustainable development (although this is already being applied due to the HLS shortfall).

In February 2021, Arun published an Interim Policy Statement for Housing Delivery (IHS). This is not policy, but it meant as a guide for developers proposing development on sites outside the BUAB and to inform planning decisions. The IHS applies to sites adjacent to settlement boundaries and this site is adjacent (opposite to) part of the defined BUAB for Pagham (this being the strategic allocation) so the IHS would apply. The IHS sets out criteria to help speed up determinations of suitable residential developments. The applicant states the proposals meets all but three of the criteria (the exceptions being the site is not within the BUAB, is within a strategic gap and comprises high value agricultural land). Whilst it does score highly against the criteria, it also results in harm to identified assets. Furthermore, the applicants assessment is incorrect in respect of flood risk.

Sustainability

ALP policy SD SP1 states the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. Para 8 of the NPPF states that in order to achieve sustainable development; economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

The site, despite being outside the BUAB, is sustainably located as it lies on the northern edge of the settlement of Pagham and it will be possible for residents to use non-car means of transport to access schools, pubs, shops and other services within the local area. The footway extension will link the site to the existing footway heading south and allow access to the bus stop on the site frontage and for people to walk to access nearby services. The bus stop improvements would benefit new and existing residents alike.

Whilst the private car could be required for longer distances, new residents would not need to rely on a car for local journeys and although public transport may not be particularly attractive in terms of frequency, it does exist as an alternative. The application includes a Framework Travel Plan which proposes new residents be provided with travel information packs and vouchers for bicycles & bus travel. This would need to be finalised and submitted for final approval through a s106 legal agreement. The comments of WSCC Highways set out above agree the site is sustainably located.

The development will result in a small loss of a section of a hedge along the site frontage (to facilitate the site access) with all other existing trees & hedges retained. Due to the field being in arable use, its wildlife value is limited with the important habitats to the peripheries and these are being retained.

The application documents suggest dwellings will, where appropriate, be built with sustainable building construction techniques. Conditions could be imposed to require the use of sustainable energy technologies, electric vehicle charging points, superfast broadband, and cycle storage which together with the Travel Plan will help to minimise the need to travel and reduce travel emissions.

The proposal would be required to provide 32 affordable dwellings and comprises up to 106 new dwellings to contribute to the current housing land supply shortfall & help to meet future needs. It may be possible to secure a percentage of the new housing to be designed as suitable for the older population. The development will affect the current amenities of adjoining developments including the Park home accommodation and so may have a social impact.

The development would generate new (or retain existing) jobs and wages during the construction phase. Once constructed, it would provide for an increase in Council Tax revenues & potential new homes bonus payments whilst CIL receipts (to be determined at reserved matters stage) could be used to contribute towards local infrastructure. The development be required to contribute financially to improvements on the A27. New residents may contribute to local shops and services through their

spending. There will be an economic cost concerning the loss of the agricultural land.

The New Homes Bonus and Community Infrastructure Levy are local finance considerations and as noted in the Development Plan Background section above, section 70(2) of Town and Country Planning Act 1990 (as amended) provides that local planning authorities should have regard to any local finance considerations, so far as material to the application. However, council tax revenues are not capable of being considered in the same way.

Conclusion on Matters of Principle:

The principle of development on this countryside site conflicts with the ALP and this conflict is not overridden by any of the identified material considerations. As the Council cannot demonstrate an appropriate HLS, the policies most important for determining the application are out-of-date and so the application must be determined by the NPPF presumption in favour of sustainable development under paragraph 11 (d).

AGRICULTURAL LAND:

The application is accompanied by an Agricultural Land Classification and Soil Resources report (ALC) which concludes that 1.9ha of the site is in Grade 3a (good quality) and that 3ha is within grade 3b (moderate quality). The ALC states the site has most recently grown Calabrese, some of which was still remaining at the time of the survey. The ecology report noted the site was dominated by a large arable field which had recently been ploughed and seeded.

ALP policy SO DM1 states unless land is allocated, then the use of Grades 1, 2 and 3a of the ALC for any form of development not associated with agriculture, horticulture or forestry will not be permitted unless the need for the development outweighs the need to protect such land in the long term. The policy then makes it clear that in order to fully justify the loss of the agricultural land, the policy criteria (a) to (b) and (d) to (g) should be met. These require assessment of the land's economic status, the land's environmental & other benefits and mitigation measures

In allowing an appeal at Clays Farm, Yapton which concerned a refusal on loss of grade 2 agricultural land (Y/62/18/OUT), the Inspector noted the site was not being used for agriculture and that there was no evidence that the site would be so used in the future. The Inspector stated whilst this does not in itself justify the loss of agricultural land, it does act to reduce the level of environmental and economic harm caused by its development. The Inspector considered that the loss of the grade 2 agricultural land represented only moderate harm and that the benefits of the new homes outweighed this harm.

This site is materially different to that in that although the agricultural grade is not as good, this site is currently being used for arable crops and has been for some time with the realistic possibility that it will continue to be so used should this application be refused. The remaining 3ha of land is grade 3b which is only slightly less productive than 3a and the site is in the ownership of a neighbouring large farm.

It is recognised that the Council's current HLS shortfall is significant and that only 1.9ha of the site area is of best and most versatile agricultural land. The need for housing is likely to outweigh the need to protect this land. No evidence has been submitted in accordance with the other criteria of policy SO DM1, to amongst other things, demonstrate that the land is surplus to requirements and to detail how the important soils will be protected & reused.

There remains conflict with the policy and this alongside the harm arising from the loss of this productive agricultural land will need to be balanced against the benefits of the proposal in the eventual analysis of harm versus benefits.

TRAFFIC & ROAD SAFETY:

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. Policy T DM1 requires new development be located in easy access of established non-car transport modes/routes.

Para 110 of the NPPF states: "In assessing .. specific applications for development, it should be ensured that: (b) safe and suitable access to the site can be achieved for all users". Para 111 states: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

The application proposes a main access from Pagham Road. The illustrative layout suggests a secondary pedestrian access in the very south eastern corner which reflects an existing situation. The application proposes to commit to the provision of real time information screens at the nearby north and south bound bus stops.

The comments of WSCC Highways are set out in full on the Councils website (dated 27/01/22, 24/02/22 & 09/03/22) and summarised elsewhere in this report. They raise no objections including with respect to the ability of the road network to absorb the increased traffic, the safety of the access and the safety of cyclists on surrounding roads. There is no conflict with paras 110 & 111 of the NPPF.

As there are no details as to layout, size of the houses or the exact form of parking spaces, it is not appropriate to consider parking provision at this time. Compliance with the Arun Parking Standards SPD would need to be considered at reserved matters stage. This would include a requirement to ensure 5% of all spaces are suitable for the disabled and provide for electric vehicle charging points.

The proposal is compliant with relevant development plan policies and guidance on highway safety within the NPPF.

HERITAGE ASSETS:

There are two Grade II Listed Buildings in close proximity to the site. The curtilage of Rookery Farmhouse is around 43m from the site boundary whilst the Nyetimber Windmill is even closer at around 5m.

ALP policy HER SP1 states development likely to prejudice heritage assets and their settings will be refused. Policy HER DM1 requires that proposals protect and, where possible, enhance the setting of Listed Buildings. The NPPF provides guidance on how to determine impacts on heritage assets.

Para 194 requires applicants to describe the significance of heritage assets affected, including any contribution made by their setting. Para 195 then requires Local Planning Authorities to identify and assess the particular significance of the heritage asset that is affected by a proposal. The Local Planning Authority must then consider the level of harm associated with the proposal and decide whether there is no harm, 'less than substantial harm' or 'substantial harm'. It is then necessary to counterbalance 'less than substantial harm' with the level of public benefits associated with the proposal (as set out in para 202). The submission includes a Heritage Statement which states:

- Development of the site would not have a direct physical impact on any designated heritage assets;
- It is considered that the development will be likely to result in no harm to Rookery Farmhouse and in 'less than substantial harm' at the lower end of the scale to Nyetimber Windmill; and
- The latter can be reduced to no harm if a sight line from Pagham Road to the windmill is maintained by omitting development of the study site's south-eastern corner.

The Councils Conservation Officer has agreed with the assessment stating that the proposal will result in no harm to Rookery Farmhouse and 'less than substantial harm' at the lower end of the scale to Nyetimber Windmill. This is on the basis that the development exclusion zone is secured by condition. The proposal will result in the following public benefits:

- provide up to 106 new homes to contribute to the Councils current HLS shortfall/meet future needs;
- provide new affordable housing;
- provide new public open space & play facilities available for use by existing & new residents;
- provide new public footpaths available for use by existing & new residents;
- provide CIL payments and a strategic highways contribution to enable infrastructure improvements;
- provide an increase in Council Tax receipts;
- provide potential 'New Homes Bonus' payments from the Government;
- either create new construction jobs or help to maintain existing ones; and
- result in additional spending by new residents on goods & services including within the local area.

The public benefits are of a level that the 'less than substantial harm' can be outweighed (particularly as it is on the lower end of the scale) and so the proposal is in accordance with the NPPF guidance.

The proposal accords with the relevant development plan policies and also with section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in that it does not directly affect any heritage assets and also preserves the setting of the nearby Listed Buildings.

ARCHAEOLOGY:

ALP Policy HER DM6 states that where a site on which development is proposed has the potential to include heritage assets with archaeological interest, permission will only be granted where it can be demonstrated that development will not be harmful to the archaeological interest of these sites. The policy requires that a desk based archaeological assessment be submitted with the application.

This site is not in a designated archaeological notification area and so the Councils Archaeologist has not been consulted. It is recognised the submitted assessment suggests the site has moderate potential to contain archaeological finds & features from prehistoric periods and a moderate to high potential for Iron Age and Roman periods. A condition could be imposed to secure the detailed recording of such finds prior to any development taking place. There is no conflict with policy HER DM6.

LANDSCAPE, CHARACTER & DENSITY:

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. Policy LAN DM1 states development should respect the particular characteristics & natural features of the relevant landscape character areas.

The indicative layout shows a mix of semi, detached and short terraces of dwellings. Section G of the Arun Design Guide suggests a density of 10-20 for detached/semi-detached houses and 15-25 for terraced houses in suburban areas. The Design Guide states the density should be appropriate to the location, balancing the need for efficient use of land with a design that responds to and enhances the existing character. The overall density is 21.5 dwellings per hectare and this is acceptable. It is material

that permission is applied for up to 106 dwellings and so the Local Planning Authority would be able to seek a lower number at a future reserved matters stage following assessment versus detailed design policies.

The Pagham Village Design Statement is over 14 years old but remains a material consideration in the determination of applications. The site falls in the Rural Areas character area and the advice states the open fields west of Pagham Road and those abutting Hook Lane are considered especially sensitive and valued areas. Only in exceptional circumstances should consent be given for change of use development in strategic gaps outside the built-up area. The proposal conflicts with this guidance.

The application is outline and does not seek the approval of layout, external appearance, scale or landscaping. The illustrative masterplan suggests the site layout will ensure a landscaped soft edge to the existing boundaries and that the open space areas will benefit from natural surveillance with houses orientated to face towards these areas.

This proposal will result in a visual change to the character of Pagham Road in this edge of settlement semi-rural location. Whilst screening along the frontage will mitigate this to a certain extent (and can be enhanced with new planting), the character of this part of Pagham will be harmed through this development by virtue of the loss of the agricultural field which provides for a slow transition from urban to rural (noting the low density, spacious form of development to the immediate north). The presence of the strategic site opposite is acknowledged but this was agreed at a high level to be a sustainable extension to the settlement boundary not an ad-hoc infill development.

The submitted Landscape and Visual Impact Assessment (LVIA) is disputed that the visual change would be confined to the site itself and that the character of surrounding areas would remain unaffected. In particular, issue is taken with the assertion that the residential mobile home park creates a poor-quality edge to the village. The mobile homes are low key single storey dwellings which provide for an appropriate transition from settlement to semi-rural areas. Only a few of them are visible through the gap in the site's frontage landscaping whilst others are screened by existing hedging on the site's southern boundary.

The proposal will be in principle harmful to the character of this edge of settlement location and so contrary to the relevant development plan policies.

RESIDENTIAL AMENITY:

ALP policy D DM1 requires there be minimal impact to users and occupiers of nearby property and land. ALP policy QE SP1 requires development contribute positively to the quality of the environment and ensure development does not have a significantly negative impact on residential amenity. The Arun Design Guide sets out guidance on garden depths and interface distances between houses.

Notwithstanding the outline nature of the application, it is still appropriate to ensure the development can be finalised without giving rise to any harm to existing residential properties. The indicative layout suggests buffer planting/open space areas to all boundaries and these should be sufficient to ensure appropriate interface distances between dwellings particularly when coupled with enhanced landscaping along and in the vicinity of the boundaries. It is helpful that the site is predominantly to the north of the Mill Farm park home estate as there will be no light loss to these residents.

The location of the pedestrian access is adjacent to an existing dwelling and its use might give rise to disturbance. However, it is important to note that it represents an existing situation and it is understood to be currently used by agricultural workers walking between the Barfoots of Botley site to the north and the shops of Pagham to the south. The path is adjacent to the existing main road. No concerns are

raised with this from an amenity point of view.

The concerns of residents relating to general disturbance to the residents of Mill Farm are noted. It is acknowledged that residents of the estate are older and likely value the quiet edge of settlement nature of the estate.

Subject to a more detailed consideration of privacy issues at the reserved matters stage, there is no conflict with ALP policies D DM1 or QE SP1.

POLLUTION IMPACTS:

ALP Policy QE DM3 requires that major developments are in easy reach of established public transport services, maximise provision for cycling & pedestrian facilities, include electric car charging points and contribute towards the improvement of the highway network.

The layout and footway improvements will allow persons to safely walk out of the site and south towards nearby services and facilities. Residents can cycle via Pagham Road to reach destinations to the south and east. Experienced cyclists may be able to cycle towards Chichester via Pagham Road although this is not necessary to reach shops, services and other facilities.

Electric vehicle charging points, cycle storage and travel vouchers will promote the use of non-car means of travel and so potentially reduce vehicle emissions. The submitted Air Quality Assessment concludes that the development will not conflict, in air quality terms, with national or local policies and will not result in any significant effects on air quality. In respect of the resident objection concerning odour pollution from a Foul Treatment Plant, it is material that there is no objection from the Councils Environmental Health Officer (EHO).

Policy QE DM1 states residential development likely to experience road noise must (a) be supported by a noise exposure category assessment and designed to ensure that residents will not be adversely affected by noise; and (b) consider both the likely level of exposure at the time of application and any increase that might be reasonably expected in the foreseeable future.

The application is accompanied by a Noise Assessment which demonstrates that the target internal noise levels for bedroom and living/dining areas in accordance with internal ambient levels from the guidance in BS8233:2014 can be achieved with appropriated specified glazing together with the supply of trickle vents to habitable rooms fronting Pagham Road. The Councils EHO has not objected, instead recommending conditions.

ALP policy QE DM2 states outdoor lighting should not have an adverse impact on neighbouring uses or the wider landscape, particularly with regard to the South Downs International Dark Sky Reserve designation. Further, that schemes proposing outdoor lighting be accompanied by an assessment.

The application states that well-designed public lighting will be integrated into future reserved matters applications and that this will take account of residential amenity & local wildlife considerations in balance with highway and pedestrian safety. It would be appropriate to control this by a condition to require the submission of full lighting details at the reserved matters stage. The EHO raises no concerns.

CONTAMINATION:

ALP Policy QE DM4 states development will be permitted on land that is contaminated as long as remediation is provided. The submitted Geo-technical Phase 1 desk study advises that typical contaminants would relate to the land's agricultural use and that the overall contaminative risk is likely to

be low. The Councils EHO has raised no objections subject to contamination conditions. Subject to this then there would be no conflict with the policy as remediation could be secured.

TREES:

ALP policy ENV DM4 states TPO protected trees, Ancient Woodland, those in a Conservation Area or trees that contribute to local amenity are not damaged or felled unless the development meets the certain criteria including that the benefits outweigh the loss of trees or woodland.

The application proposes to remove a small section of hedge along the frontage to facilitate the site access. The Councils Tree Officer has not commented but it is unlikely that there would be an objection to this particularly as the hedge is very low in height.

Landscaping will be considered at a future reserved matters stage and the Council would require that replacement hedging is provided to compensate for that lost on a 2:1 basis. This could be specified by a condition and as such there is no conflict with the relevant policy.

BIODIVERSITY:

The western edge of the site (a strip of between 12 and 30m wide) lies in a designated Biodiversity Opportunity Area. Policy ENV DM3 requires that development in these areas retain & sympathetically incorporate locally valued and important habitats and be designed in order to minimise disturbance to habitats. The proposal may conflict with this policy should there be new 'built' development in this zone. At present, it appears from the illustrative layout that there is some intrusion from roads and footpaths but the layout is indicative only. A condition could be imposed to ensure that the eventual layout respects this area and either keeps development out of it or otherwise minimises intrusion.

ALP policy ENV DM5 states development schemes shall seek to achieve a net gain in biodiversity and protect habitats on site. The application is accompanied by an Ecological Appraisal which identifies that the most important wildlife habitats are to the site boundaries and these are expected to be retained and enhanced with an attenuation basin, species-rich grassland and new trees and other landscaping. Two on site trees were identified as being suitable for roosting bats and grass snakes were identified within some of the hedgerows.

The Councils ecologist has not raised any in principle objections and conditions can be imposed to ensure that the required mitigation measures are taken forward at the future reserved matters and construction stages. The proposal results in the loss of a small section of low hedgerow, the existing arable field and a small area of poor semi-improved grassland. New planting to be detailed at reserved matters stage will ensure these losses are mitigated. Other biodiversity enhancement measures can be secured through conditions. It is anticipated that a detailed submission at the site would be able to demonstrate biodiversity net gain given the low wildlife value of the majority of the site (the arable field).

ALP policy ENV DM2 requires that new residential developments in a 400m to 5km distance ('Zone B') of Pagham Harbour make a financial contribution towards the provision of accessible natural open green spaces to serve the area. A contribution of £871 per new residential unit was agreed by the Councils Cabinet on 10 April 2017. The application site lies within the designated Zone B and accordingly it is necessary to apply this requirement.

The net increase dwellings will necessitate a payment of up to £88,842 at the current rate. This would need to be secured by a s106 legal agreement and as the exact number of dwellings is not known yet, this would need to specify £871 per new dwelling rather than the total amount. No s106 agreement has been agreed due to the Council recommending refusal and so there is conflict with this policy. Due to

the decision being to refuse, the Council has not prepared an Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017 to enable Natural England to agree the mitigation position for this development.

FLOOD RISK:

The site is predominantly in Flood Zone 1 (FZ) which is low risk but the western extent of the site lies in FZ's 2 & 3 with the FZ3a area extending approximately 15m into the site area but not to a uniform extent. As per the Councils Strategic Flood Risk Assessment, it is predicted that a greater part of this area (up to approx. 55m in from the western boundary) will be FZ3a by 2111.

The source of the future flood risk is from sea level rises with water 'flooding' back from Pagham Harbour up the Pagham Rife and spilling out onto surrounding land such as this site. There are only limited sea defences at Pagham Harbour and as is clear from recent applications for works to the Pagham Spit (e.g. P/93/21/PL), there is a very real risk of erosion taking place at the Harbour mouth and land being lost to the sea. Those homes on the western side of the site could be at risk of future flooding. Ground level raising would not be permitted as a means to resolve this as this could increase the flood depth on surrounding land such as the adjacent Mill Farm mobile home park which is of greater vulnerability than houses.

ALP policy W DM2 refers to the sequential and exceptions tests, need for a Flood Risk Assessment (FRA) and mitigation. Policy ECC SP1 states development must be located & appropriately designed to adapt to impacts arising from climate change such as the increased probability of tidal and fluvial flooding.

Government guidance states a sequential site assessment is required where a site is at high risk of current or future flooding. Para 162 of the NPPF states the sequential approach should be used in areas known to be at risk now or in future from any form of flooding. Para 159 NPPF states development 'should be made safe for its lifetime without increasing flood risk elsewhere.' Para 33 (Reference ID: 7-033-20140306) of the PPG states it should not normally be necessary to apply the sequential test to development in proposals in FZ1 (and with a low probability of flooding from rivers or the sea) unless the flood risk assessment indicates there may be flooding issues now or in the future (for example by climate change).

There is a requirement to provide a sequential site assessment in cases of both current and future high flood risk in order to demonstrate there are no other suitable locations for the development in areas not affected by current/future flooding.

The applicant provided a FRA but stated that as the development area is wholly within FZ1, neither the sequential test nor the exceptions test is required. The Environment Agency reviewed the application and object stating that current FRA does not correctly identify flood risk at the site including with reference to climate change. There is conflict with ALP policies W DM2 and ECC SP1 plus the guidance in the NPPF and associated guidance.

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.

A drainage strategy has been submitted in the FRA and this has been reviewed by drainage engineers. This states the development will manage storm water by conveying surface water through a piped network before discharging into the detention basin at the low point of the site. The basin will ensure

peak discharges from the developed land is not increase from the appraised baseline rates. The system will also provide to maintain the quality of water discharged from the development.

The Councils drainage engineers raise no in principle objections subject to consideration of the detailed design at condition discharge stage. There is no conflict with the relevant drainage policy.

FOUL DRAINAGE:

ALP policy W DM1 states all major developments must demonstrate, that adequate drainage capacity exists or can be provided as part of the development. Where adequate capacity does not exist, there will be a requirement that facilities are adequately upgraded prior to the completion and occupation of development.

The submitted FRA states there is a rising main crossing the site. It is stated there is capacity at the Pagham Wastewater Treatment Works for an additional 734 dwellings and that improvements to this facility will be complete by 2025 thereby ensuring extra capacity for this development when complete and occupied. The submission states that Southern Water have informally agreed a connection to the exiting Pagham Road sewer subject to network reinforcement taking place. This could be resolved by a standard condition requiring that occupation of the site is phased to align with network reinforcement measures.

Although Southern Water have not been given the opportunity to provide consultation advice, there is no conflict with policy W DM1.

TELECOMMUNICATIONS:

ALP policy TEL SP1 state all proposals for new residential, employment and commercial development must be designed to be connected to high quality communications infrastructure. This policy could be adhered to by means of a condition to require evidence of such a connection before the homes are occupied.

CLIMATE CHANGE:

ALP policy ECC SP2 requires new residential and commercial development be energy efficient and incorporate decentralised, renewable and low carbon energy supply systems. ECC SP1 requires new development be designed to adapt to impacts arising from climate change and all major developments must produce 10% of total predicted energy requirements from renewables unless unviable.

The application suggests the dwellings will, where appropriate, be built with sustainable building construction techniques. A condition would need to be imposed to ensure that the policy requirements are incorporated into the reserved matters application and the final build. This would ensure no conflict with the relevant policy.

HOMES FOR OLDER PEOPLE:

Arun DC has an agreed internal policy on the provision of housing accommodation to provide for an ageing generation ("Accommodation for Older People and People with Disabilities", 2020). This is not adopted policy or a supplementary planning document but is considered to have some weight as a material planning consideration and is supported by references in ALP policies D DM1 & D DM2.

It is not possible at this stage to determine the proposal against this due to layout not being for consideration however a condition could be included to require that the reserved matters scheme take

account of these requirements.

AFFORDABLE HOUSING:

Developments over 11 residential units require a minimum provision of 30% affordable housing on site as per ALP policy AH SP2. In addition, the Council recently adopted an interim affordable housing policy which sets out the need to secure first homes as part of the affordable housing mix.

The Councils Housing Strategy and Enabling Officer stated the application should provide 32 affordable dwellings consisting of 21 x affordable rented and 8 x First Homes with the mix broadly in line with that set out in the Strategic Housing Market Assessment (SHMA) and where possible for a proportion of the rented units to be set at a rent level of 60-65% of open market rent. This provision is based on 106 new homes and so the s106 may need to agree this as a percentage instead in case the number of dwellings is reduced.

As no s106 agreement has been agreed due to the Council recommending refusal, there is conflict with the policy.

PUBLIC OPEN SPACE & PLAY:

ALP policy OSR DM1 requires housing developments provide sufficient public open space, playing pitch provision and indoor sport & leisure provision. The Councils SPD "Open Space, Playing Pitches, Indoor and Built Sports Facilities" (January 2020) sets out a requirement for 7,462m² of on-site Public Open Space (POS) and an additional amount of on-site play provision (1,283m²). This is based on 106 homes and so the amounts could reduce if the dwelling number was lower at the detailed stage.

It is the Councils approach to secure the on-site POS & play requirements by conditions and so this is not dependant on the agreement of a s106. As it is not possible to secure any off-site contributions through a s106 Agreement due to CIL, contributions to off-site leisure & sports facilities would need to be funded by CIL instead. Therefore, there would be no conflict with ALP policy OSR DM1.

SUPPORTING INFRASTRUCTURE:

ALP policy INF SP1 requires development proposals provide or contribute towards the infrastructure & services needed to support development to meet the needs of future occupiers and existing community.

This development would be liable for CIL, but this will not be calculated until reserved matters stage when the floorspace is known. Infrastructure providers such as WSCC and the NHS can then make a bid for a portion of the CIL payments collected to spend on their own projects. The Parish Council will be provided with a percentage of the CIL receipts (15%) to spend on their own projects. These payments go towards providing the infrastructure that the district needs to support existing and future development.

In respect of highway contributions, para 5 of the most up-to-date ADC Community Infrastructure Funding Statement details ADC's CIL infrastructure list which does not include strategic highways. It is evident no ADC CIL money will be spent on strategic highways. Paragraph 6.3 makes it clear that ADC do not generally collect via s106 for strategic highways (i.e. the strategic road network as managed by National Highways) and there is nothing in WSCC CIL Infrastructure Funding Statement that indicates that CIL will be passed on to National Highways where there are impacts on the strategic road network. It is clear that National Highway's consultation response is an objection unless the LPA collect a contribution of £90,100 towards mitigation of the A27 Whyke Hill junction.

Objectors are concerned that there is no evidence of how necessary infrastructure will be delivered

within 5 years. Policy INF SP1 does state infrastructure provision should be secured and be operational no later than the completion of the development for which it is needed. In practice, the delivery of infrastructure is subject to external bodies not the applicant and it would be unreasonable to refuse this application on the grounds that there is no certainty as to when external bodies will deliver infrastructure improvements.

As no s106 agreement has been agreed due to the Council recommending refusal, there is conflict with the policy in respect of the strategic highways contribution and the required Travel Plan and associated monitoring fee.

SUMMARY & TILTED BALANCE:

The NPPF is an important material consideration in determining applications. As the Council cannot demonstrate a 5-year HLS (currently 2.42-years), para 11(d) of the NPPF and the application of the 'presumption' for sustainable development is triggered.

This states where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (including for applications involving the provision of housing where a 5-year HLS cannot be demonstrated), planning permission should be granted unless (i) the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

Part of the site lies in a high flood risk zone and so in accordance with para 11(d) (i) the presumption would not apply to the development of this area. In respect of the part (ii) test, the report identifies that the proposal is in conflict with the Councils policies in respect of development in the countryside, harm to the character of the area, development in a strategic gap and development of high value agricultural land. There will be harm to amenities of adjoining occupiers in the form of noise and disturbance.

The site is environmentally sustainable with limited harm to the natural environment and the development will help to support the local community/economy by providing up to 106 new homes to boost the Councils HLS shortfall, provide new affordable homes, help to maintain construction jobs, support local shops/services and contribute to infrastructure improvements across the district.

Despite the benefits and acknowledging the level of the Councils current HLS shortfall, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. The presence of the area of high flood risk within the application site also means that the proposal as a whole does not benefit from the presumption in favour of sustainable development. The application should be refused for the following reasons:

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), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the

rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal 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.

RECOMMENDATION

REFUSE

- 1 The proposed development would have an unacceptable impact on the character and appearance of this countryside site, serve to unacceptably harm the integrity of the strategic gap by urbanising a presently semi-rural edge of settlement location and result in a net loss of high value agricultural land contrary to policies C SP1, SD SP3 , D DM1, LAN DM1 and SO DM1 of the Arun Local Plan. The harm identified clearly and demonstrably outweighs the benefits of the application including its contribution to the Councils Housing Land Supply shortfall.
- 2 The proposal conflicts with policies W DM2 and ECC SP1 of the Arun Local Plan and paras 30-32 of the NPPF in that the submitted Flood Risk Assessment does not correctly identify sources of flood risk and does not take into account the impacts of climate change.
- 3 In the absence of a signed Section 106 agreement, the development fails to make any affordable housing provision contrary to the aims and objectives of the NPPF (in particular paragraphs 63-65) and policy AH SP2 of the Arun Local Plan.
- 4 In the absence of a signed Section 106 agreement, the development makes no provision for either the mitigation of the strategic highway network or for the future monitoring of a Travel Plan contrary to the requirements of policies T DM1 and T SP1 of the Arun Local Plan and para 110 of the NPPF.
- 5 In the absence of a signed Section 106 agreement, the application fails to make a financial contribution towards the cost of providing accessible natural open green spaces to serve the Pagham area to offset the impacts of recreational disturbance on the Pagham Harbour SPA and the proposal is therefore not in accordance with Arun Local Plan policies ENV DM1 and ENV DM2.
- 6 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reasons for the refusal, approval has not been possible.