

PAGHAM PLANNING STATEMENT APPENDICES – 130 DWELLINGS

APPENDIX 1

Officers Report Land South of Summer
Lane

PLANNING APPLICATION REPORT

REF NO:	P/15/24/OUT
LOCATION:	Land South of Summer Lane Pagham
PROPOSAL:	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.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Although layout is a reserved matter, an illustrative layout has been provided which indicates new residential dwellings including flatted buildings together with parking, roads, footpaths, play areas, open space, landscaping, and drainage features. The existing trees to the northern and southern boundaries are shown to be retained and new trees are shown within the layout. The application proposes to take access from an estate road on the adjacent site to the east (as approved by P/140/16/OUT). This will require a form of crossing over the existing boundary ditch. The access road also crosses the route of Horns Lane, a private road between Summer Lane and Church Barton Farm. The application proposes to install an electric fob operated gate on Horns Lane set back 6m from the northern edge of the new carriageway. In addition, a series of signs will be placed to make drivers aware not to turn onto Horns Lane/that it is a private road. The access road carriageway will be 6.1m wide. Two shared pedestrian/cycle accesses will be provided onto Summer Lane to the North. Further footpath accesses to the north, east and south are also shown.
SITE AREA	5.56 hectares.
RESIDENTIAL DENSITY	Up to 21.6 dwellings per hectare.
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

BOUNDARY TREATMENT	outside of the site area). None of the trees are protected. 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, it must be noted that the adjacent land to the east and south benefit from planning permissions for new housing. There is also an existing housing development to the north-east (90 dwellings under references P/58/15/OUT & P/70/19/RES).

RELEVANT SITE HISTORY

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.	
P/139/22/RES	Approval of reserved matters following P/25/17/OUT for the provision of 65 dwellings, access roads, landscaping, open space and associated works. This application affects a Public Right of Way.	ApproveConditionally 23-01-24
P/155/21/RES	Approval of reserved matters (layout, scale, appearance and landscaping) following outline consent P/140/16/OUT for the 'local centre' parcel which comprises of retail, community and commercial uses, 20 No residential apartments and a 70 bed care home.	ApproveConditionally 31-05-22
P/153/21/RES	Approval of reserved matters (appearance, layout, landscaping and scale) following outline planning Permission P/140/16/OUT for the erection of 350 No. dwellings, together with public open space, play space, drainage, parking and associated infrastructure, landscape, ancillary and site preparation works, with access off Pagham Road. This site may affect a Public Right of Way.	ApproveConditionally 19-01-24

P/70/19/RES	Approval of reserved matters following outline consent P/58/15/OUT for 90 No. dwellings. Also seeking to address the terms of planning conditions 6 (Phasing), 8 (ecology), 9 (Surface Water), 12 (Vehicular Access), 15 (Parking), 18 (Travel Plan), 20 (Landscape Management), 24 (Parking Control), 25 (Dwelling Parking) and 26 (Materials).	ApproveConditionally 28-02-20
P/25/17/OUT	Outline application with all matters reserved - Erection of up to 65 No. dwellings, access roads, landscaping, open space & associated works.	App Cond with S106 05-09-19
P/140/16/OUT	Outline application for access only - mixed use development comprising of up to 400 dwellings, a care home with up to 70 beds, a Local Centre comprising up to 2000sqm of A1/A2/A3/D1/sui generis floorspace, provision of land for a 1FE primary school (with sufficient space to ensure that it is expandable to 2FE), provision of land for a scout hut, safeguarding of land to help link the site to the Pagham Harbour Cycle Route & other community uses including public open space & allotments with some matters reserved.	App Cond with S106 22-11-18
P/58/15/OUT	Outline application with some matters reserved for the erection of 90 No. dwellings with associated access & open space. This is a Departure from the Development Plan.	App Cond with S106 30-09-16

A second application has been lodged on the same site under ref P/35/24/OUT and this proposes a slightly lower number of dwellings (up to 110). Neither of the applications have been subject to any pre-application advice. The land to the south and the east are all part of the Pagham South strategic allocation and benefit from outline and reserved matters approvals under references P/140/16/OUT, P/25/17/OUT, P/153/21/RES, P/155/21/RES and P/139/22/RES.

REPRESENTATIONS

Pagham Parish Council - object for the following reasons:

- This is in the countryside and regard needs to be had to the improved housing land supply situation.
- The Transport Assessment does not consider the Bersted SD3 allocation or the 106 homes approved on Pagham Road (P/178/21/OUT) in the cumulative assessment.
- Increased danger to pedestrian/cyclists on Pagham Road.
- A s106 contribution should be secured to the improved cycling route.

- Loss of best and most versatile agricultural land.
- Surface Water drainage concerns.
- ADC's Engineers must provide consultation advice.
- The P/140/16/OUT Brent Geese mitigation land must be secured first before development is granted
- The availability of the Public Open Space to the wider community should not be seen as a positive as it is not needed.
- The economic benefits have been overstated and do not consider the loss of agricultural income.
- The development must align with the delivery of infrastructure.
- Need landscaping to prevent vehicles entering Summer Lane from the development site.

Further comments were submitted in September and state concern by the prospect of access being available from the site access road to Summer Lane via Horns Lane. The Parish are concerned that the proposed signage can be ignored by drivers and are worried about who will be responsible if the gates are broken.

As of 10 October, 47 letters of objection (including from North Mundham Parish Council) raising the following issues:

- Development in the countryside and not an allocated site.
- Loss of Grade 2 agricultural land.
- The level of housebuilding in Pagham conflicts with ADC's stated objectives in its Direction of Travel document.
- Overdevelopment of Pagham.
- Further development of land adjacent new homes.
- No new housebuilding until the impacts of current approved developments are fully understood.
- The NPPF presumption in favour of sustainable development is ill-conceived.
- The Transport Assessment also needs to take account of developments in North Mundham, and the impact on the B2166 Lagness Road.
- There should be no access from Summer Lane.
- Increased danger to pedestrian/cyclists on Pagham Road.
- Increased wear on local roads from high traffic numbers.
- Insufficient road capacity for the scale of new housebuilding.
- No enhancement of the Strategic National Cycle Network Route 2.
- Harm to Pagham Harbour and Brent Geese.
- Displacement of wildlife species.
- Insufficient local infrastructure for the scale of new housebuilding.
- Insufficient foul sewage capacity despite improvements.
- Increased risk of flooding due to drainage.
- Harm to the amenity value of footpaths.
- Insufficient garden sizes.
- Harm to mental health of existing residents; and
- The new play park on Summer Lane is still not open.

As of the same date, 30 letters of support on the following grounds:

- More homes will help local people afford housing.
- Will help with the current housing land supply shortfall.
- Affordable homes will help those on the waiting list.
- More homes will enable people to upgrade their current living situation; and
- Need infrastructure and sufficient drainage in place to go with the new homes.

COMMENTS ON REPRESENTATIONS RECEIVED:

The majority of the objections are discussed in the content of the conclusions section with the exception of the following:

- Whilst the Transport Assessment is not explicit that it has considered the West Bersted allocation or the Pagham Road decision, these sites have been picked up as forecast growth in the TEMPRO modelling software so their impacts on the surrounding network have been considered. Peak hour vehicular trips generated by the proposal would be the region of 60 trips during both AM and PM peaks and given the location and choice of routes, some of this traffic will be distributed towards Bognor and some towards Chichester, thereby reducing the impact at various points on the network. The additional impact on junctions is very small compared to the base position plus committed developments and so would be hardly noticeable daily. Therefore, this would not prevent the delivery of other sites such as West of Bersted and BEW.
- The site is eligible for the Community Infrastructure Level (CIL) and so it is only possible to use s106 to secure affordable housing, school transport contributions, strategic highway (i.e. A27) contributions and any on-site mitigation measures. Unlike with the strategic allocations, it is not possible to secure a Strategic National Cycle Network contribution through s106.
- Drainage consultation for major applications is undertaken by WSCC Engineers however they do liaise closely with ADC's own engineers.
- Regardless of need, the increased availability of public open space in the local area has to be considered favourably
- It is not possible to align all new development with infrastructure delivery as this is typically undertaken by third parties, however the development will clearly secure monies to go towards new infrastructure.
- No vehicular access is proposed from Summer Lane (only pedestrian/cycle). Bollards/barriers will be sufficient to prevent access by motorbikes.
- The proposal does conflict with some of the housing policy options in the Direction of Travel document but this is the very early stage of Local Plan preparation and has very little weight in the determination of applications.
- The council has an existing housing land supply shortfall and must look to allow new development on land in or adjoining existing settlements/built areas.
- It is not possible to refuse new development in order to have time to survey for the impacts of previous approvals.
- The Pagham Wastewater Treatment Works is currently being upgraded and due to complete in 2025. It is not appropriate to say it is insufficient until the new upgrades are operational.
- There is no policy in place to protect the amenity value of footpaths, only to protect their route and recreation use.
- The submitted layout plans are illustrative and given the outline nature of the application, it is not possible to assess the layout or the size of gardens.
- The availability of the play park on Summer Lane is not material to this application as new play areas will be provided to serve the new homes.

The supporter letters are noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

NATIONAL HIGHWAYS - no objection subject to conditions to secure a Travel Plan and a Construction Management Plan. Do not require any contributions towards the A27.

NATURAL ENGLAND - state have no specific advice.

SOUTHERN WATER - raised some concerns with the potential for odour pollution from the nearby Pagham Wastewater Treatment Works (PWwTW) but did not request any further information or make any objection. Request a standard foul drainage condition and a second condition to ensure the occupation of the homes aligns with the delivery of sewerage network reinforcement works. Also note the location of a foul sewer rising main crossing the site.

SUSSEX POLICE - no objection at this stage.

WSCC DRAINAGE - no objection subject to conditions regarding surface water, management, and verification.

WSCC EDUCATION - objection due to it not being possible to expand secondary school provision for pupils arising from the development, and the lack of an allocated or secured site for a new secondary school. Until such time that the new secondary school has been built & opened, would require a contribution towards home to school transport in order to enable pupils to access schools outside the district. Also request that this development provides a contribution towards the new School.

WSCC HIGHWAYS - no objection subject to a Travel Plan & associated monitoring fee being secured by a s106 agreement. Also request conditions relating to implementation of the access, the estate roads and parking spaces before occupation, electric vehicle charge points, cycle parking, and construction management. Separately advised no objection re the proposals for the intersection with Horns Lane.

WSCC PUBLIC RIGHTS OF WAY (PRoW) - no objection subject to a contribution to upgrading FP100 from a footpath to a bridleway. Also request an informative be added.

WSCC FIRE & RESCUE - no objection subject to a condition to secure fire hydrants.

PORTSMOUTH WATER - no objection but request that ADC seek to restrict water usage to a minimum standard of 100 litres per person per day.

ADC ECOLOGY - no objection subject to conditions to secure a suitable lighting scheme, 20 bat bricks/tubes, 60 integral bird nesting bricks and 16 bee bricks in sunny locations. States that further bat, wintering bird, badger and reptile surveys will be required at the reserved matters stage as the current surveys will most likely be out of date by then.

ADC BIODIVERSITY NET GAIN (BNG) - states no objection to the BNG information. Requests the standard BNG condition and inclusion of BNG within the s106 legal agreement.

ADC LANDSCAPE - no landscape objection subject to a landscape scheme and provision of on-site play/open space. The potential impact on the location would require that landscaping be provided as mitigation towards screening and softening of the development. The council's SPD requires 9900m² as a minimum of well connected, usable, quality POS provision. On site Local Areas for Play (LAP), Local Equipped Area of Play (LEAP) and Neighbourhood Equipped Area of Play (NEAP) provision will be required. The submission states the provision of 3no LAPs, 1no LEAP and 1no NEAP which would appear suitable provision for the development. Consideration will be required re the access into the site and the impact this may have on existing trees and hedges on any boundaries.

ADC HOUSING STRATEGY - need 30% affordable housing provision (36 based on 120 dwellings) comprising 67% affordable rented dwellings, 25% First Homes and 8% other intermediate ownership

products providing a range of sizes and accommodation.

ADC ENVIRONMENTAL HEALTH - no objections subject to conditions to secure a construction management plan, a suitable lighting scheme, to control construction hours and to protect against unexpected land contamination. Also states the submitted odour assessment report is acceptable and raises no concern with it concluding that odour impacts from the PWwTW on the proposed development site will be negligible.

CHICHESTER DISTRICT COUNCIL - raise no objection.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted except as discussed below:

WSCC EDUCATION - this objection is due to the current inability to expand secondary school provision to accommodate pupils arising from the development (and other developments in the district) and the lack of an allocated or secured site for the delivery of the new secondary school. This development does not itself generate the need for a new secondary school and there is no policy requirement for the development to provide a school on site or to fund the whole cost of one elsewhere.

It is material that CIL contributions can be used to fund new school facilities, and the developer will be liable for such. WSCC raised similar concerns in respect of the recent Land South of Barnham Station appeal, but the Inspector dismissed this stating "if allowed, the appeal proposal would be subject to a CIL liability in terms of contributing to wider infrastructure needs such as health and education". It is important to ensure consistency of decision making."

It has been agreed with WSCC that ADC will revisit looking at potential secondary school sites, but it is unreasonable to reject this application solely on the absence of a secured school site when an appropriate contribution through CIL will be secured towards its delivery. The requested school transport contribution can be secured through a section 106 agreement however it is not possible to secure a contribution towards the actual school as this application is liable for CIL.

WSCC PUBLIC RIGHTS OF WAY (PRoW) - As set out in the "Officer Comments on Reps" section, it is not possible to secure contributions towards cycling or walking infrastructure through this application due to the application being eligible for CIL payments.

POLICY CONTEXT

Designations/Constraints applicable to 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 (Not Currently Developable) 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; 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
ENVDM2	ENV DM2 Pagham Harbour
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
INFSP1	INF SP1 Infrastructure provision and implementation
LANDM1	LAN DM1 Protection of landscape character
OSRDM1	Protection of open space,outdoor sport,comm& rec facilities
QESP1	QE SP1 Quality of the Environment
QEDM1	QE DM1 Noise Pollution
QEDM3	QE DM3 Air Pollution
QEDM4	QE DM4 Contaminated Land
SDSP3	SD SP3 Gaps Between Settlements
SODM1	SO DM1 Soils
TSP1	T SP1 Transport and Development
TDM1	T DM1 Sustainable Travel and Public Rights of Way
WDM1	W DM1 Water supply and quality
WDM2	W DM2 Flood Risk
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:

SPD11	Arun Parking Standards 2020
SPD12	Open Space,Playing Pitches & Indoor& Built Sports

Facilities

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.

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 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 conflicts with the development plan in that it would result in development outside of the defined settlement boundary, within a strategic gap and will result in the loss of best & most versatile agricultural land.

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 other material considerations to be weighed in the balance with the Development Plan and these are set out in the conclusions section below.

BIODIVERSITY NET GAIN

This application is liable for Biodiversity Net Gain (BNG) and the following on-site BNG is proposed:

- 39.07% Habitat units (4.55).
- 39.34% Hedgerow units (2.02).
- 79.65% Watercourse units (0.70).

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. For this application, the development plan solely comprises the Arun Local Plan 2011-2031 (ALP).

Paragraph 11(d) of the NPPF sets out the presumption in favour of sustainable development which is to be applied where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date. Paragraph 14 serves to provide additional weight to Neighbourhood Plans in cases where paragraph 11(d) is engaged but as there is no Neighbourhood Plan for Pagham, para 14 is not relevant.

ALP 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 in the BUAB. The application conflicts with ALP policies C SP1 and SD SP2.

In addition, the site lies in a strategic gap (Pagham to Selsey) and policy SD SP3 states development will only be permitted if it does not undermine the physical and/or visual separation of settlements nor compromise the integrity of the gap, either individually or cumulatively with other existing or proposed development. The site would encroach into the existing gap and for that reason there is some conflict with the policy. However, considering existing approved development adjacent (i.e. the strategic allocation), the harm to the character of the countryside in this location would be reduced.

In January 2024, the council published its Authority Monitoring Report (AMR) for 2022/23, and this shows that the Housing Land Supply (HLS) is 4.17 years. Evidence showed that there has been significant progress in bringing forward planning approvals on strategic sites including a framework of coordinating Masterplans. The improved HLS position is positive, but it does not affect the application of the presumption in favour of sustainable development. On the basis of the current HLS, the ALP policies most important for the determination (Policy C SP1) has reduced weight.

The council's Action Plan (June 2019) made a series of recommendations to boost housing delivery. It recommended the council consider inviting applications from landowners / developers on 'deliverable' Housing & Economic Land Availability Assessment (HELAA) sites to re-establish the 5-year housing land supply. The site is part of HELAA site refs 20P1 (not currently developable) and 20P2 (developable). Neither site was stated in the HELAA to be deliverable therefore the Action Plan does not lend any weight to the proposal.

In February 2021, Arun published an Interim Policy Statement for Housing Delivery (IHS). This is not policy but was meant as a guide for developers proposing development on sites outside the BUAB and to inform decision-making. The IHS applies to sites adjacent to settlement boundaries and this site meets the criteria as there is BUAB to the immediate east and south. The IHS sets out criteria to help speed up determinations of suitable residential developments. The application scores highly against the criteria with the exceptions being the location of the site in the countryside, within a settlement gap and on agricultural land.

It is also material that the Government has recently published a Written Ministerial Statement (WMS) and a consultation on amending the NPPF and that the focus of these is to raise housing targets and turbo charge growth in order to build 1.5 million homes within the UK over the next five years. The changes proposed in respect of housing delivery and supply will result in an annual increase of 67 dwellings to Arun's Housing requirements. Whilst the WMS has only limited weight, it does clearly set out the governments policy position in respect of planning and this is exceptionally pro-supply and pro-

development.

The proposal, despite being within the countryside, is sustainably located as it adjoins with the defined BUAB and with the strategic allocations. It will be possible for residents to use non-car means of transport to access pubs, shops, the village hall, and other services. The site will link with the strategic development approved by P/140/16/OUT which will include new retail, community, and commercial uses in addition to the 350 homes. There will be safe walking and cycling routes to Pagham Road.

In summary, the principle of development on this site conflicts with the ALP in respect of development in the countryside and within a strategic gap. However, these conflicts do not automatically result in a refusal as it is necessary to determine the application in accordance with the NPPF presumption in favour of sustainable development under paragraph 11(d). This report now proceeds to discuss the other issues before concluding on para 11(d) at the end.

AGRICULTURAL LAND:

The application is accompanied by an Agricultural Land Classification and Soil Resources Report (ALC) which concludes that 1.5ha of the site is Grade 2 (very good quality) with 2.9ha as Grade 3a (good quality) and 0.4ha as non-agricultural.

The ALC states that at the time of its survey (no date is given for this), there was evidence of a recent potato crop in the main field. The council's own visit was carried out in March 2024, and this suggested that the main field was planted with grass whilst the area of the second field was still in an arable use. There is potential for such arable agricultural activities to continue, and the site can be farmed as part of the wider agricultural holding (which extends to the west) thus supporting agriculture at scale.

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 proposal outweighs the need to protect such land in the long term.

Although this land is being (or has until very recently been used) for crops, the Council's HLS shortfall is significant and agricultural land will need to be built on to meet the shortfall. Sites that are close to existing settlement boundaries such as this would be preferred to meet this need.

Policy SO DM1 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. The applicant has not responded to these criteria and has not provided a Soil Resource Plan (although this will be made subject to a condition). However, the applicant states:

- The additional requirements of policy SO DM1 are more onerous than para 180(b) of the NPPF which just requires the economic and other benefits of BMV agricultural land to be recognised.
- It is clear from Natural England's mapping, that the majority of land around Pagham and the settlements of the District are either Grade 1 or 2 agricultural land.
- Land quality is generally lower Grade 3 further inland, away from the settlements, but these areas are generally detached from the settlement edge and further away from the services and facilities and therefore are less suitable and sustainable.
- Recent appeal decisions (and decisions taken by Arun DC) concerning residential development have found in favour of granting permission on high grade agricultural land, principally due to the HLS shortfall.

On a recent appeal in the Pagham area (ref P/178/21/OUT), the Inspector ruled a conflict with the soil policy but determined, in the overall balancing exercise, that this conflict was outweighed by the

scheme's benefits. The Inspector gave the loss of agricultural land (Grades 3a/3b) moderate weight and stated that the shortfall in housing land supply is significant and is likely to continue for some time with no imminent remedy through the plan making process. The Inspector noted that most countryside surrounding the main coastal towns in Arun is characterised as best and most versatile land, but it is difficult to avoid new development on the edge of such settlements resulting in the loss of some high value agricultural land.

Notwithstanding the above, there remains a conflict with the agricultural land policy in respect of criteria (a) to (b) and (d) to (g).

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 114 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 115 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 to take vehicular access from the adjacent strategic development (ref P/140/16/OUT) which in turn is accessed from Pagham Road. The access road carriageway will be 6.1m wide with footway initially only on the northern side. However, the illustrative layout suggests that there would be footway on both sides before the proposed play area. The access road will cross a ditch and also intersect with Horns Lane (where dropped kerbs will be provided to allow vehicles using this route to cross). Members should note that Horns Lane is a private track and not a public footpath. In addition, two shared pedestrian/cycle accesses will be provided onto Summer Lane to the North. Further footpath accesses to the north, east and south are also shown by the illustrative plans.

The comments of WSCC Highways are set out in full on the council's website and summarised elsewhere in this report. They initially responded with a request for further information but on review of such information, they advised no objection. In addition, they later assessed the proposals in respect of the intersection with Horns Lane and raised no objection. The application proposes to install an electric fob operated gate on Horns Lane set back 6m from the northern edge of the new carriageway. In addition, a series of signs will be placed to make drivers aware not to turn onto Horns Lane/that it is a private road. Should there be any issues with the proposed gate on Horns Lane then this would be the responsibility of the landowner.

A detailed assessment of the impacts of additional traffic on existing roads and junctions has been undertaken and this found no potential for harm. A Road Safety Audit has also been carried out and this identified some issues, but these have either been resolved by the applicant or would be resolved at the detailed design stage. WSCC conclude no objection and consider that there would not be an unacceptable impact on highway safety, and no severe residual cumulative impacts on the road network.

WSCC did initially request that financial contributions be secured by s106 to create an off-road cycle route, and for sustainable transport measures in the Pagham area. However, as this site is liable for CIL, it is not possible to also secure contributions of this nature through s106. WSCC Highways have

accepted this position, and it does not alter their recommendation.

As this application is in outline with all matters reserved save for access, it is not appropriate to consider parking provision. Compliance with the Arun Parking Standards SPD will instead be determined at the reserved matters stage. This would include a requirement to ensure 5% of all spaces are suitable for disabled people. It should also be noted that National Highways raise no objection and do not request any financial contribution to A27 junction improvements.

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

HERITAGE ASSETS:

There are no heritage assets within or adjacent to the site. The closest heritage asset is the Grade II Listed "Martins Cottage and Summer Lane Cottage" at the junction of Summer Lane and Pagham Road (approx. 370m to the east), and this will not be harmed by the proposal. However, the officer reports for the adjacent P/140/16/OUT and P/25/17/OUT applications identified the potential for impacts on heritage assets in the wider area including:

- St Thomas a Becket's Church, Church Lane (Grade I Listed).
- Becket's Barn, Church Farm Holiday Village (Grade II Listed); and
- The Old Cottage, Church Lane (Grade II Listed).

These are all to the south of the site and at a distance of approx. 770m. It is noted that views of the church spire are possible from Summer Lane. However, the previous reports for the adjacent sites highlighted the presence of existing screening between the sites and the assets which serve to reduce the inter-visibility. Both of the previous reports referenced the comments of the Conservation Officer, Historic England and those expressed by a Heritage Impact Assessment and the view was taken that there would be less than substantial harm to these assets but that this harm would be outweighed by the strength of public benefits (as per NPPF para 208).

The application includes a Heritage Impact Assessment (January 2024) which concludes that the proposed residential development will not result in any harm to the character, setting or significance of any heritage assets (including but not limited to those mentioned above).

The proposed site is further north than the Church Barton (P/25/17/OUT) site (and thus further north from the Church Road assets) and the development of Church Barton and its associated landscaping will further mitigate any harm. The presence of the strategic site (P/140/16/OUT) to the east and south-east will also help to mitigate any impact.

If the applicants' position is accepted, then it would be concluded that there is no harm and no need to consider this issue any further. However, given the views expressed by the reports for the adjoining strategic developments, it is deemed best to proceed with caution and therefore the LPA's view is that the impact will be 'less than substantial harm' (and on the lower end of the scale).

This harm must then be weighed against the public benefits of the scheme. This application will make a meaningful contribution to the Council's HLS shortfall and will also deliver new affordable housing, biodiversity net gain and contribute to the local economy. These benefits are such that this harm can be outweighed and as such, there is no conflict with ALP policies HER DM1 or HER SP1 nor the guidance in the NPPF.

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 a desk based archaeological assessment be submitted and one has been submitted. This identifies predominantly low potential for archaeological finds with the exception of Bronze Age and Roman (both low-moderate). This site is not within a designated Archaeological Notification Area and therefore the Council's Archaeologist was not consulted. On this basis no condition would be required and the application generates no conflict with policy HER DM6.

LANDSCAPE, CHARACTER & DENSITY:

ALP policies D SP1 and D DM1 require development to 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 and seek, wherever possible, to reinforce or repair the character of those areas.

The Pagham Village Design Statement (PDS) is over 16 years old but remains a material consideration. The site falls in the 'Pagham Road' character area and the PDS states views over open fields are valued and should be preserved.

Section G of the Arun Design Guide (ADG) suggests a density of 5-15 for detached/semi-detached houses and 15-20 for terraced houses in rural locations. The ADG also states 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 illustrative layout plan shows a mix of detached, semi-detached, and terraced housing. The density for this application is a maximum of 21.6 dwellings per hectare (dph) and this is within the range set by the ADG. It is material that permission is applied for up to 120 dwellings and so the Local Planning Authority (LPA) would be able to seek a lower number of dwellings at reserved matters stage should this be required following assessment against the detailed design policies.

The application is in outline and does not seek the approval of layout, external appearance, scale, or landscaping. The illustrative masterplan suggests the site layout will ensure significant buffer planting to the western boundary (where the site will adjoin open fields). Given the potential for use of the fields to the west by Brent Geese, any permission would be accompanied by a condition to require that the landscaping along the western edge to be shown at the reserved matters stage, would include triple staggered native hedging. This would reflect the Church Barton permission and serve to minimise the potential for disturbance to wildlife. The illustrative plan also suggests that the existing planting along the northern, southern, and eastern boundaries would be supplemented with new trees thus further minimising impacts on views from Summer Lane and Horns Lane (notwithstanding that the latter is not a public route).

The submitted Landscape and Visual Impact Assessment (LVIA) sets out that:

- The landscape value/capacity of the site has been tested using the same methodology/parameters as the adjacent strategic site (P/140/16/OUT).
- However, the proposed is different due to having no public access, being further away (and with development in-between) from the agricultural setting of St Thomas a Beckett Church, and the presence of mature treed boundaries.
- As such, the landscape susceptibility is determined to be 'medium', the landscape value 'low/moderate', and the landscape sensitivity 'moderate/low'.
- The potential effects on landscape character and visual amenity are limited to very localised receptors

(Furzefield Barn, Summer Lane) and do not impact upon any protected or designated landscape, cultural or ecological assets.

- From the viewpoint of receptors further away, the development will appear as an extension to the existing urban character and would not result in any standalone change to character.
- The site would be largely screened by the adjacent strategic development, and by existing/proposed trees.

Although the development will result in some visual change to the character of the western edge of this part of Pagham, this change needs to be considered relative to the significance of the landscape as well as being balanced against the need for housing in areas adjoining settlement boundaries. It is also material that the Council's Landscape Officer raises no objections subject to landscaping being secured.

Whilst there is some conflict with the relevant development plan policies, this is outweighed by material considerations including the need to meet the council's HLS shortfall. The proposal is therefore acceptable in respect of density, landscape & character. There is also conflict with the PDS, but it must be recognised that this is an old document, and the landscape has changed significantly following its preparation and adoption.

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 ADG sets out guidance on garden depths and interface distances between houses.

It would be appropriate to ensure the proposed (up to) 120 homes could be achieved without giving rise to harm to existing residential properties. In this case, the nearest properties are Church Barton House (approx. 30m) and 44 Summer Lane (approx. 55m). The proposed dwellings on the adjoining strategic sites will be within 10-15m of the site boundary. However, the illustrative layout suggests buffer planting to all boundaries so the interfaces between dwellings will be capable of exceeding the council's standards (per the ADG) and thus ensure no harm to existing or permitted houses.

The crossing of Horns Lane by the access road may cause some level of inconvenience to the users of the lane (Church Barton House) but this will be very minor in frequency and duration. 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.

AIR POLLUTION:

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.

As set out elsewhere, the scheme proposes to provide links onto Summer Lane and other adjoining land suitable for pedestrians and some for cyclists. Future residents will therefore be able to walk or cycle along Summer Lane to reach facilities on Pagham Road. They will also be able to walk or cycle using the access road to reach new facilities within the adjacent strategic site. A condition will be imposed to secure the provision of details pertaining to electric vehicle charging points and cycle storage facilities. These will further promote the use of non-car means of travel/reduced vehicle emissions. In addition, the provision of high-speed broadband will allow for homeworking.

The submitted Air Quality Assessment (AQA) states that:

- Air quality within the ADC area is generally good and, air quality objective levels are met throughout the District.
- All air quality objectives will be satisfied on the site and at dwellings adjacent to the routes to the site.
- The ambient concentrations of local traffic emissions from both committed and proposed development are predicted to be less than 75% of the Air Quality Assessment Level, and the % change in concentration relative to the AQAL is calculated to be less than 1% for all roads. On this basis, the development's impact on local air quality will be negligible.
- A Travel Plan has been proposed to minimise the potential effects associated with increased air pollutant concentrations. This includes financial incentives to encourage sustainable travel.

The application also includes an odour assessment which assesses the potential for odours associated with the Pagham Wastewater Treatment Works (PWwTW). This found no evidence of odour across the site during the surveys and subsequent modelling predicted that odour concentrations across the site would be well below Southern Water's stringent threshold for potentially significant odour impacts. The Council's Environmental Health Officer states the odour assessment report is acceptable and raises no concern with the conclusion that odour impacts from the PWwTW on the proposed development site will be negligible. Southern Water raise some concerns with the potential for odour pollution from the treatment works but do not request any further information or object.

For the reason set out above, the proposal complies with the relevant development plan policies.

NOISE POLLUTION:

Policy QE DM1 states that residential development likely to experience road or rail 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 an Acoustic Assessment. This determined that there were no dominant noise sources at the site but that noise from Pagham Road (some 360m to the east) had the potential to affect sound levels across the site. The Assessment concludes that internal and external noise levels, in line with the criteria outlined within British Standards 8233 can be achieved using reasonable and practical design measures. In particular, the assessment states with the provision of an open window, internal ambient, and maximum sound levels will still be acceptable for residential amenity, and overheating can therefore be combatted with additional ventilation provided by the open windows along with standard ventilation measures.

The Council's Environmental Health Officer has been consulted and raised no objections. Therefore, the proposal complies with the relevant development plan policies.

CONTAMINATION:

ALP Policy QE DM4 states development will be permitted on land that is contaminated as long as remediation is provided. The submitted contamination report states that the site has been in agricultural use since the area was first mapped (1875). The report identifies potential pollutant linkages associated with the PWwTW and Furzefield Barn but that the risk of impact from these sources is very low. The Council's Environmental Health Officer raises no objection subject to a standard unexpected contamination condition. With this in place, remediation can be secured, should any contamination be discovered and thus the proposal is in accordance with the policy.

FLOODING:

ALP policy W DM2 requires that proposals in areas at risk of flooding provide a Flood Risk Assessment (FRA), meet the sequential and exceptions tests, provide sustainability benefits to the wider community, demonstrate that the development will be safe and do not increase flood risk elsewhere. Policy ECC SP1 requires that development be designed to take account of future flood risk.

The site is not affected by current or future flooding from rivers/sea and is in Flood Zone 1. However, the site is subject to some surface water flooding associated with an existing ditch that runs along the western edge of the larger field (this includes an instance of 1:30-year high risk). In addition, the council's Strategic Flood Risk Assessment (SFRA) mapping predicts that the north-eastern corner of the site will be within Flood Zone 3a by 2111.

Both the NPPF and the National planning practice guidance (NPPG) state a sequential test (ST) is required where a site is at high risk of current or future flooding from any sources. Recent case law (Mead Realisations Limited v The SoS for DLUHC & Anor, (2024) EWHC 279 (Admin)) determined that the NPPG has the same legal status as the NPPF so it should be treated as policy and not just guidance.

The NPPG and supporting technical guidance on sequential assessment state that a ST may not be required if no houses are placed in the area affected by flood risk. This approach has been taken before both by ADC and on appeal. The applicant has provided a parameter plan which shows no dwellings will be included in the area at risk of future flooding. This parameter plan will be made subject to a condition and therefore, there is no need for a ST and future flood risk is no longer an issue.

The surface water flood risk is entirely within an existing ditch network which drains to the North. It would not be appropriate to require a sequential assessment solely for the reason that an existing ditch is shown to hold water. The application scheme will see this ditch removed but, in its place, there will be a new drainage system which will drain both the new development and ensure existing surrounding land continues to be drained.

No ST is required, and that the proposal is in accordance with the relevant development plan policies and planning guidance insofar as they relate to flooding.

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. The proposed surface water drainage strategy is to discharge surface water at a restricted (greenfield runoff) rate to existing off-site ditches on the eastern and northern boundaries. Water will also need to be attenuated (stored) on the site in swales and ponds to ensure that a 1:100 plus 40% climate change event is contained. During the course of the application, WSCC Drainage requested additional information but following receipt of this, they responded to state no objection subject to conditions. On this basis, there is no conflict with the relevant policies.

FOUL DRAINAGE:

ALP policy W DM1 states that there must either be adequate drainage capacity or that it can be provided prior to the occupation of the development. The submission states that a connection be made to the sewer constructed by Foreman Homes on the adjacent site. This should not require any significant upgrading. However, should any be required then this can be agreed with Foreman Homes.

Southern Water have raised no objection. They have undertaken a desktop study of the impact that the additional foul sewerage flows from the development will have on the existing public sewer network, and

this indicates additional flows may lead to an increased risk of foul flooding from the sewer network, but any network reinforcement deemed necessary will be provided by Southern Water. A residential developer has a right to connect to the existing sewerage system with any offsite network improvements undertaken by Southern Water using revenue they collect by their Infrastructure Charging Scheme.

A request was put to Southern Water for details of what specific network upgrade works would be required. However, they are unable to provide this information at the current time as they do not commence investigations or work until a planning permission has been granted. They state, "As you will appreciate, we have a number of developments to design infrastructure for and we do not commence this process until planning permission has been granted, so we avoid expending resources unnecessarily as many developments do not gain planning permission and to expend resource in such circumstances is not a justifiable use of customer money."

As discussed below in respect of the Pagham Harbour Special Protection Area (SPA), a condition is recommended to ensure that additional units can only be connected to the foul network where Southern Water have the capacity to ensure no significant impacts on the SPA.

There is no conflict with ALP policy W DM1.

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.

Arun District Council are required by the Conservation of Habitats and Species Regulations 2017 (as amended) to carry out a Habitat Regulations Assessment (HRA) of all proposals in respect of the impact of increased recreational disturbance SPA (and associated Ramsar Site). The applicant provided a "Shadow Habitats Regulation Assessment" (sHRA) which has been used to assist in the Council's HRA. This HRA identifies the following four potential impacts:

(1) Visitor Impacts on Pagham Harbour - this will be predominantly mitigated by a contribution of £950 per dwelling towards the Pagham Joint Scheme of Mitigation (to be secured by a legal agreement). The applicant has agreed to the inclusion of this contribution in the s106 agreement. This mitigation scheme provides for:

- Provision of 1.5FTE Visitor Experience officer post at RSPB Pagham.
- Provision of general 'Dog Initiatives' - a broad range of measures (jointly with Bird Aware Solent) to encourage responsible dog ownership at the coast and visits to alternative dog-friendly sites.
- Independent monitoring surveys (every two or three years).

The payment of the contribution demonstrates compliance with ALP policy ENV DM2. In addition, the scheme provides new on-site open space available for informal recreation, and circular pedestrian footpaths. It is also material that the open space shown on the illustrative plan represents an increase of 5,523m² compared to the policy requirements. The site is also only a short distance from the new Summer Lane recreation ground which has a specific dog exercise area (although this has not yet opened to the public).

(2) Hydrological impacts (foul drainage) - this will be mitigated by a suitably worded planning condition to ensure that the additional units can only be connected to the foul network leading to the PWwTW) where Southern Water have the capacity to ensure no significant impacts on the European Sites from

overloading of the scheme at Pagham WwTW, and will provide committed avoidance/mitigation to ensure that the increase in units does not have an adverse impact on the integrity of the European Sites.

(3) Loss of Functionally Linked Habitat - no mitigation other than on-site landscaping is required for this impact due to the following reasons:

- The areas of the two parts of the site individually fall below the preferred field size for Brent Geese (noting that the two areas are physically separate). It is widely known that Brent Geese have a preference for larger fields.
- The site is constrained by ditches & vegetated field margins including lines of tall Poplar trees (thus reducing openness).
- The site has roads/paths along two of its edges thus giving rise to potential human disturbance of any birds using the field.
- That there is a significant amount of remaining agricultural land (including arable land) present in the wider landscape.

It is also noted that ADC's HRA for the adjoining site to the south (Church Barton House, P/25/17/OUT) which is only marginally smaller in site area determined that Dark-bellied Brent Geese would be unlikely to use land within or adjacent to the application site to the extent that it could be considered to be regularly used functionally linked habitat for Brent Geese.

(4) Disturbance of Functionally Linked (Adjacent) Habitat - the potential for impacts from disturbance on the fields to the west will be mitigated through landscaping to comprise of large dense (minimum triple staggered) buffer planting. This would be secured by a suitable condition. Planting should include thick and thorny native species (and potentially stock-proof fencing) to deter loose dogs from accessing adjacent land, along with additional tree planting to create height to lower potential visual disturbance of populations nearby. In addition, the on-site open spaces and all-weather footpaths will encourage residents to remain on the site and avoid adjacent land.

The Council's HRA concludes that the planning application, together with the proposed mitigation and avoidance measures, in combination with other nearby plans/projects, will not have a Likely Significant Effect on the Integrity of the European protected site. A copy of this HRA is on the Council's website.

The HRA was issued to Natural England for their review, and they responded initially with a standard "no objection" response. This was queried and Natural England responded to state whilst they will continue to provide strategic level advice to ADC and support to the Solent Waders and Brent Geese Strategy to ensure that the decision making on all planning applications is as robust as possible, they are now limiting their application specific comments to high risk/high reward cases.

On the basis that Natural England will not be making any specific comments on the council's HRA, it has to be concluded that the Council's stated position is appropriate and therefore, there is no policy conflict.

BIODIVERSITY & BIODIVERSITY NET GAIN (BNG):

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 Assessment, a separate written response to the council's Ecologist comments, a BNG Metric and a "BNG Statement and Draft Management Plan".

The site was surveyed using extended Phase 1 survey methodology as recommended by Natural England. Specific surveys/assessments were then carried out in respect of bats, Badgers, birds, reptiles, Otters, Water Voles, and Great Crested Newts. The Ecological Assessment concludes the majority of the

site is of limited ecological value due to it largely comprising arable land. Of greater value are the ditches, tree lines and field margins but none of these are of high value.

The Ecological Assessment states the site offers areas of habitat which support foraging and nesting opportunities for birds, that a very small population of Common Lizard were recorded in the field vegetation and that boundary trees offer foraging and navigational resources for bats. The Ecological Assessment recommends appropriate mitigation and enhancement measures to avoid any adverse impacts on any protected species and deliver enhancements over the current situation. The BNG proposals will secure a gain of 4.55 habitat units thus representing an increase of 39.07% from pre- to post-development.

The Council's Ecologist has comprehensively assessed the proposals and states no objection subject to mitigation and enhancement measures being secured. Subject to this there would be no conflict with policy.

TREES:

ALP policy ENV DM4 states trees protected by TPO, those forming Ancient Woodland, in a Conservation Area or that otherwise contribute to local amenity should not be damaged or felled unless the benefits of the development outweigh the loss.

The application states that it is only necessary to remove one group of low-quality scrub category C trees (Willow & Blackthorn) to facilitate the proposals and that all proposed construction is situated outside the functional/root protection area of the retained trees. The tree removals are on the eastern boundary and their loss would allow for part of the proposed circular path. This removal would be more than compensated for by new planting. A Landscaping condition will be imposed, and this will require that two trees are planted for each one lost and that new species are native.

The Council's Tree Officer has not responded but the trees to be removed are low quality and not suitable for retention. The input of the Tree Officer would be more useful at the reserved matters stage when it will be necessary to assess the relationship of new built development to retained trees. There is no conflict with the relevant policy.

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 that new development be designed to adapt to impacts arising from climate change and that all major developments must produce 10% of total predicted energy requirements from renewables unless unviable. Conditions can be imposed to ensure that the policy requirements are incorporated into the reserved matters application and the final build. This will ensure compliance with the relevant policies.

AFFORDABLE HOUSING:

Developments over 11 residential units require a minimum provision of 30% affordable housing on site as per ALP policy AH SP2. The council's interim affordable housing policy also sets out the need to secure first homes as part of the affordable housing mix. The council's Affordable Housing Manager advised that the required affordable housing provision for 120 homes is 36 dwellings and that the mix should comprise of 67% affordable rented, 25% First Homes & 8% Intermediate. This will be secured by a s106 legal agreement, and this will ensure compliance with the policy.

PUBLIC OPEN SPACE & PLAY:

ALP policy OSR DM1 states housing developments must 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 (based on 120 homes) for 9,900m² of Public Open Space (POS) including 1,452 of play provision comprising of a mix of on-site Neighbourhood Equipped Area of Play (NEAP), Local Areas of Play (LAP) and Local Equipped Area of Play (LEAP). The illustrative layout demonstrates an excess of 5,523m² POS against the ALP requirement with the total provision being circa 15,423m².

The on-site POS & play will be secured at the reserved matters stage with the associated management arrangements being secured through discharge of conditions. As it is not possible to secure any off-site contributions through a s106 Agreement due to CIL, contributions to other sport/recreation/fitness provision would instead need to be funded by CIL. On the basis that on-site POS and play would be secured by the reserved matters permission, there would be no conflict with ALP policy OSR DM1.

OTHER DEVELOPER CONTRIBUTIONS:

ALP policy INF SP1 requires 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 and infrastructure providers such as WSCC and the NHS would be able to bid for a portion of the CIL payments collected to spend on their own projects. The Parish Council will also be provided with a percentage of the CIL receipts (15%) for their own purposes. These payments go towards providing the infrastructure that the district needs to support existing and future development.

Objectors are concerned that there is insufficient infrastructure to support new housing. There can be no conflict with policy INF SP1 if the development provides a CIL contribution. It is then the responsibility of external bodies to implement the necessary infrastructure.

Where CIL is applicable, it is only possible to use s106 agreements to require affordable housing and on-site mitigation and the latter is generally restricted to items in the red edge. However, notwithstanding, it remains possible to use s106 for targeted contributions. Normally, s106 could also be used for a contribution to the strategic road network but in this case, National Highways have not requested such a contribution.

The request for a contribution from WSCC for an education transport contribution can be secured by the s106. This meets the CIL tests (Regulation 122 of the Community Infrastructure Levy Regulations 2010, as amended) and the applicant has not raised any objection to this being included in the s106 agreement.

The Local Planning Authority agrees with the principle of WSCC's request for a financial contribution to secondary school transport in the interim until such time as the new School is delivered. However, the exact methodology for calculating the contribution is currently being reviewed by ADC and WSCC. A contribution will be secured, and this will ensure compliance with ALP policy INF SP1, but the amount of the contribution cannot be confirmed at the present time and the exact calculation to be used will be determined following the committee meeting and through the s106 drafting process.

SUMMARY:

There is conflict with the ALP in terms of development in the countryside, and in a strategic gap, and the loss of agricultural land. However, due to the council's HLS shortfall, the presumption in favour of sustainable development is engaged.

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.

Although, part of the site is subject to future flood risk and the proposal is within close proximity to the Pagham Harbour SPA, part (i) does not apply as the policies relevant to these two issues do not provide a clear reason for refusing the development.

The site is sustainable, and the scheme will result in significant benefits to the local and wider area such as new housing (including affordable housing), the creation/retention of construction jobs, additional council tax revenue, spending by future residents on local shops/services, infrastructure improvements across the district and biodiversity enhancements.

Members should note that the weight to be applied to the contribution of housing development to the HLS was discussed in a relatively recent appeal concerning a site elsewhere in Pagham (P/178/21/OUT). The appellants presented an analysis of recent appeal decisions. The evidence suggested more than 30 dwellings should be considered substantial/significant and even smaller developments should weigh heavily in favour. The appeal proposal was for 106 new homes and the Inspector afforded this significant weight.

Therefore, it would be appropriate in this case to allocate substantial/significant weight to the contribution to the housing shortfall. In addition, in that same appeal, the Inspector afforded significant weight to the delivery of affordable housing and moderate weight to the economic benefits and biodiversity net gain. Development in the countryside/in a strategic gap is contrary to policy but such a refusal reason would not be sustainable unless there was associated harm, and this report finds none. The loss of the agricultural land is unfortunate, but the relevant policy allows for development of such land where there is a clear need.

The adverse impacts identified do not significantly and demonstrably outweigh the benefits and there is no conflict with other policies within the NPPF.

RECOMMENDATION:

The recommendation is for the Planning Committee to delegate to the Group Head of Planning in consultation with the Chair or Vice Chair with authority to:

- (a) Grant full planning permission subject to conditions; and
- (b) Subject to a Section 106 Agreement, the terms of which are substantially in accordance with those set out in this report with any minor amendments including the secondary school transport contribution methodology authorised by the Group Head of Planning.

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.

SECTION 106 DETAILS

This decision will be subject to a s106 legal agreement to secure the following obligations:

- (1) The provision of 30% affordable dwellings (consisting of 67% affordable rented, 25% First Homes & 8% Intermediate).
- (2) A contribution of £950 per dwelling towards the agreed Pagham Harbour Strategic Access Management and Monitoring Strategy.
- (3) A Secondary School Transport Contribution.
- (4) A Travel Plan monitoring fee of £3,815 (index linked).
- (5) On-site BNG and future management/monitoring.
- (6) ADC's standard monitoring fee of £1500; and
- (7) WSCC's standard monitoring fees (to be determined by WSCC during the drafting).

CIL DETAILS

This is not currently liable for CIL due to being at outline stage. Instead CIL will be calculated on the reserved matters application.

RECOMMENDATION

APPROVE CONDITIONALLY SUBJECT TO A SECTION 106 AGREEMENT

- 1 The permission hereby granted is an outline permission under s92 of the Town and Country Planning Act 1990 (as amended) and an application for the approval of the Local Planning Authority to the following matters must be made not later than the expiration of 2 years beginning with the date of this permission:

1. Layout.
2. Scale.
3. Appearance.
4. Landscaping.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be begun either before the expiration of 4 years from the date of this permission, or before expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

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

1. Location Plan - Red Line Boundary Dwg 02 Rev P16.
2. Proposed Access Arrangement Dwg 04.
3. Summer Lane Pedestrian/Cycle Access Dwg 05.
4. Proposed Pedestrian/Cycle Access with Summer Lane (North) Dwg 06.
5. Proposed Access Arrangements with Horns Lane Dwg 18 Rev B; and
6. SFRA Parameter Plan Dwg 2051 DLA XXX DR L 45 Rev 01.

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

- 4 The approved development shall achieve a minimum of 10% energy supply generation from the use of decentralised, renewable or low carbon energy sources (as described in the glossary at Annex 2 of the NPPF). Any physical features that are required as part of the works must be installed prior to the occupation of each dwelling and shall be thereafter permanently maintained in good working condition.

Reason: In order to secure the generation of on-site energy use to meet the predicted energy demand in accordance with Arun Local Plan policy ECC SP2 and the NPPF.

- 5 With the exception of bird/bat boxes, and insect boxes/hotels as covered by separate conditions, all mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Assessment (Ecology Solutions, February 2024) as submitted with the planning application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g., an ecological clerk of works (ECow) to provide on-site ecological expertise during construction. The appointed person shall supervise all activities, and works shall be carried out, in accordance with the approved details.

Reason: To conserve and enhance protected and Priority species in accordance with policy ENV DM5 of the Arun Local Plan and to allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the Natural Environment and Rural Communities Act 2006 (Priority habitats & species).

- 6 The landscape and layout details to be submitted pursuant to condition 1 shall include the following items:

1. Details of all existing trees and hedgerows on the land indicating which are to be retained and which are to be removed. These required details are to include a 'Tree Survey Schedule', a 'Root Protection Area (RPA) Schedule', a 'Tree Constraints Plan', and in the event that a root protection area of any tree which is proposed for retention overlaps the development,

then an 'Arboricultural Method Statement' and a 'Tree Protection Plan'. Development shall be carried out in accordance with the approved details. No hedge or tree shall be felled, uprooted, or otherwise removed before, during or after the construction period except where removal is indicated on a plan approved by the Local Planning Authority.

2. Full landscaping details including the use of native trees and compensatory planting on the basis of 2 trees/hedge units for every 1 lost.

3. The use of triple staggered native hedging along the open western site boundary to reflect the landscaping approved on the adjacent Church Barton reserved matters scheme.

4. A greater amount of Public Open Space than is policy compliant to ensure sufficient on-site mitigation to deter new residents accessing the Pagham Harbour SPA via footpaths in the area.

5. Details of the position, design, materials, height, and type of all boundary treatments to be provided. The boundary treatments shall be provided to each dwelling before the dwelling is occupied or in accordance with the approved phasing plan. Gaps shall be included at the bottom of the fences to allow movement of small mammals across the site. Development shall be carried out in accordance with the approved details and permanently retained in a useable condition thereafter.

6. Full details of all new external lighting (including type of light appliance, the height and position of fitting, predicted illumination levels and light spillage). This submission should also cover new streetlighting if required. The scheme should seek to conform with the recommendations of the Institution of Lighting Professionals (ILP) "Guidance Notes for the Reduction of Obtrusive Light" (GN01:2011) but also be designed to be sensitive to bats. The scheme shall include a bat friendly Lighting Plan. The recommended lighting specification shall use LED's (at 3 lux) with the recommended spectrum being 80% amber and 20% white with a clear view, no UV, a horizontal light spread of less than 70 degrees and a timer. A 3D plan of the illumination level should be supplied so that the Local Planning Authority can assess the potential impact on protected species.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: In the interest of visual amenity, the quality of the environment, the site biodiversity, the interests of minimising crime and to minimise unnecessary light spillage outside the development site in accordance with policies D DM1, QE SP1, QE DM2, ENV DM2, ENV DM4 and ENV DM5 of the Arun Local Plan and the NPPF.

7 The layout, scale, and appearance details to be submitted pursuant to condition 1 shall include the following items:

1. A scheme for the provision of facilities to enable the charging of electric vehicles in accordance with the Arun Parking Standards SPD to serve the approved dwellings. This requires that where a dwelling has a driveway or garage then one of those parking spaces shall be provided with a charging point, with electric ducting provided to all other spaces where appropriate to provide passive provision for these spaces to be upgraded in future. The individual charge points shall be in accordance with the technical requirements set out in Part

S, section 6.2 of the Building Regulations applicable at the time (or any subsequent guidance). The electric vehicle charge points shall thereafter be retained and maintained in good working condition.

2. A detailed level survey of the site including existing and resulting ground levels and the slab levels of the buildings the subject of this approval.

3. 5% of all parking provided as suitable for disabled persons. This must include a percentage of the proposed visitor parking spaces.

4. Full details of cycle storage including elevations where such is provided in separate buildings; and

5. A colour schedule of the materials and finishes to be used for the external walls and roofs of the proposed buildings.

Reasons: In the interests of visual amenity, road safety, the needs of the disabled, to mitigate against any potential adverse impact of the development on local air quality and as new petrol, diesel and hybrid cars/vans will not be sold beyond 2030 all in accordance with policies T SP1, D DM1, QE SP1, QE DM3 of the Arun Local Plan, the Arun Parking Standards SPD and the NPPF.

- 8 The layout and landscape details to be submitted pursuant to condition 1 shall include full details of the required public open space (POS) and play areas to include details of proposed management arrangements. The POS and play areas shall thereafter be implemented in accordance with the provision as agreed prior to occupation of the 61st dwelling and permanently retained thereafter. The approved management details shall be permanently adhered to.

Reason: To ensure that the POS and Play provision is provided and that a management regime is established in accordance with policy OSR DM1 of the Arun Local Plan.

- 9 Detailed plans and particulars of the Reserved Matters submitted to the Local Planning Authority for approval pursuant to condition 1 shall ensure that the scheme makes provision for accommodation to meet the Building Regulations Standards M4(2) and M4(3) in accordance with the Council's guidance note "Accommodation for Older People and People with Disabilities Guidance".

Reason: To ensure that part of the development allows for residents to remain in their own homes over the course of their lifetime in accordance with Arun Local Plan policies D DM1 and D DM2 and section 4 of the Council's guidance Note "Accommodation for Older People and People with Disabilities Guidance".

- 10 The layout, scale and appearance details referred to in Condition 1 shall include details of any temporary sales areas that may be required during the construction and marketing of the development. Such details shall include any temporary buildings or temporary changes to buildings and any temporary change to the development layout. The approved details shall be for a temporary period only ending on or before the date that the last dwelling on the site has been sold. The buildings or area shall be returned to their approved permanent appearance within 3 months of the date of the last building sold.

Reason: In the interest of visual & residential amenity and the character/appearance of the surrounding area in accordance with policies D DM1 and QE SP1 of the Arun Local Plan.

- 11 As part of the submission of each Reserved Matters application for the development hereby

permitted, details of a scheme for the disposing of surface water by a means of sustainable drainage system shall be submitted to and approved in writing by the Local Planning Authority in accordance with the approved drainage strategy and discharge rates (2.86 l/s for the 1 in 1 year event and 9.06 l/s for the 1 in 100 plus climate change event) as contained within section 5.3 of the Drainage Strategy (prepared by Ridge, dated June 2024, Rev. P05). The scheme shall be implemented in full in accordance with the approved details prior to first use of the development. The submitted details shall:

1. Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharge from the site via a proposed Sustainable drainage system which utilises source control features prior to site control features and the measures taken to prevent pollution of the receiving surface waters.
2. Demonstrate that the proposed surface water drainage system does not surcharge in the 1 in 1 critical storm duration, flood in the 1 in 30 plus climate change critical storm duration or the 1 in 100 critical storm duration.
3. Demonstrate that any flooding that occurs when taking into account climate change for the 1 in 100 critical storm event in accordance with NPPF does not leave the site uncontrolled via overland flow routes, safe, and does not impact any of proposed built development.
4. Provide an exceedance plan for any storm event that exceeds the design standards of the surface water drainage SuDS system to ensure no built development is impacted.

Reason: To ensure the flood risk is adequately addressed for each new dwelling and not increased in accordance with the NPPF and Arun Local Plan policies W DM2 and W DM3.

- 12 Prior to the commencement of development of each phase for the development hereby permitted, construction drawings of the surface water drainage network, associated sustainable drainage components, flow control mechanisms and a construction method statement have been submitted to and approved in writing by the Local Planning Authority. The scheme shall then be constructed in accordance with the approved drawings, method statement and Micro drainage calculations prior to the first occupation of the development hereby approved. No alteration to the approved drainage scheme shall occur without prior written approval of the Local Planning Authority.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies W SP1, W DM1, W DM2 and W DM3 of the Arun Local Plan. This is required to be a pre-commencement condition because it is necessary to implement the surface water drainage system prior to commencing any building works.

- 13 No development, including preparatory works, shall commence until details and method statement of measures indicating how additional surface water run-off from the site will be avoided during the construction works have been submitted to and approved in writing by the Local Planning Authority. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. This should include the maintenance proposals during construction. The site works and construction phases shall thereafter be carried out in accordance with approved method statement, and the approved measures and systems shall be brought into operation before any works to create buildings or hard surfaces commence for the relevant phase.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies W SP1, W DM1, W DM2 and W DM3 of the Arun Local Plan. This is required to be a

pre-commencement condition because it is necessary to implement the surface water drainage system prior to commencing any building works.

- 14 Before the development hereby permitted is commenced, details of the proposed foul drainage system shall be submitted to and approved in writing by the Local Planning Authority (including details of its siting, design and subsequent management/maintenance, if appropriate).

Occupation of the development shall be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that waste water network capacity is available to adequately drain the development and no dwelling shall be occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details of any phase or sub-phase.

Reason: To ensure adequate infrastructure is provided to enable the scheme to be satisfactorily drained and avoids adverse impacts upon the Pagham Harbour SPA/Ramsar in accordance with policies D DM1, W DM1, W SP1, and ENV DM2 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the foul drainage system goes to the heart of the planning permission.

- 14 No development authorised by this permission shall commence unless and until full details (including appropriate drawings) of how the new access road will cross the existing ditch on the eastern boundary have been submitted to and approved in writing by the Local Planning Authority. The access road crossing shall be built in accordance with the approved scheme and permanently retained so thereafter.

Reason: The access road is shown to cross over an existing ditch which is wet at certain times of the year but no details have been submitted as to the form of the crossing. This condition is in accordance with Arun Local Plan policies D DM1 and T SP1 and must be a pre-commencement condition because it is required to access the site.

- 15 No development shall take place, (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), until a Construction & Environmental Management Plan and accompanying Site Setup Plan has been submitted to and approved in writing by the Local Planning Authority (who shall consult with National Highways, WSCC Highways, and the council's Environmental Health Officer as appropriate). Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. This shall require the applicant and contractors to minimise disturbance during demolition and construction and will include (but not be limited to) details of the following information for approval:

1. The phased programme of construction works.
2. The anticipated, number, frequency, types, and timing of vehicles used during construction (construction vehicles should avoid the strategic road network during the peak hours of 0800-0900 and 1700-1800 where practicable).
3. The preferred road routing for all construction traffic associated with the development.
4. Provision of wheel washing facilities (details of their operation & location) and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulations Orders).
5. Details of street sweeping.
6. Details of a means of suppressing dust & dirt arising from the development.
7. A scheme for recycling/disposing of waste resulting from demolition and construction works (i.e., no burning permitted).
8. Details of all proposed external lighting to be used during construction (including location,

height, type & direction of light sources and intensity of illumination).

9. Details of areas for the loading, unloading, parking, and turning of vehicles associated with the construction of the development.

10. Details of areas to be used for the storage of plant and materials associated with the development.

11. Details of the temporary construction site enclosure to be used throughout the course of construction (including access gates, decorative displays & facilities for public viewing, where appropriate).

12. Contact details for the site contractor, site foreman and CDM co-ordinator (including out-of-hours contact details).

13. Details of the arrangements for public engagement/consultation both prior to and continued liaison during the construction works.

14. Details of any temporary traffic management that may be required to facilitate the development including chapter 8 traffic signage.

15. Measures to minimise the noise (including vibration) generated by the construction process to include hours of work, proposed method of piling for foundations, the careful selection of plant and machinery and use of noise mitigation barrier(s).

16. Details of pest control.

Details of how measures will be put in place to address any environmental problems arising from any of the above shall be provided. A named person shall be appointed by the applicant to deal with complaints, shall be available on site and their availability made known to all relevant parties.

No demolition/construction activities shall take place other than from 08:00 hours until 18:00 hours (Monday to Friday) and from 08:00 hours until 13:00 hours (Saturday) with no work on Sunday or Bank/Public Holidays.

Reason: In the interests of the safety/amenity of nearby residents & occupiers of any nearby noise sensitive premises, the safety & general amenities of the area, and in the interests of highway safety in accordance with policies D DM1, QE SP1, QE DM1, QE DM2, QE DM3 and T SP1 of the Arun Local Plan and the NPPF. This is required to be a pre-commencement condition because it is necessary to have the construction site set-up agreed prior to access by construction staff.

- 16 Development shall not commence, until a Soil Resource Plan has been submitted to and approved in writing by the Local Planning Authority. This shall set out how the best and most versatile soils on the site are to be protected during construction and then recycled/reused in the new development layout. The soil protection/mitigation measures shall be implemented as per the document and then permanently adhered to throughout the construction and development of the site.

Reason: In accordance with Arun Local Plan policy SO DM1 and the NPPF. It is necessary for this to be a pre-commencement condition to protect the best and most versatile soils on the site prior to the construction commencing.

- 17 Prior to commencement of development the applicant shall prepare and submit for approval in writing, an Employment and Skills Plan. Following approval of the Employment and Skills Plan the developer will implement and promote the objectives of the approved plan.

Reason: In accordance with Arun Local Plan policy SKILLS SP1. This must be a pre-commencement condition as it relates to the construction phase of development and to ensure measures are in place so that local crafts people and apprentices are employed on the

development.

- 18 No development above damp-proof course (DPC) level shall take place unless and until details of the proposed location of the required fire hydrants have been submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Service.

Prior to the first occupation of any dwelling forming part of the proposed development, the applicant/developer shall at their own expense install the required fire hydrants (or in a phased programme if a large development) in the approved locations to BS:750 standards or stored water supply and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of firefighting.

The fire hydrants shall thereafter be maintained as part of the development by the water undertaker at the expense of the Fire and Rescue Service if adopted as part of the public mains supply (Fire Services Act 2004) or by the owner/occupier if the installation is retained as a private network.

Reason: In the interests of amenity and in accordance with policy INF SP1 and T SP1 of the Arun Local Plan and in accordance with The Fire & Rescue Service Act 2004.

- 19 Details of bat tubes, bricks or boxes shall be submitted to and approved in writing by the Local Planning Authority prior to any development above damp-proof course (DPC) level.

No less than 60 bat tubes or bricks shall be provided, and the details shall include the exact location, specification, and design of the habitats. The bat tubes, bricks or boxes shall be installed with the development prior to the first occupation of the building/s to which they form part or the first use of the space in which they are contained.

The bat tubes, bricks or boxes shall be installed strictly in accordance with the details so approved and shall be permanently maintained in good working condition thereafter.

Reason: To ensure the development provides the maximum possible provision towards the creation of habitats and valuable areas for biodiversity in accordance with Arun Local Plan policies ENV SP1 and ENV DM5.

- 20 Details of Bee bricks and/or invertebrate hotels shall be submitted to and approved in writing by the Local Planning Authority prior to any development above damp-proof course (DPC) level.

No less than 16 bee bricks in sunny locations and 16 invertebrate hotels shall be provided, and the details shall include the exact location, specification, and design of the habitats. Bee bricks and/or invertebrate hotels shall be installed with the development prior to the first occupation of the buildings to which they form part or the first use of the space in which they are contained.

The Bee bricks and/or invertebrate hotels shall be installed strictly in accordance with the details so approved and shall be permanently maintained in good working condition as such thereafter.

Reason: To ensure the development provides the maximum possible provision towards creation of habitats and valuable areas for biodiversity in accordance with Arun Local Plan policies ENV SP1 and ENV DM5.

- 21 Details of integral nesting bricks shall be submitted to and approved in writing by the Local

Planning Authority prior to any development above damp-proof course (DPC) level.

No less than 60 integral universal nesting bricks shall be provided, and the details shall include the exact location, specification, and design of the bricks. The bricks shall be installed within the development prior to the first occupation of the building/s to which they form part or the first use of the space in which they are contained.

The nesting bricks shall be installed strictly in accordance with the details so approved and shall be permanently maintained in good working condition as such thereafter.

Reason: To ensure the development provides the maximum possible provision towards creation of habitats and valuable areas for biodiversity in accordance with Arun Local Plan policies ENV SP1 and ENV DM5.

- 22 No part of the development shall be first occupied until such time as the access serving the adjacent development to the east, and the access included as part of this development (which it is shown to connect to) - including foot and cycle links to Summer Lane - have been constructed in accordance with the details shown on the approved drawings, including the recommendations contained in the associated Road Safety Audits.

Reason: In the interests of road safety and in accordance with policy T SP1 of the Arun Local Plan.

- 23 No dwelling shall be first occupied until the car parking serving the respective dwelling has been constructed in accordance with plans and details approved by the reserved matters permission. Once provided the spaces shall thereafter be retained at all times for their designated purpose.

Reason: To provide car-parking space for the use and in accordance with Arun Local Plan policies T SP1 and T DM1.

- 24 No part of the development shall be first occupied until the road(s), footways, and casual parking areas serving the development have been constructed, surfaced, and drained in accordance with the plans and details as approved by the reserved matters permission and the discharge of relevant drainage conditions.

Reason: To secure satisfactory standards of access for the proposed development and in accordance with Arun Local Plan policy T SP1.

- 25 Upon the first occupation of each dwelling, the Applicant shall implement the measures incorporated within the approved Residential Travel Plan (ref 23106/TP/01/B, May 2024). The Applicant shall thereafter monitor, report and subsequently revise the travel plan as specified within the approved document.

Reason: To encourage and promote sustainable transport and in accordance with policies T SP1 and T DM1 of the Arun Local Plan.

- 26 Prior to the occupation of any part of the development, the applicant or developer shall ensure that infrastructure is implemented to allow for the provision of the highest available headline speed of broadband provision to future occupants of all of the development from a site-wide network provided as part of the initial highway works and in the construction of frontage thresholds to buildings that abut the highway. Unless evidence is put forward and agreed in writing by the Local Planning Authority that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure, the development of the site will continue in accordance with the

approved strategy.

Reason: To safeguard the amenities of future residents in accordance with Arun Local Plan policy TEL SP1.

- 27 Prior to first use of each phase of the development a detailed verification report, (appended with substantiating evidence demonstrating the approved construction details and specifications have been implemented in accordance with the surface water drainage scheme), has been submitted to and approved (in writing) by the Local Planning Authority. The verification report shall include photographs of excavations and soil profiles/horizons, any installation of any surface water structure and Control mechanism.

Reason: To ensure the flood risk is adequately addressed for each new dwelling and not increased in accordance with the NPPF and Arun Local Plan policies W DM2 and W DM3.

- 28 Details for the long-term maintenance arrangements for the surface water drainage system (including all SuDS features) to be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any building. The submitted details should identify runoff sub-catchments, SuDS components, control structures, flow routes and outfalls. In addition, the plan must clarify the access that is required to each surface water management component for maintenance purposes. The maintenance plan shall be carried out in full thereafter.

Reason: To ensure the flood risk is adequately addressed for each new dwelling and not increased in accordance with the NPPF and Arun Local Plan policies W DM2 and W DM3.

- 29 If during development, any visible contaminated or odorous material, (for example, asbestos containing material, stained soil, petrol / diesel / solvent odour, underground tanks or associated pipework) not previously identified, is found to be present at the site, no further development (unless otherwise expressly agreed in writing with the Local Planning Authority) shall be carried out until it has been fully investigated using suitably qualified independent consultant(s). The Local Planning Authority must be informed immediately of the nature and degree of the contamination present and a method statement detailing how the unsuspected contamination shall be dealt with must be prepared and submitted to the Local Planning Authority for approval in writing before being implemented. If no such contaminated material is identified during the development, a statement to this effect must be submitted in writing to the Local Planning Authority.

Reason: To ensure that the development complies with approved details in the interests of protection of the environment and prevention of harm to human health in accordance with Arun Local Plan policies QE SP1 and QE DM4.

- 30 The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition (the biodiversity gain condition) that development may not begin unless:
1. A Biodiversity Gain Plan has been submitted to the planning authority, and
 2. The planning authority has approved the plan.

This permission will require the submission and approval of a Biodiversity Gain Plan before development is begun.

For guidance on the contents of the Biodiversity Gain Plan that must be submitted and agreed by the Council prior to the commencement of the consented development please see the link: <https://www.gov.uk/guidance/submit-a-biodiversity-gain-plan>

Reason: To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990 (as amended).

31 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 National Planning Policy Framework.

32 INFORMATIVE: This decision has been granted in conjunction with a Section 106 legal agreement relating to:

(1) The provision of 30% affordable dwellings (consisting of 67% affordable rented, 25% First Homes & 8% Intermediate).

(2) A contribution of £950 per dwelling towards the agreed Pagham Harbour Strategic Access Management and Monitoring Strategy.

(3) A Secondary School Transport Contribution.

(4) A Travel Plan monitoring fee of £3,815 (index linked).

(5) On-site BNG and future management/monitoring.

(6) ADC's standard monitoring fee of £1500; and

(7) WSCC's standard monitoring fees (to be determined by WSCC during the drafting).

33 INFORMATIVE: A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk. Please read the New Connections Services Charging Arrangements documents via <https://beta.southernwater.co.uk/infrastructurecharges>.

34 INFORMATIVE: Following approval of details showing the proposed location of all fire hydrant(s) or stored water supply (in accordance with West Sussex Fire and Rescue Service's Guidance Notes) and prior to the first occupation of any dwelling you are advised to contact West Sussex Fire and Rescue Service (WSFRS) make them aware of all the fire hydrants for the site and their locations. They can then be operated and tested, their location marked up locally and plotted on the water management system and mapping. This information is then available to all fire crews attending the site, essential for locating the nearest fire hydrants available in the vicinity of a fire without delay.

Without this information WSFRS would not be aware of any fire hydrants available on the site and lead to valuable time being spent looking for a water supply to keep the fire appliance supplied with water. Without a supply of water people's lives and properties could be put at undue risk in the event of a fire. Fire hydrant information is to be sent to either the Planning Officer or directly to the Water and Access Department, WSFRS on the details given below: Frs.waterandaccess@westsussex.gov.uk

35 INFORMATIVE: Where the reserved matters submission is not made within 12 months from the date of the decision being issued, further supplementary ecological surveys for bats, wintering birds, badger and reptiles must be undertaken and submitted with the reserved matters application. The supplementary surveys shall be of an appropriate type for this species and survey methods shall follow national good practice guidelines.

36 INFORMATIVE: Please note the advice from WSCC Public Rights of Way:

"The granting of planning permission does not authorise obstruction of, interference to or moving of any Public Right of Way (PROW); this can only be done with the prior consent of West Sussex County Council (WSCC), as highway authority, and possibly also a legal Order process by Arun District Council as the local planning authority. Further advice can be provided on request.

Safe and convenient public access is to be available at all times across the full width of the PROW, which may be wider than the available and used route - advice on the legal width can be provided by the WSCC PROW Team.

The path is not to be obstructed by vehicles, plant, scaffolding or the temporary storage of materials and / or chemicals during any works. These will constitute an offence of obstruction under the Highways Act 1980.

No new structures, such as gates and stiles, are to be installed within the width of the PROW without the prior consent of the WSCC PROW Team. These will constitute an offence of obstruction under the Highways Act 1980.

Any down pipes or soakaways associated with the development should discharge into an existing or new drainage system and away from the surface of the PROW. No drainage system is to be installed through the surface of the path without the prior consent of the WSCC PROW Team.

Where the ground levels adjacent to the PROW are to be raised above existing ground levels, this could increase the potential to flood the path. A suitable drainage system must be installed adjacent to the path to a specification agreed with the WSCC PROW Team prior to development commencing.

Any alteration to or replacement of the existing boundary with the PROW, or the erection of new fence lines, must be done in consultation with the WSCC PROW Team to ensure the legal width of the path is not reduced and there is no unlawful encroachment.

Access along a PROW by contractors' vehicles, deliveries or plant is only lawful if the applicant can prove it has a vehicular right; without this an offence under the Road Traffic Act 1988 section 34(1) is being committed.

It is an offence to damage the surface of a PROW without the prior consent of the WSCC PROW Team. The applicant must supply a specification and secure the approval of the WSCC PROW Team before works affecting the PROW begin, even if the surface is to be improved. Where a PROW surface is damaged and there was no prior consent, the applicant will be liable and required to make good the surface to a standard satisfactory to the WSCC PROW Team.

Where it is necessary to undertake works within the legal width of a PROW, e.g. install utilities, (or for development works immediately adjacent to a PROW that can not reasonably be managed through different Health and Safety practice) the applicant must be advised to apply to WSCC PROW Team for a temporary path closure. The applicant must be advised there is no guarantee an application will be approved; that a minimum of 8 weeks is needed to consider an application."

37 INFORMATIVE: In the interests of crime prevention and deterrence, the development should incorporate security measures in accordance with the consultation advice of Sussex Police

(dated 21/03/24) as available on the council's website.

- 38 INFORMATIVE: The applicant is advised of the requirement to enter into early discussions with and obtain the necessary licenses from the Highway Authority to cover any temporary construction related works that will obstruct or affect the normal operation of the public highway prior to any works commencing, should such works be required. These temporary works may include, the placing of skips or other materials within the highway, the temporary closure of on-street parking bays, the imposition of temporary parking restrictions requiring a Temporary Traffic Regulation Order, the erection of hoarding or scaffolding within the limits of the highway, the provision of cranes over-sailing the highway.
- 39 INFORMATIVE: The applicant is advised that the erection of temporary directional signage should be agreed with the Local Traffic Engineer prior to any signage being installed. The applicant should be aware that a charge will be applied for this service.
- 40 INFORMATIVE: The applicant is required to obtain all appropriate consents from West Sussex County Council, as Highway Authority, to cover any off-site highway works. In the event these are required, the applicant should contact The Implementation Team Leader (01243 642105) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.
- 41 INFORMATIVE: Should the applicant intend to offer any of the internal estate roads for adoption under S38 of the Highways Act 1980, they will be required to enter into a legal agreement with West Sussex County Council, as Highway Authority, to cover these. The applicant should contact The Implementation Team Leader (01243 642105) to commence this process. The applicant is advised that any works commenced prior to the S38 agreement being in place are undertaken at their own risk. Additionally, any works offered for adoption must connect to other roads that form part of the adopted highway network or are confirmed as being secured for adoption under S38.

BACKGROUND PAPERS

[The documents relating to this application can be viewed on the Arun District Council website by going to https://www.arun.gov.uk/weekly-lists and entering the application reference or directly by clicking on this link.](https://www.arun.gov.uk/weekly-lists)

P/15/24/OUT - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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APPENDIX 2

Appeal Decision – Land South of
Summer Lane



Appeal Decision

Site visit made on 12 September 2025

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th September 2025

Appeal Ref: APP/C3810/W/25/3365661

Land South of Summer Lane, Pagham PO21 4NZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Northgate Properties Ltd against the decision of Arun District Council.
 - The application Ref is P/15/24/OUT.
 - The development proposed is described as a residential development of up to 120 dwellings including means of access into the site (not internal roads), with all other matters (relating to appearance, landscaping, scale and layout) reserved.
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Decision

1. The appeal is allowed, and outline planning permission is granted for a residential development of up to 120 dwellings including means of access into the site (not internal roads), with all other matters (relating to appearance, landscaping, scale and layout) reserved at Land South of Summer Lane, Pagham PO21 4NZ in accordance with the terms of the application, Ref P/15/24/OUT, subject to the conditions in the attached schedule.

Preliminary Matters

2. The planning application was submitted in outline form with only access for consideration. Matters relating to appearance, landscaping, layout and scale are reserved for future determination. The appellant has provided a masterplan which I have treated as illustrative for the purposes of this appeal.
3. The appellant has also provided a completed planning obligation (the obligation) pursuant to s106 of the Town and Country Planning Act 1990 (as amended) to overcome reasons for refusal 2, 3, 4, 5 and 6. The obligation has been entered into by the appellant and the Council, which I will consider later in this decision letter.

Main Issue

4. The main issue in this appeal is the effect of the development on the character and appearance of the area.

Reasons

5. The appeal site forms an agricultural field that is devoid of development. The proposal before me seeks to erect up to 120 dwellings on the appeal site, of which 30% would be affordable. To the east of the site is a further field that benefits from planning permission for a development of some 350 homes.
6. The Council's first reason for refusal relates solely to the density of the development which it states would be in excess of that as set out within the Arun District Design Guide Supplementary Planning Document, January 2021 (the ADDG). Consequently, this unacceptable density would be to the detriment of the character and appearance of the area of the edge of settlement site. The matter for consideration at outline stage is the access into the site, which the Council does not raise an objection to. In addition, the

Council has not objected to the principle of residential development and has approved an application for 110 dwellings at the site which remains extant (the extant permission¹).

7. Whilst there is a debate regarding which range of densities should be applied to the site, it has to be accepted that the ADDG states that the range set out at Figure 77 should be read as approximate ranges and each scheme is to be assessed based on the context and character of the development of the individual site. In addition, Policy D DM1 of the Arun Local Plan 2011 – 2031 (the Local Plan) also expects the density of new housing to make efficient use of the land, with higher density developments being appropriate in the most accessible locations. I note from the Officer's report that the development would provide links onto Summer Lane, suitable for pedestrians and cyclists where they will be able to reach new facilities within the adjacent strategic site. Moreover, the appellant details that the site has a bus link, will be within a 5 minute walk of the school, local centre, and village hall proposed on the adjoining site, as well as a 10 minute walk to various convenience, food and drink services. Thus, it would not be unreasonable to suggest that the site is within an accessible location.
8. Additionally, the outline application before me seeks a development of '*up to 120 dwellings*' which means that at the reserved matters stage, the Council would assess whether up to 120 dwellings would be acceptable or not. This is the maximum number of dwellings that are going to be built, even if they might not be. Thus, it is quite feasible for the Council to reject 120 dwellings across the site and request a lower number at reserved matters stage. The appellant has provided examples of where this has indeed occurred.
9. That said, the proposed development would introduce 10 more units across the site than permitted by the extant permission. Although it is evident that the character of the area will undoubtedly change as a result of these developments, it would be for the Council to decide at reserved matters stage whether this minor increase from 19.7 dwellings per hectare (dph) to 21.6 dph would result in material harm to the overall character and appearance of the area, taking into account any other constraints the site may possess. However, it is notable that other developments have been granted planning permission in the immediate vicinity of the appeal site, with the Council attempting to address its housing shortfall whilst seeking to make more efficient use of the land. The appellant has provided details of the densities for some of these sites, which appear to exceed the range set out in the ADDG.
10. Consequently, the layout plan is for illustrative purposes only, and an alternative layout could be agreed to accommodate a scheme of 120 dwellings that is considered suitable for the site, the exact layout of which would be considered at reserved matters stage. Thus, the development would not be in conflict with Policy D DM1 of the Local Plan and the National Planning Policy Framework (the Framework) which seek, amongst other things, to make efficient use of land taking into account the density of the site and its surroundings.

Other Matters

11. The planning obligation provided by the appellant seeks to address reasons for refusal 2, 3, 4, 5 and 6 relating to financial contributions towards accessible natural open green space to offset the impact of the development on the Pagham Harbour Special Protection Area, future monitoring of a travel plan, transporting the costs of secondary school pupils, and the future monitoring of the proposed on-site Biodiversity Net Gain. The obligation will also secure affordable housing across the site.
12. Given the policy requirements and the infrastructure needs arising from the development, I am satisfied that all of the above obligations are necessary to make the development

¹ P/35/24/OUT dated 16 April 2025

acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. They would accord with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and the Framework. Therefore, I can take all of the proposed obligations into account as part of my decision.

13. I note the concerns raised by a local resident stating that the development would place an additional burden on local services. However, I have not been provided with any substantive evidence that those services could not cope with the additional residents.

Conditions

14. The Council has suggested a number of conditions that I have considered in accordance with the Framework and the Planning Practice Guidance. It is necessary and reasonable that some of the information required by these conditions be provided prior to the commencement of development, as these are matters which cannot properly or reasonably be addressed following the commencement of the development. In instances I have amended the wording of the conditions in the interest of precision and clarity, taking into account the revisions suggested by the appellant.
15. In addition to the standard commencement condition, it is necessary to define the reserved matters and require their approval (1 & 2). For clarity, a condition defining the access arrangements is also required (3). In order to secure the generation of on-site energy generation, a condition requiring a minimum of 10% of energy from decentralised, renewable, or low carbon energy is required (4). In the interest of habitat protection and enhancements, a condition is required to ensure that the development is carried out in accordance with the submitted Ecological Assessment (5).
16. In the interest of the visual amenity and the quality of the environment, landscaping and layout details (6), and the scale and appearance of the development (7) are to be submitted to and agreed with the Council. To ensure that the public open space (POS) is provided, the layout and landscape details of the POS and play area shall be agreed with the Council (8). In addition, to ensure that occupiers can remain in their homes, details of how the proposed development will meet Building Regulation standards M4(2) and M4(3) and the Council's guidance note on accommodation for older people and people with disabilities (9).
17. In the interest of visual amenity, details of any temporary sales areas shall be agreed with the Council (10). To ensure that flood risk is addressed at the site, a scheme for the disposal of surface water (11), surface water drainage (12), surface water run-off (13), and foul water drainage systems (14) shall be agreed with the Council. As the access road will cross over a ditch which is wet at certain times, details of how the access will cross this ditch will be submitted to and approved by the Council (15).
18. In the interest of the living conditions of nearby residents and future occupiers of the proposed dwellings, a Construction and Environmental Plan will be agreed with the Council and fully implemented (16). To protect the best and most versatile soils, a Soil Resource Plan shall be submitted and agreed with the Council (17). To ensure that measures are in place for the employment of local crafts people and apprentices during the development, an Employment and Skills Plan shall be submitted to and agreed with the Council in writing (18). In the interest of human safety, details of fire hydrants across the site shall be provided for the Council to agree in writing (19).
19. In the interest of biodiversity, details of bat tubes, boxes and/or bricks (20), bee bricks/invertebrate hotels (21), and nesting bricks (22) shall be agreed in writing with the Council. In the interest of road safety, road, foot, and cycle links to Summer Lane shall be provided in accordance with the approved plans (23). In addition, details of car parking serving the development (24), and roads, footways and casual parking areas (25) shall be

provided in accordance with the plans and details to be approved under the reserved matters application.

20. To promote sustainable transport, upon the occupation of each dwelling, the applicant shall implement the measures within the approved Residential Travel Plan (26). To safeguard the amenities of future residents, the applicant or developer shall ensure that infrastructure is implemented to allow for the highest available headline speed of broadband across the site (27).
21. In the interest of flood risk, the development shall be carried out in accordance with the water drainage scheme (28), and details of the maintenance of the surface water drainage systems shall be agreed in writing with the Council (29). To improve water usage and the sustainability of the dwellings, details of ensuring a maximum of 110 litres of water usage per person per day shall be agreed in writing with the Council (30). In the interest of human health, if during development contamination is found, the Council must be informed and a method statement provided setting out how the contamination will be dealt with (31). To ensure that the development delivers a biodiversity net gain, a Biodiversity Net Gain Plan shall be provided and agreed with the Council in writing (32).

Conclusion

22. Thus, having regard to the development plan when read as a whole and all other material considerations, the appeal is allowed.

Graham Wyatt

INSPECTOR

Schedule of Conditions

1. The permission hereby granted is an outline permission under s92 of the Town and Country Planning Act 1990 (as amended) and an application for the approval of the Local Planning Authority to the following matters must be made not later than the expiration of 2 years beginning with the date of this permission:
 1. Layout.
 2. Scale.
 3. Appearance.
 4. Landscaping.
2. The development hereby permitted shall be begun either before the expiration of 4 years from the date of this permission, or before expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
3. The development hereby approved shall be carried out in accordance with the following approved plans:
 1. Location Plan - Red Line Boundary Dwg 02 Rev P16.
 2. Proposed Access Arrangement Dwg 04.
 3. Summer Lane Pedestrian/Cycle Access Dwg 05.
 4. Proposed Pedestrian/Cycle Access with Summer Lane (North) Dwg 06.
 5. Proposed Access Arrangements with Horns Lane Dwg 18 Rev B; and
 6. SFRA Parameter Plan Dwg 2051 DLA XXX DR L 45 Rev 01.
4. The approved development shall achieve a minimum of 10% energy supply generation from the use of decentralised, renewable or low carbon energy sources (as described in the glossary at Annex 2 of the NPPF). Any physical features that are required as part of the works to serve each dwelling must be installed prior to the occupation of that dwelling and shall be thereafter permanently maintained in good working condition.
5. With the exception of bird/bat boxes, and insect boxes/hotels as covered by separate conditions, all mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Assessment (Ecology Solutions, February 2024) as submitted with the planning application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g., an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall supervise all activities, and works shall be carried out, in accordance with the approved details.
6. The landscape and layout details to be submitted for the development or any phase thereof pursuant to condition 1 (as applicable) shall include the following items:
 1. Details of all existing trees and hedgerows on the land indicating which are to be retained and which are to be removed. These required details are to include a 'Tree Survey Schedule', a 'Root Protection Area (RPA) Schedule', a 'Tree Constraints Plan', and in the event that a root protection area of any tree which is proposed for retention overlaps the development, then an 'Arboricultural Method Statement' and a 'Tree Protection Plan'. Development shall be carried out in accordance with the approved details. No hedge or tree shall be felled, uprooted, or otherwise removed before, during or after the construction period except where removal is indicated on a plan approved by the Local Planning Authority.

2. Full landscaping details including the use of native trees and compensatory planting on the basis of 2 trees/hedge units for every 1 lost.
3. The use of triple staggered native hedging along the open western site boundary to reflect the landscaping approved on the adjacent Church Barton reserved matters scheme.
4. A greater amount of Public Open Space than is policy compliant to ensure sufficient on-site mitigation to deter new residents accessing the Pagham Harbour SPA via footpaths in the area.
5. Details of the position, design, materials, height, and type of all boundary treatments to be provided. The boundary treatments shall be provided to each dwelling before the dwelling is occupied or in accordance with the approved phasing plan. Gaps shall be included at the bottom of the fences to allow movement of small mammals across the site. Development shall be carried out in accordance with the approved details and permanently retained in a useable condition thereafter.
6. Full details of all new external lighting (including type of light appliance, the height and position of fitting, predicted illumination levels and light spillage). This submission should also cover new streetlighting if required. The scheme should seek to conform with the recommendations of the Institution of Lighting Professionals (ILP) "Guidance Notes for the Reduction of Obtrusive Light" (GN01:2011) but also be designed to be sensitive to bats. The scheme shall include a bat friendly Lighting Plan. The recommended lighting specification shall use LED's (at 3 lux) with the recommended spectrum being 80% amber and 20% white with a clear view, no UV, a horizontal light spread of less than 70 degrees and a timer. A 3D plan of the illumination level should be supplied so that the Local Planning Authority can assess the potential impact on protected species. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.
7. The layout, scale, and appearance details to be submitted for the development or any phase thereof pursuant to condition 1 (as applicable) shall include the following items:
 1. A scheme for the provision of facilities to enable the charging of electric vehicles in accordance with the Arun Parking Standards SPD to serve the approved dwellings. This requires that where a dwelling has a driveway or garage then one of those parking spaces shall be provided with a charging point, with electric ducting provided to all other spaces where appropriate to provide passive provision for these spaces to be upgraded in future. The individual charge points shall be in accordance with the technical requirements set out in Part S, section 6.2 of the Building Regulations applicable at the time (or any subsequent guidance). The electric vehicle charge points shall thereafter be retained and maintained in good working condition.
 2. A detailed level survey of the site including existing and resulting ground levels and the slab levels of the buildings the subject of this approval.
 3. 5% of all parking provided as suitable for disabled persons. This must include a percentage of the proposed visitor parking spaces.

4. Full details of cycle storage including elevations where such is provided in separate buildings; and
 5. A colour schedule of the materials and finishes to be used for the external walls and roofs of the proposed buildings.
8. The layout and landscape details to be submitted pursuant to condition 1 shall include full details of the required public open space (POS) and play areas to include details of proposed management arrangements. The POS and play areas shall thereafter be implemented in accordance with the provision as agreed prior to occupation of the 61st dwelling and permanently retained thereafter. The approved management details shall be permanently adhered to.
9. Detailed plans and particulars of the Reserved Matters submitted to the Local Planning Authority for approval pursuant to condition 1 shall ensure that the scheme makes provision for accommodation to meet the Building Regulations Standards M4(2) and M4(3) in accordance with the Council's guidance note "Accommodation for Older People and People with Disabilities Guidance".
10. The layout, scale and appearance details referred to in Condition 1 shall include details of any temporary sales areas that may be required during the construction and marketing of the development. Such details shall include any temporary buildings or temporary changes to buildings and any temporary change to the development layout. The approved details shall be for a temporary period only ending on or before the date that the last dwelling on the site has been sold. The buildings or area shall be returned to their approved permanent appearance within 3 months of the date of the last building sold.
11. As part of the submission of each Reserved Matters application for the development of any phase thereof hereby permitted, details of a scheme for the disposing of surface water by a means of sustainable drainage system shall be submitted to and approved in writing by the Local Planning Authority in accordance with the approved drainage strategy and discharge rates (2.86 l/s for the 1 in 1 year event and 9.06 l/s for the 1 in 100 plus climate change event) as contained within section 5.3 of the Drainage Strategy (prepared by Ridge, dated June 2024, Rev. P05). The scheme shall be implemented in full in accordance with the approved details prior to first use of the development. The submitted details shall:
 1. Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharge from the site via a proposed Sustainable drainage system which utilises source control features prior to site control features and the measures taken to prevent pollution of the receiving surface waters.
 2. Demonstrate that the proposed surface water drainage system does not surcharge in the 1 in 1 critical storm duration, flood in the 1 in 30 plus climate change critical storm duration or the 1 in 100 critical storm duration.
 3. Demonstrate that any flooding that occurs when taking into account climate change for the 1 in 100 critical storm event in accordance with NPPF does not leave the site uncontrolled via overland flow routes, safe, and does not impact any of proposed built development.
 4. Provide an exceedance plan for any storm event that exceeds the design standards of the surface water drainage SuDS system to ensure no built development is impacted.

12. Prior to the commencement of development of each phase for the development hereby permitted, construction drawings of the surface water drainage network, associated sustainable drainage components, flow control mechanisms and a construction method statement have been submitted to and approved in writing by the Local Planning Authority. The scheme shall then be constructed in accordance with the approved drawings, method statement and Micro drainage calculations prior to the first occupation of the development hereby approved. No alteration to the approved drainage scheme shall occur without prior written approval of the Local Planning Authority.
13. No development, including preparatory works, shall commence or any phase thereof until details and method statement of measures indicating how additional surface water run-off from the site within that phase will be avoided during the construction works have been submitted to and approved in writing by the Local Planning Authority. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. This should include the maintenance proposals during construction. The site works and construction phases shall thereafter be carried out in accordance with approved method statement, and the approved measures and systems shall be brought into operation before any works to create buildings or hard surfaces commence for the relevant phase.
14. Before the development hereby permitted is commenced on any phase, details of the proposed foul drainage system for the phase shall be submitted to and approved in writing by the Local Planning Authority (including details of its siting, design and subsequent management / maintenance, if appropriate). Occupation of the development shall be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that waste water network capacity is available to adequately drain the development and no dwelling shall be occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details of any phase or sub-phase.
15. No development authorised by this permission shall commence unless and until full details (including appropriate drawings) of how the new access road will cross the existing ditch on the eastern boundary have been submitted to and approved in writing by the Local Planning Authority. The access road crossing shall be built in accordance with the approved scheme and permanently retained so thereafter.
16. No development shall take place, (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), until a Construction & Environmental Management Plan and accompanying Site Setup Plan has been submitted to and approved in writing by the Local Planning Authority (who shall consult with National Highways, WSCC Highways, and the council's Environmental Health Officer as appropriate). Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. This shall require the applicant and contractors to minimise disturbance during demolition and construction and will include (but not be limited to) details of the following information for approval:
 1. The phased programme of construction works.
 2. The anticipated, number, frequency, types, and timing of vehicles used during construction (construction vehicles should avoid the strategic road network during the peak hours of 0800- 0900 and 1700-1800 where practicable).
 3. The preferred road routing for all construction traffic associated with the development.
 4. Provision of wheel washing facilities (details of their operation & location) and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulations Orders).

5. Details of street sweeping.
6. Details of a means of suppressing dust & dirt arising from the development.
7. A scheme for recycling/disposing of waste resulting from demolition and construction works (i.e., no burning permitted).
8. Details of all proposed external lighting to be used during construction (including location, height, type & direction of light sources and intensity of illumination).
9. Details of areas for the loading, unloading, parking, and turning of vehicles associated with the construction of the development.
10. Details of areas to be used for the storage of plant and materials associated with the development.
11. Details of the temporary construction site enclosure to be used throughout the course of construction (including access gates, decorative displays & facilities for public viewing, where appropriate).
12. Contact details for the site contractor, site foreman and CDM co-ordinator (including out-of-hours contact details).
13. Details of the arrangements for public engagement/consultation both prior to and continued liaison during the construction works.
14. Details of any temporary traffic management that may be required to facilitate the development including chapter 8 traffic signage.
15. Measures to minimise the noise (including vibration) generated by the construction process to include hours of work, proposed method of piling for foundations, the careful selection of plant and machinery and use of noise mitigation barrier(s).
16. Details of pest control.

Details of how measures will be put in place to address any environmental problems arising from any of the above shall be provided. A named person shall be appointed by the applicant to deal with complaints, shall be available on site and their availability made known to all relevant parties.

No demolition/construction activities shall take place other than from 08:00 hours until 18:00 hours (Monday to Friday) and from 08:00 hours until 13:00 hours (Saturday) with no work on Sunday or Bank/Public Holidays.

17. Development shall not commence on any phase, until a Soil Resource Plan has been submitted to and approved in writing by the Local Planning Authority for the development of the phase. This shall set out how the best and most versatile soils on the site are to be protected during construction and then recycled/reused in the new development layout. The soil protection/mitigation measures shall be implemented as per the document and then permanently adhered to throughout the construction and development of the site.
18. Prior to commencement of development the applicant shall prepare and submit for approval in writing, an Employment and Skills Plan. Following approval of the Employment and Skills Plan the developer will implement and promote the objectives of the approved plan.
19. No development of any dwelling above damp-proof course (DPC) level shall take place unless and until details of the proposed location of the required fire hydrants have been submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Service.

Prior to the first occupation of any dwelling forming part of the proposed development, the applicant/developer shall at their own expense install the required fire hydrants (or in a phased programme if a large development) in the approved locations to BS:750

standards or stored water supply and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of firefighting.

The fire hydrants shall thereafter be maintained as part of the development by the water undertaker at the expense of the Fire and Rescue Service if adopted as part of the public mains supply (Fire Services Act 2004) or by the owner/occupier if the installation is retained as a private network.

20. Details of bat tubes, bricks or boxes shall be submitted to and approved in writing by the Local Planning Authority prior to any development of any dwelling above damp-proof course (DPC) level.

No less than 60 bat tubes or bricks shall be provided, and the details shall include the exact location, specification, and design of the habitats. The bat tubes, bricks or boxes shall be installed with the development prior to the first occupation of the building/s to which they form part or the first use of the space in which they are contained.

The bat tubes, bricks or boxes shall be installed strictly in accordance with the details so approved and shall be permanently maintained in good working condition thereafter.

21. Details of Bee bricks and/or invertebrate hotels shall be submitted to and approved in writing by the Local Planning Authority prior to any development of any dwelling above damp-proof course (DPC) level.

No less than 16 bee bricks in sunny locations and 16 invertebrate hotels shall be provided, and the details shall include the exact location, specification, and design of the habitats. Bee bricks and/or invertebrate hotels shall be installed with the development prior to the first occupation of the buildings to which they form part or the first use of the space in which they are contained.

The Bee bricks and/or invertebrate hotels shall be installed strictly in accordance with the details so approved and shall be permanently maintained in good working condition as such thereafter.

22. Details of integral nesting bricks shall be submitted to and approved in writing by the Local Planning Authority prior to any development above damp-proof course (DPC) level.

No less than 60 integral universal nesting bricks shall be provided, and the details shall include the exact location, specification, and design of the bricks. The bricks shall be installed within the development prior to the first occupation of the building/s to which they form part or the first use of the space in which they are contained.

The nesting bricks shall be installed strictly in accordance with the details so approved and shall be permanently maintained in good working condition as such thereafter.

23. No part of the development shall be first occupied until such time as the access serving the adjacent development to the east, and the access included as part of this development (which it is shown to connect to) - including foot and cycle links to Summer Lane - have been constructed in accordance with the details shown on the approved drawings, including the recommendations contained in the associated Road Safety Audits.

24. No dwelling shall be first occupied until the car parking serving the respective dwelling has been constructed in accordance with plans and details approved by the reserved matters permission. Once provided the spaces shall thereafter be retained at all times for their designated purpose.

25. No part of the development shall be first occupied until the road(s), footways, and casual parking areas serving that part of the development have been constructed, surfaced, and drained in accordance with the plans and details as approved by the reserved matters permission and the discharge of relevant drainage conditions.
26. Upon the first occupation of each dwelling, the Applicant shall implement the measures incorporated within the approved Residential Travel Plan (ref 23106/TP/01/B, May 2024). The Applicant shall thereafter monitor, report and subsequently revise the travel plan as specified within the approved document.
27. Prior to the occupation of any dwelling on the development, the applicant or developer shall ensure that infrastructure is implemented to allow for the provision of the highest available headline speed of broadband provision to future occupants of that dwelling from a site-wide network provided as part of the initial highway works and in the construction of frontage thresholds to buildings that abut the highway. Unless evidence is put forward and agreed in writing by the Local Planning Authority that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure, the development of the site will continue in accordance with the approved strategy.
28. Prior to first use of each phase of the development a detailed verification report, (appended with substantiating evidence demonstrating the approved construction details and specifications have been implemented in accordance with the surface water drainage scheme), has been submitted to and approved (in writing) by the Local Planning Authority. The verification report shall include photographs of excavations and soil profiles/horizons, any installation of any surface water structure and Control mechanism.
29. Details for the long-term maintenance arrangements for the surface water drainage system (including all SuDS features) to be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any building. The submitted details should identify runoff sub-catchments, SuDS components, control structures, flow routes and outfalls. In addition, the plan must clarify the access that is required to each surface water management component for maintenance purposes. The maintenance plan shall be carried out in full thereafter.
30. No dwelling hereby approved shall be occupied until the means to ensure a maximum water consumption of 110 litres use per person per day, has been complied with for that dwelling and retained in perpetuity thereafter.
31. If during development, any visible contaminated or odorous material, (for example, asbestos containing material, stained soil, petrol / diesel / solvent odour, underground tanks or associated pipework) not previously identified, is found to be present at the site, no further development (unless otherwise expressly agreed in writing with the Local Planning Authority) shall be carried out until it has been fully investigated using suitably qualified independent consultant(s). The Local Planning Authority must be informed immediately of the nature and degree of the contamination present and a method statement detailing how the unsuspected contamination shall be dealt with must be prepared and submitted to the Local Planning Authority for approval in writing before being implemented. If no such contaminated material is identified during the development, a statement to this effect must be submitted in writing to the Local Planning Authority.
32. The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to

have been granted subject to the condition (the biodiversity gain condition) that development may not begin unless:

1. A Biodiversity Gain Plan has been submitted to the planning authority, and
2. The planning authority has approved the plan.

This permission will require the submission and approval of a Biodiversity Gain Plan before development is begun.

For guidance on the contents of the Biodiversity Gain Plan that must be submitted and agreed by the Council prior to the commencement of the consented development please see the link: <https://www.gov.uk/guidance/submit-a-biodiversity-gain-plan>

End.

APPENDIX 3

Appeal Decision – Land West of
Pagham Road



Appeal Decision

Hearing held on 15 November 2022

Site visit made on 16 November 2022

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date:

Appeal Ref: APP/C3810/W/22/3302023

Land west of Pagham Road, Pagham

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Hallam Land Management against the decision of Arun District Council.
 - The application Ref P/178/21/OUT, dated 17 December 2021, was refused by notice dated 19 May 2022.
 - The development proposed is 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.
-

Decision

1. The appeal is allowed and planning permission is granted 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 at Land west of Pagham Road, Pagham in accordance with the terms of the application, Ref P/178/21/OUT, dated 17 December 2021, subject to the 32 conditions set out in the attached schedule.

Preliminary Matters

2. The original application was made in outline with all matters reserved except for access. Approval is only sought at this stage for the access point onto Pagham Road as shown on plan ref JNY10700-01 Rev D. All other matters relating to access, including internal circulation, would be determined at the reserved matters stage. I have had regard to the illustrative masterplans (ref P21-2766_03 Rev E, P21-2766_03 Rev F and P21-2766_02 Rev G) and landscape masterplan (ref P21-2766_06 Rev B) but consider that all the details shown are indicative only, apart from the access point.
3. A completed and executed Section 106 agreement (S106) was submitted shortly after the close of the hearing. This is assessed below.

Main Issues

4. The original application was refused for five reasons. In the Statement of Common Ground between the main parties, the Council confirmed that it would not seek to defend the second reason for refusal on flood risk subject to a suitably worded condition, or the third, fourth or fifth reasons for refusal on affordable housing, transport and ecology subject to those matters being appropriately addressed as obligations in the S106.

5. Interested parties identified a number of concerns relating to flood risk and so it has been necessary for this topic to remain a main issue at the hearing and in my decision. For clarity, I have also separated out the three topics contained with the first reason for refusal. Therefore, the main issues are as follows:
- a) The effect of the proposed development on the character and appearance of the area including the surrounding countryside;
 - b) The effect of the proposed development on the provision of agricultural land;
 - c) The effect of the proposed development on flood risk; and
 - d) The overall planning balance, having regard to the development plan, national policy and the benefits of the proposal.

Reasons

Main Issue 1: Character and appearance

6. The appeal site comprises an agricultural field immediately to the west of Pagham Road and bordering the northern edge of Pagham. There is existing development to the south, including a small cul-de-sac surrounding a tall Grade II listed building known as Nyetimber Windmill and a much larger residential park home estate known as Mill Farm which extends beyond the south-west corner of the site. There is an area of thick vegetation along the site's western boundary and a hedgerow along its northern boundary that separates the site from open fields and the wider countryside to the north and west. There is a small cluster of buildings around the Grade II listed Rookery Farmhouse next to Pagham Road that extends halfway along the site's northern boundary. The eastern boundary of the site next to Pagham Road is partly contained by hedgerows while on the opposite side of the road is a large field at Hook Lane.
7. With the exception of Mill Farm and small cul-de-sacs to the west of Pagham Road, much of the housing within Pagham is contained to the east of Pagham Road and south-east of Hook Lane. The Pagham Village Design Statement (VDS) refers to the open fields west of Pagham Road and those abutting Hook Lane as especially sensitive and valued rural areas beyond the settlement edge. However, the VDS dates from 2007 and there have been considerable changes that have or will affect the character and appearance of the area.
8. New housing is being built to the west of Pagham Road and to the south of Mill Farm along the northern edge of Summer Lane. There is a strategic allocation in the Arun Local Plan 2018 (ALP) for 400 homes to the south of Summer Lane known as Pagham South which is seeking reserved matters approval. There is another ALP strategic allocation for 800 homes to the north-west of Hook Lane known as Pagham North which is opposite the site. This has secured reserved matters approval and is being implemented.
9. In terms of landscape character, the site lies within coastal plain character areas at the national, county and district level. This landscape is mainly flat and open with arable fields crossed by hedgerows and watercourses (rifes). Large commercial buildings and the proximity of urban fringes are detracting features. The site is part of this landscape character with its flat, open and vegetated qualities but it also has the detracting elements of nearby built development.

10. Public views of the site are limited to the Pagham Road frontage and only in the gaps in hedgerow planting. This allows a clear view of the site as well as buildings to the north and south, including the single storey properties at Mill Farm where there are breaks in boundary planting. These buildings along with trees and hedgerows restrict views of the wider countryside to the north and west. It may be possible to spot the spire of Chichester Cathedral on a fine day, but it is around 5km to the north-west and unlikely to be a significant feature at that distance. The buildings at Mill Farm prevent views of the site from a public footpath through the estate and from footpaths further to west and south-west. Vegetation and intervening buildings prevent views of the site from footpaths to the north and south.
11. The main parties agree that the site is not within any landscape designation and is not part of a valued landscape for the purposes of paragraph 174(a) of the National Planning Policy Framework (NPPF). While it has some value as an open field with hedgerow boundaries, it is well-contained from the surrounding area by buildings and vegetation. From the Pagham Road frontage, it is hard to appreciate the wider countryside beyond. The site is situated in a semi-rural edge of settlement location, but existing residential development to the south already has an urbanising influence. The Pagham North site to the east would add to this influence on the other side of Pagham Road travelling into the settlement from the north, even with landscaping buffers to the road. Therefore, the site only makes a moderate contribution to the character and appearance of the area.
12. The illustrative masterplans show residential development across much of the site with the access point onto Pagham Road approximately halfway along the eastern boundary. While the access point is the only element fixed at this stage, the draft planning conditions agreed between the main parties would set clear parameters for any reserved matters application. Built development would need to avoid the biodiversity improvement area along the western edge of the site and maintain dark wildlife buffer areas along the edges generally. Unless properties are built with a finished floor level of at least 300mm above the modelled 2115 undefended flood event scenario (see below), built development would be even further away from the site's western edge. There would also need to be a development free zone in the south-eastern corner to maintain a sightline of the listed windmill from Pagham Road. The masterplans suggest buildings could set back from the by approximately 30 to 50m.
13. These parameters would ensure that there would be considerable landscaping buffers on all sides of the development. Existing trees and hedges would be strengthened to screen views from the road and elsewhere. The development free zone could incorporate public open space and play equipment and provide a strong green edge for anyone travelling past the site on Pagham Road.
14. The gap in the road frontage would remain for the access point and the view of the currently open site would be lost to built development. The semi-rural character would also diminish. However, the density of development would not be excessive and the exact number of dwellings can be controlled at the reserved matters stage to ensure that it would not be overly urban. The same controls apply in terms of the scale and appearance of each dwelling along with any landscaping measures.

15. It may be possible to see two-storey properties above the existing single storey homes at Mill Farm from public footpaths to the west and south-west, but the effect of this can be successfully mitigated through additional planting. In the context of existing housing to the south of the site and emerging residential development to the south and east, the development would not seem out of place. Any negative effects can be mitigated through the layout of housing and the use of landscaping to screen and soften built forms.
16. In conclusion, the proposed development would have an acceptable effect on the character and appearance of the area including the surrounding countryside. Therefore, it would accord with ALP Policy LAN DM1 which, amongst other things, requires development to respect the particular characteristics and natural features of relevant landscape character areas and seek, wherever possible, to reinforce or repair the character of those areas. It would also accord with ALP Policy D DM1 which, amongst other things, seeks to make the best possible use of available land by reflecting or improving upon the character of the site and surrounding area.

Main Issue 2: Agricultural land

17. The site is used for arable farming and could continue to do so regardless of the outcome of this appeal. Around two-fifths of the site has been surveyed as Grade 3a agricultural land nearest to Pagham Road while the remainder is Grade 3b land. The NPPF defines Grades 1, 2 and 3a as best and most versatile (BMV) agricultural land with NPPF paragraph 174(b) highlighting the economic and other benefits of such land.
18. Most of the countryside surrounding the main coastal towns in Arun is characterised as BMV land. The main parties agree that it is difficult to avoid new development on the edge of such settlements resulting in the loss of some BMV land. In addition to BMV land having good soil for crops, it provides employment benefits as well as bi-products for composting and energy. With rising costs and uncertain food security, such land is an important resource.
19. ALP Policy SO DM1 seeks to protect BMV land unless the need for development outweighs the need to protect such land in the long term. The policy requires the submission of a sustainability and options appraisal to justify the loss of BMV land which has not been provided for this development. It also requires mitigation measures and a soil resources plan to offset any loss.
20. Based on the illustrative masterplan (ref P21-2766_03 Rev E) around two-thirds of the existing site would be lost to residential development and the remainder would be used for landscaping, flood attenuation and public open space. As a consequence, it would no longer be feasible for any commercial farming within the site. However, the main parties have agreed on a draft condition that would require the submission of a soil resources plan to protect and reuse soils within the development. Soils could be recycled for use within individual gardens and the undeveloped parts of the site could be used for small scale crop growing.
21. Compared to the extent of BMV land in Arun, the loss of around 2 hectares of Grade 3a land and 3 hectares of non-BMV Grade 3b land would not be significant. Soils can be protected and reused. Nevertheless, the loss of agricultural land carries moderate weight against the development. Moreover, the development has not provided the sustainability and options appraisal

required by ALP Policy SO DM1. In summary, the development would have a negative effect on the provision of agricultural land and cause some conflict with ALP Policy SO DM1.

Main Issue 3: Flood risk

22. Based on current day flood mapping from the Environment Agency (EA), most of the site lies within Flood Zone 1 apart from the north-west edge. This area lies within Flood Zones 2 and 3 due to the proximity of the Pagham Rife. No housing is proposed within this area on any of the illustrative masterplans and the route into and out of the site would also avoid this area.
23. However, the current day flood mapping does not reflect future climate change considerations. The Council's Strategic Flood Risk Assessment (SFRA) predicts that more of the north-western part of the site would fall within Flood Zone 3 by 2111. This is due to sea level rises and water from Pagham Harbour travelling up the Pagham Rife and flooding onto surrounding land. Pagham Rife already experiences flooding and interested parties have referred to the effect of a spring tide combined with heavy rainfall and the harbour sluice gates being closed leading to the displacement of water sideways from the river.
24. The EA's future flood map data is more recent than the SFRA. It forecasts that the area of the site within Flood Zone 3 by 2115 to be somewhere in between the extent shown in current day mapping and the SFRA assuming a defended flood event. Nevertheless, the appellant has modelled the scenario for a 2115 undefended 1 in 200 year tidal storm event with 1.1m and 1.6m sea level rises. This shows the extent of flooding to be comparable to the SFRA mapping and would affect any properties in the westernmost part of the site.
25. There is no intention for existing flood defences to be abandoned. The above scenario would require a series of defences to fail at the same time as a severe storm event. However, agreement has been reached between the main parties in consultation with the EA that a suitably worded planning condition can be attached to any permission. This condition would require either no properties within the area that would be flooded in the 2115 undefended flood event scenario or any property within that area to have a finished floor level at least 300mm above the modelled flood event. As a consequence, future occupants of the development should be safe from flooding.
26. The appellant has also carried out a sequential test as part of their appeal submission even though it is possible that no housing would be located outside Flood Zone 1. This reveals that alternative sites in the Pagham area are either not suitable/available or not sequentially better than this site in terms of flood risk. Therefore, I concur that there are no reasonably available alternative sites in Pagham for the development proposed in terms of flood risk matters.
27. Surface water would drain into an attenuation pond at the northern end of the site and then into watercourses and the Pagham Rife. The drainage strategy, which can be finalised and secured by condition, would lower existing run-off rates by holding and slowly releasing water. It would also be possible to remove pollutants before discharging off-site. Even if levels in the Pagham Rife are high, the development should not increase the risk of flooding elsewhere but should result in a betterment on existing water flow and quality.

28. It is apparent that the appellant has drainage rights to discharge into the watercourses to the north of the site based on riparian rights and documented easements¹. Therefore, it seems unlikely that adjoining landowners would be able to withhold permission to drain into these watercourses. In any case, any dispute would be a civil matter separate to the planning process and so I have assumed that off-site drainage is achievable.
29. Interested parties have referred to information from Climate Central which forecasts half of the site to be below the annual flood level by 2030. However, I do not have the full information before me and so have relied on data provided by the EA and in the SFRA. The appellant's Flood Risk Assessment and appeal submission has taken into account baseline conditions and flooding data. It is evident that flooding already occurs from the Pagham Rife with flooding events at Mill Farm and elsewhere, and the bunding at Mill Farm suffering from water ingress. However, it has not been demonstrated that development on this site either on its own or cumulatively with other developments would either increase the risk of flooding elsewhere or put future occupants at risk.
30. Concluding on this main issue, the proposed development would have an acceptable effect on flood risk. Therefore, it would accord with ALP Policy ECC SP1 which, amongst other things, supports development which is located and appropriately designed to adapt to climate change in terms of flooding and drainage. It would also accord with ALP Policy W DM2 which requires development in areas at risk from flooding to meet the sequential test and show that the development will be safe without increasing flood risk elsewhere. The development would also follow the advice in NPPF paragraphs 159 to 169 with regard to the sequential test and addressing flood risk.

Other matters

Sewage

31. Southern Water has stated that there is insufficient capacity to join the development to the existing 150mm foul sewer along Pagham Road. However, they have identified where a connection could take place with foul sewage processed at Pagham Wastewater Treatment Works (WTW). A planning condition can be applied to ensure that a suitable foul drainage system is agreed and implemented. Such a system should be capable of keeping foul water separate from any surface water drainage, particularly as the former would flow eastwards to the road and the latter westwards to the Pagham Rife.

Pagham Harbour Special Protection Area (SPA)

32. The site is within 5km of the Pagham Harbour SPA and Ramsar site. The SPA contains a range of estuarine habitats including salt marsh, mudflats and grassland important for rare bird species like terns and ruffs as well as migratory bird species like brent geese. Potential adverse effects on the SPA from the development relate to recreational disturbance from increased numbers of visitors and their dogs affecting bird populations. This could result in likely significant effects on the integrity of the European site in combination with other plans or projects. As such, it is necessary to carry out an appropriate assessment (AA) as part of my decision.

¹ Hearing Document 6

33. As part of the AA, it is necessary to consider whether any potential effects could be addressed through specific measures. The appellant and the Council have agreed a financial contribution of £871 per dwelling towards the established strategic access management and monitoring (SAMM) project at Pagham Harbour. This would be secured by the S106. The extent of open space within the site would exceed policy requirements based on the illustrative material. This can be secured at the reserved matters stage and so could further help to reduce recreational pressure on the SPA.
34. Natural England (NE) was consulted as part of the appeal process and has confirmed that Pagham Harbour SPA is the only European site potentially affected by the development due to recreational disturbance. NE has also confirmed that the SAMM contribution secured by the S106 would be sufficient to avoid an adverse impact on the integrity of the SPA. Contrary to its response at the application stage, NE has not raised concerns with any effect on European sites in the Solent where wastewater can have negative consequences. This is because the Pagham WTW discharges to the English Channel and not the Solent.
35. Based on the above mitigation measures, the development would not result in a significant effect on the SPA and so would accord with ALP Policy ENV DM2 which seeks to protect the integrity of Pagham Harbour. I am also satisfied that the development would not affect any other European site.

Other ecology matters

36. The appellant has conducted a number of ecological surveys for different species. Trees and hedgerows within the site provide suitable habitats for bats and breeding birds, and some species within these groups have been identified. It is possible to retain the trees with bat roosting potential and much of the other boundary vegetation. Lighting measures can be sympathetic not just for bats and birds, but other species groups too. Additional planting and the use of bat/bird boxes would provide ecological enhancements. Such measures can be secured by condition as part of a landscape and ecology management plan. Further survey work for water voles, badgers, and hedgehogs can be carried out before development commences and mitigation measures agreed if any are found to be present. There would also be a biodiversity net gain for habitats, hedgerows, and river units. Therefore, the development would have an acceptable and beneficial effect on ecology.

Listed buildings

37. The Grade II listed Nyetimber Windmill has architectural and historic interest as a 19th century mill. The Grade II listed Rookery Farmhouse has architectural and historic interest as an 18th century farmhouse. Historically, both buildings were associated with the surrounding fields and countryside, although this has diminished particularly in the case of the windmill which is now integrated with modern residential development. Nevertheless, the windmill remains a prominent feature from Pagham Road and can be seen across the site.
38. The farmhouse is less obvious from either the road or the site due to its height and intervening buildings, although its roof can be glimpsed. The farmhouse is orientated northwards but there are rooflights on the elevation facing towards the site and windmill. The windmill has no upper floor windows facing the site or farmhouse. Therefore, the intervisibility between the two buildings is limited.

Moreover, it is not evident that they share a historic relationship. Therefore, while the existing site makes a moderate positive contribution to the significance of the listed windmill, it makes no more than a minor positive contribution to the significance of the farmhouse.

39. The development may or may not block views from the farmhouse to the windmill depending on the scale and layout of housing. Even if it did, given the limited intervisibility and absence of any specific relationship, the level of harm to significance would be low. The illustrative masterplans and the proposed conditions would provide a development-free zone next to the windmill, which would enable views of the building to be retained from both the road and the site. This would limit any adverse effect of the development on the significance of the listed windmill. In summary, any harm to the significance of the listed buildings would be minor and less than substantial. In line with NPPF paragraph 202, such harm should be weighed against the public benefits which takes place in the planning balance below.

Highway safety and parking

40. The development has been subject to assessment by the local highway authority who have raised no objections. The visibility splays onto Pagham Road are based on speed survey data and can be achieved and maintained. A financial contribution via the S106 can be secured for improvements to the A27 junction at Whyke Hill. While Pagham Road and the wider local road network may be very busy at times, unsafe for cyclists, and suffer from poor surfacing, it has not been demonstrated that the development would make conditions materially worse.
41. Seasonal workers for the agricultural business to the north may use the site as a cut through from Pagham to avoid walking along narrow sections of Pagham Road, but this is not a formal arrangement with the landowners of the site. It is possible that the development could provide a better surfaced route for such workers than the existing field margins if a formal arrangement was agreed. It is evident that on-street parking occurs in the area surrounding the site. However, the development should be able to provide sufficient parking spaces to avoid exacerbating this issue while local services in Pagham are within walking distance. Therefore, the development would have an acceptable effect on highway safety and parking.

Local infrastructure

42. The strategic sites at Pagham North and South are required to provide infrastructure for future occupants of those developments and contribute towards improving existing facilities in the local area including a new primary school. It has not been demonstrated that the development relies on the infrastructure delivered via the two strategic sites in order to be acceptable. In any case, Pagham North has commenced development while reserved matters for Pagham South are being progressed. I have little information to show that the development would cause unacceptable effects on the provision of schools, healthcare or other facilities. Financial contributions via the Community Infrastructure Levy (CIL) could be used to make infrastructure improvements in the local area, with the parish council receiving 15% of the CIL receipts. Therefore, the development would have an acceptable effect on local infrastructure.

Living conditions and local tourism

43. A number of properties at Mill Farm along the southern and south-western boundary of the site currently look directly across the site due to the absence of any planting. However, it should be possible at the reserved matters stage for new housing to be fixed at a sufficient distance from the boundary and screened by landscaping. This would ensure no unacceptable adverse effects on the living conditions of occupants at Mill Farm in terms of outlook, noise or privacy. I have insufficient evidence that odour from nearby land uses including a digestion plant would result in unacceptable living conditions for future occupants of the development. With regard to local tourism, the development would not be so large or urban as to discourage visitors to Pagham.

Main Issue 4: Planning balance

Housing supply/delivery and policy context

44. The main parties agree that the Council cannot demonstrate a five year housing land supply and that it has not been able to do so since 2018. The Council's latest estimate of supply stands at 2.4 years. The housing delivery test result for Arun has also been below 70% since the ALP was adopted in 2018 with the 2021 result standing at 65%.
45. As a consequence of the housing supply and delivery positions, NPPF paragraph 11(d) is triggered as the policies most important for determining the proposal are out of date. NPPF paragraph 11(d)(i) is not relevant as there are no policies in the NPPF that protect areas or assets of particular importance which provide a clear reason for refusing the development. Instead, NPPF paragraph 11(d)(ii) states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.
46. The main parties agree that the policies listed in the first reason for refusal are the most important policies for determining this proposal. ALP Policies D DM1, LAN DM1 and SO DM1 have been addressed above, but Policies C SP1 and SD SP3 relate to settlement structure and are assessed below.
47. The site adjoins the built-up area boundary for the district's main towns and villages as set out in the ALP. As a consequence, ALP Policy C SP1 defines the site as countryside which will be recognised for its intrinsic character and beauty. The policy states that development will be permitted in the countryside where it meets one of a number of criteria, none of which apply to the proposed development. Therefore, the main parties agree that the development would conflict with ALP Policy C SP1.
48. The site is also located in a gap between settlements as set out in the ALP. The settlements in question are Bognor Regis and Chichester. ALP Policy SD SP3 states that the generally open and undeveloped nature of these gaps between settlements will be protected to prevent coalescence and retain their separate identity. Development will only be permitted within the gaps if a number of criteria in (a) to (e) can be met. Criteria (a) to (c) all have to be met, while the development only has to meet one of the criteria in (d) or (e).
49. In terms of criterion (a), there is a considerable countryside gap between Bognor Regis and Chichester. It is not possible to see another settlement to the north or west of the site. Therefore, the development would not undermine the

physical or visual separation of settlements. Turning to criterion (b), the development would encroach into the gap but in a relatively limited way compared to the overall size of the gap and the scale of developments coming forward at Pagham North and Pagham South. Moreover, its effect on the character and appearance of the area would be acceptable. Therefore, individually or cumulatively it would not compromise the integrity of the gap.

50. Due to the lack of housing land supply and housing delivery, it is difficult to argue that the development could be located elsewhere. Therefore, criterion (c) would be met. In terms of criteria (d) and (e), the development would either need to maintain the character of the undeveloped coast or be allocated by a subsequent development plan document or neighbourhood plan. The latter does not apply here, but the development would maintain the character of the undeveloped coast given its inland location. The development would not result in the coalescence of settlements and their separate identity would be retained. Therefore, the development would not conflict with ALP Policy SD SP3.
51. The Council produced an Interim Housing Statement (IHS) in February 2021 to address the shortfall in housing land supply. It is not part of the development plan but the main parties agree it is a material consideration for this appeal. The IHS applies to sites adjacent to the built-up area boundary and uses a Red Amber Green rating on matters to be addressed. The main parties agree that the development would score green on most matters. It scores amber as it is outside but physically adjacent to the built-up area boundary. It is within a settlement gap but as noted above in my analysis of ALP Policy SD SP3, it would be of size and location that would not significantly compromise the gap or its purposes and so also scores amber.
52. The IHS explains that amber ratings mean that applicable developments will be encouraged where sustainable. The site is within walking distance of various services and facilities in Pagham. There is also a bus stop immediately adjacent to the site on Pagham Road with regular services between Bognor Regis and Chichester. Therefore, the development would encourage sustainable modes of transport as sought by the IHS.
53. The development would not avoid BMV agricultural land as required by the IHS but would seek to protect and conserve as much soil as possible via a soil resources plan to mitigate that loss. Therefore, any conflict with the IHS in this regard would be limited.
54. The Council's most recent Housing and Employment Land Availability Assessment considers the site to be not currently developable, but this is largely due to being contrary to policies regarding its location in the countryside and a gap between settlements rather than any physical constraints. I have already found that there would be no conflict with ALP Policy SD SP3 regarding the gap, while the conflict with ALP Policy C SP1 needs to be considered in the overall planning balance.

Benefits of the development

55. The development would result the delivery of up to 106 dwellings. The shortfall in housing land supply is significant. It is likely to continue for some time with no imminent remedy through the plan-making process. The update of the ALP has been on pause since autumn 2021 and in July 2022 the Council decided not to resume with the update. The number of dwellings proposed as a percentage

of the housing land supply shortfall is not substantial, but it would still make a meaningful contribution to boosting the supply of housing locally. It could also start delivering units in the next 5 years based on the time limits in the conditions agreed between the main parties. Therefore, I afford the benefit of general housing delivery significant weight.

56. The development would provide up to 32 affordable housing units based on a 30% requirement in ALP Policy AH SP2 and the terms of the S106. While this level of provision is a policy requirement, only 563 affordable dwellings have been delivered between 2016 and 2021 (as shown in the Council's Annual Monitoring Report) compared to a need for 480 affordable dwellings per year as set out in the Council's most recent housing needs evidence from 2016. Thus, significant weight can be afforded to the delivery of affordable housing.
57. I note concerns from some interested parties that Pagham and the western part of the district have already received too many new homes. However, the targets in the ALP are minimums. Moreover, the appellant and the Council agree that new housing sites in Pagham taken together would not achieve the 1,200 minimum homes for Pagham as required by the ALP. I have insufficient evidence to demonstrate that the Council will never meet its five year housing land supply, particularly in the absence of recent progress with the ALP update. Therefore, these matters do not diminish the weight given to the delivery of housing from this development.
58. The development would secure investment and employment at the construction phase, while an employment and skills plan secured by condition has the ability to benefit local people and businesses. An increase in demand for council services from occupants of the development might offset any benefits from increased council tax receipts, but there would also be more expenditure in local services and facilities from new residents. Therefore, I consider the economic benefits of the development carry moderate weight.
59. The provision of real time information screens at the nearest bus stops on Pagham Road, which can be secured by condition, would enhance and encourage people to use sustainable modes of transport. The screens would likely be limited in size and given the proximity of built development would not detract from or urbanise the surrounding area. Therefore, moderate weight can be afforded to this benefit.
60. The forecast level of biodiversity net gain would be greater than any current development plan or legal target and would result in ecological enhancements. The provision of public open space and play facilities would benefit the wider community as well as new residents and in the case of public open space could go beyond the Council's minimum requirements based on the illustrative masterplans. These benefits can be afforded moderate weight. Improvements to on-site drainage represent a benefit although are largely designed in response to the proposed development rather than explicitly addressing an existing issue. Thus, I only give this benefit limited weight. All of the above benefits can be regarded as public ones.

Adverse impacts of the development

61. There would be conflict with ALP Policy C SP1 due to the location of development in the countryside. However, the weight I attribute to that conflict is reduced by the lack of a five year housing land supply. It is also reduced by

the fact that the development site adjoins the built-up area boundary, where the IHS takes a more positive and pro-active approach to the delivery of such sites where appropriate, given the housing supply position. Therefore, I only afford moderate weight to the conflict with this policy.

62. The development would have a moderate negative effect on the provision of agricultural land and result in some conflict with ALP Policy SO DM1 by failing to provide the required sustainability and options appraisals. However, a comparatively small area of BMV land would be lost, while a soil resources plan would minimise and mitigate any loss. On balance, the need for housing outweighs the need to protect this area of BMV land and so there would be overall compliance with ALP Policy SO DM1. The need for the development would also outweigh the limited conflict with the IHS on this matter.
63. The harm to the significance of the listed Nyetimber Windmill and Rookery Farmhouse would be minor and less than substantial. Although great weight should be given to the conservation of designated heritage assets, the public benefits would outweigh the harm on this occasion. There would be no conflict with NPPF paragraph 202 and the clear and convincing justification required by NPPF paragraph 200 would be demonstrated. Thus, the development would have an acceptable effect on the significance and setting of the listed buildings.

Conclusion

64. The adverse impacts of the development carry no more than moderate weight. In contrast, significant weight can be afforded to some of the benefits and moderate weight to others. In the context of NPPF paragraph 11(d), the adverse impacts would not significantly and demonstrably outweigh the benefits. As a consequence, the presumption in favour of sustainable development would apply in line with NPPF paragraph 11(d). The development would have an acceptable effect on the character and appearance of the area as well as flood risk. The negative effects on the provision of agricultural land are outweighed by other considerations. Therefore, despite the conflict with ALP Policy C SP1, there are sufficient material considerations to indicate that planning permission should be granted in this instance.

Planning Obligations

65. The Affordable Housing obligation would ensure that not less than 30% of the residential units are affordable. This would accord with ALP Policy AH SP2 on affordable housing. The Travel Plan Contribution obligation would secure the monitoring of the travel plan aimed at encouraging sustainable modes of transport, in accordance with ALP Policies T SP1 and T DM1. The SAMM Contribution obligation would provide funding towards management measures to mitigate the effect of residential development at Pagham Harbour SPA in line with ALP Policies ENV DM1 and ENV DM2. The Whyke Junction Contribution obligation would provide funding for improvements at the A27 Whyke Hill junction in line with ALP Policies T SP1.
66. Given the policy requirements, I am satisfied that all of the above obligations are necessary to make the development acceptable in planning terms and are directly related to the development and fairly and reasonably related in scale and kind. They would accord with Regulation 122 of the CIL Regulations 2010 (as amended) and NPPF paragraph 57. Therefore, I can take all the obligations in the S106 into account as part of my decision.

Conditions

67. Conditions 1 and 2 are necessary to clarify the reserved matters still to be approved as well as set out the timeframe for applications to be submitted and the development implemented. The timeframes are shorter than the standard amount to encourage the earlier delivery of housing. Condition 3 is necessary to specify the plans to which this decision relates.
68. Conditions 4 to 9 contain a number of details that would need to be addressed at the reserved matters stage. Condition 4 specifies the limits to development within the site, which is necessary in the interests of ecology, heritage, and flood risk. Condition 5 requires details that are necessary in the interests of ecology and the character and appearance of the area. Condition 6 would secure the provision and management of public open space and play areas which are necessary to ensure suitable communal outdoor space. The details in Condition 7 are necessary in the interests of access, parking, sustainable travel, and the character and appearance of the area. Condition 8 is necessary to secure accessible housing. Condition 9 is necessary to ensure that ecological mitigation and enhancement measures are included in the landscaping details.
69. Conditions 10 to 19 are pre-commencement as they concern matters that need to be addressed and/or provided before works begin on site. Condition 10 is necessary to ensure that ecological surveys are up to date and mitigation measures provided if species are found. Conditions 11 to 14 and 29 are necessary to ensure appropriate foul and surface water drainage. Condition 15 is necessary given the site's potential archaeological or historic interest. Conditions 16 and 31 are necessary to ensure the construction phase has an acceptable effect on highway safety, living conditions, and ecology. Conditions 17 and 30 are necessary to address any contaminated land issues. Condition 18 is necessary to protect and reuse the best and most versatile soil within the site, while Condition 19 is necessary for local people have the opportunity to secure employment at the construction phase.
70. Condition 20 is necessary in the interests of character and appearance and Condition 21 is necessary to achieve reductions in energy use. Conditions 22 and 28 are necessary to ensure a satisfactory noise environment for future residents, Condition 23 to provide fire safety equipment, and Condition 24 to secure high speed broadband. Condition 25 is necessary for highway safety and Conditions 26 and 27 for encouraging sustainable transport modes. Condition 32 is necessary to maintain air quality levels.

Conclusion

71. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Tom Gilbert-Wooldridge

INSPECTOR

Appearances

For the Appellant:

Thomas Hill KC	Counsel
Owen Jones BA (Hons) DipTP MSc MRTPI PIEMA	LRM Planning
Dean Swan HND Civil Engineering MCIHT FIHE	Brookbanks Consulting

For the Local Planning Authority:

Simon Davis BA (Hons) DipTP MRTPI	Arun District Council
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Interested Parties who spoke at the Hearing:

Dawn Hall	Pagham Parish Council
Colin Hamilton	Local resident
Alan Pivett	Local resident

Documents submitted during the Hearing

1. Updated Context Plan ref P21-2766_03 Sheet No. 6 Rev F
2. Pagham Road Illustrative Montage Drawing ref P21-2766_20 Rev A
3. Agricultural Land Classification Areas Plan ref P21-2766_19
4. Statement from Dawn Hall
5. Statement from Colin Hamilton
6. Advice on drainage rights from Shoosmiths LPP dated 14 November 2022

Documents submitted after the Hearing

1. Updated list of conditions
2. Completed and executed Section 106 agreement dated 1 December 2022

Schedule of Conditions (32)

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters"), shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved. An application for the approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.
- 2) The development hereby permitted shall take place not later than 4 years from the date of this permission or not later than 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan Drawing No P21-2766 05 Rev E
 - Proposed Access Arrangement Drawing No JNY10700-01 Rev D
- 4) The layout details to be submitted pursuant to condition 1 shall ensure that:
 - a) There is no built development placed within the part of the site designated by the Arun Local Plan as part of a Biodiversity Improvement Area;
 - b) Either (i) all properties are situated outside the Design Flood Event (which is the Brookbanks Consulting Ltd 0.5% (1 in 200 year) 2115 undefended with climate change) outline as shown on drawing 10821-SK05; or (ii) any properties that fall within the Design Flood Event have a Finished Floor Level of at least 300mm above the Design Flood Event;
 - c) Dark wildlife buffer areas are proposed to the site's edges and that these are kept free of lighting; and
 - d) As per the submitted Historic Environment Desk Based Assessment (ref PN2721/HEDBA1, October 2021), there is a development free zone in the south-eastern corner in order to maintain a sight line of the Grade II listed Nyetimber Windmill from Pagham Road.
- 5) The landscape and layout details to be submitted pursuant to condition 1 shall include the following items:
 - a) Details of all existing trees and hedgerows on the land indicating which are to be retained and which are to be removed. These required details are to include a Tree Survey Schedule, a Root Protection Area Schedule, a Tree Constraints Plan, and in the event that a root protection area of any tree which is proposed for retention overlaps the development, then an Arboricultural Method Statement and a Tree Protection Plan. Development shall be carried out in accordance with the approved details. No hedge or tree shall be felled, uprooted, or otherwise removed before, during or after the construction period except where removal is indicated on a plan approved by the local planning authority;

- b) Full landscaping details including the use of native trees and compensatory planting on the basis of 2 trees/hedge units for every 1 lost;
 - c) Details of the position, design, materials, height, and type of all boundary treatments to be provided. The boundary treatments shall be provided to each dwelling before the dwelling is occupied or in accordance with the approved phasing plan. Gaps shall be included at the bottom of the fences to allow movement of small mammals across the site. Development shall be carried out in accordance with the approved details and permanently retained in a useable condition thereafter;
 - d) Full details of how the existing hedgerows are to be protected with secure fencing to establish a 5m buffer zone during construction (unless such a buffer is not possible due to the position of agreed buildings in which case a reduced buffer will be acceptable). The development shall thereafter proceed in accordance with the approved hedgerow protection measures;
 - e) A Landscape Environmental Management Plan to provide full details on how the habitats and enhancements on the development will be managed post construction; and
 - f) Full details of all new external lighting (including type of light appliance, the height and position of fitting, predicted illumination levels and light spillage). This submission should also cover new streetlighting if required. The scheme should seek to conform with the recommendations of the Institution of Lighting Professionals (ILP) "Guidance Notes for the Reduction of Obtrusive Light" (GN01:2011) but also minimise potential impacts to any bats using trees and hedgerows (in accordance with the BCT/ILP Guidance Note 08.18) by avoiding unnecessary artificial light spill through the use of directional light sources and shielding. Care should be exercised in respect of lighting directed to the site boundaries. The lighting approved shall be installed and maintained in accordance with the approved details.
- 6) The layout and landscape details to be submitted pursuant to condition 1 shall include full details of the required public open space (POS) & play areas and management arrangements. The POS and play areas shall thereafter be implemented in accordance with the provision as agreed prior to occupation of 50% of the completed dwellings approved pursuant to condition 1 and then permanently retained thereafter. The approved management details shall be permanently adhered to.
- 7) The layout, scale, and appearance details to be submitted pursuant to condition 1 shall include the following items:
- a) Circulation routes and how these fit into the surrounding access network;
 - b) A scheme for the provision of facilities to enable the charging of electric vehicles in accordance with the Arun Parking Standards SPD to serve the approved dwellings;

- c) A detailed level survey of the site including existing and resulting ground levels and the slab levels of the buildings the subject of this approval;
- d) 5% of all parking provided as suitable for disabled persons;
- e) Full details of cycle storage including elevations where such is provided in separate buildings; and
- f) A colour schedule of the materials and finishes to be used for the external walls and roofs of the proposed buildings.

These items shall be implemented in accordance with the agreed details and permanently retained thereafter.

- 8) Detailed plans and particulars of the reserved matters submitted to the local planning authority for approval pursuant to condition 1 shall ensure that 50% of the approved dwellings are designed to meet the Building Regulations M4(2) standard and an additional two units shall be constructed to M4(3) standard for every 50 dwellings developed on the site as defined by 'Access to and use of Buildings: Approved Document M'.
- 9) The development shall be carried out in complete accordance with the mitigations and enhancements set out in sections 6.8-6.22 of the Ecological Appraisal (December 2021) and also in respect of any recommendations in the accompanying supporting survey reports (contained as appendices to the document). All proposed enhancements shall be detailed in the landscape details to be submitted pursuant to condition 1.
- 10) No development, including site access or associated construction activities, shall commence unless and until the site has been re-surveyed for water voles, badgers, and hedgehogs. If water voles or badgers (or a badger sett) are found to be present, then an appropriate mitigation strategy shall be provided to the local planning authority for approval in writing prior to commencement of the development. Any hedgehogs that are found to be present shall be relocated away from the construction area into surrounding suitable habitats.
- 11) Prior to the commencement of construction works, details of a proposed foul drainage system shall be submitted to and approved in writing by the local planning authority (including details of its siting, design, and subsequent management / maintenance) and no dwelling shall be occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details.
- 12) No development shall commence, other than works of site survey and investigation, until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDS Manual produced by CIRIA. Design considerations must take full account of the 'Supplementary Requirements for Surface Water Drainage Proposals' produced by Arun District Council and are an overriding factor in terms of requirements. Winter groundwater monitoring to establish highest annual ground water

levels and winter percolation testing to BRE 365, or similar approved, will be required to support the design of any infiltration drainage. No dwelling shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.

- 13) No development shall commence until details have been submitted to and approved in writing by the local planning authority for any proposals to discharge flows to watercourses, or for the culverting, diversion, infilling or obstruction of any watercourse on or adjacent to the site. Any discharge to a watercourse must be at a rate no greater than the pre-development run-off values and in accordance with current policies. No construction is permitted that will restrict current and future landowners from undertaking their riparian maintenance responsibilities in respect to any watercourse or culvert on or adjacent to the site.
- 14) No development shall commence until full details of the maintenance and management of the surface water drainage system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the local planning authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. Upon completed construction of the surface water drainage system, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.
- 15) No development shall commence until the implementation of a programme of archaeological work in accordance with a written scheme of investigation that has been submitted to and approved in writing by the local planning authority. The development shall thereafter proceed in accordance with the approved scheme.
- 16) No development shall commence, including any works of demolition, until a Construction and Environmental Management Plan (CEMP) and accompanying Site Setup Plan has been submitted to and approved in writing by the local planning authority (who shall consult with the local highway authority and the Council's Environmental Health Officer and Ecologist as appropriate). Thereafter the approved CEMP shall be implemented and adhered to throughout the entire construction period. This shall require disturbance during demolition and construction to be minimised and will include (but not be limited to) details of the following information for approval:
 - a) the phased programme of construction works;
 - b) the anticipated, number, frequency, types, and timing of vehicles used during construction (construction vehicles should avoid the strategic road network during the peak hours of 0800-0900 and 1700-1800 where practicable);
 - c) the sheeting of any loose loads;
 - d) the means of access and road routing for all construction traffic associated with the development;
 - e) provision of wheel washing facilities (details of their operation & location) and other works required to mitigate the impact of

construction upon the public highway (including the provision of temporary Traffic Regulations Orders);

- f) details of street sweeping;
- g) construction vehicle delivery times;
- h) details of a means of suppressing dust & dirt arising from the development;
- i) a scheme for recycling/disposing of waste resulting from demolition and construction works (i.e., no burning permitted);
- j) details of all proposed external lighting to be used during construction (including location, height, type & direction of light sources and intensity of illumination);
- k) details of areas for the loading, unloading, parking, and turning of vehicles associated with the construction of the development;
- l) details of areas to be used for the storage of plant and materials associated with the development;
- m) details of the temporary construction site enclosure to be used throughout the course of construction (including access gates, decorative displays & facilities for public viewing, where appropriate);
- n) contact details for the site contractor, site supervisor and CDM co-ordinator (including out-of-hours contact details);
- o) details of the arrangements for public engagement/consultation both prior to and continued liaison during the construction works;
- p) details of any temporary traffic management that may be required to facilitate the development including traffic signage; and
- q) measures to minimise the noise (including vibration) generated by the construction process to include hours of work, proposed method of piling for foundations, the careful selection of plant and machinery and use of noise mitigation barrier(s).

Details of how measures will be put in place to address any environmental problems arising from any of the above shall be provided. A named person shall be appointed to deal with complaints and shall be available on site and their availability made known to all relevant parties. The CEMP shall also include reference measures to minimise disturbance to bats and other wildlife during construction including the briefing of site operatives, monitoring by an ecologist, and either securing or providing a means of escape for all deep pits, trenches, and/or holes present on the site during periods of darkness.

- 17) Prior to commencement of the development hereby approved (or such other date or stage in development as may be agreed in writing with the local planning authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the local planning authority:
- a) A Site Investigation Scheme, based on the Brookbanks Geo-Environmental Phase 1 Desk Study (ref 10821) to provide

information for a detailed assessment of the risk to all receptors that may be affected, including those off-site;

- b) Based on the Site Investigation Scheme and the detailed risk assessment in (a), an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken; and
- c) A Verification Plan providing details of the data that will be collected in order to demonstrate that the works set out in (b) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance, and arrangements for contingency action and a programme for its implementation.

Any changes to these components in (a) to (c) require the express written consent of the local planning authority. The scheme shall be implemented as approved above. In accordance with the implementation programme agreed under (c) (or such other date or stage in development as may be agreed in writing with the local planning authority), a Verification Report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of that remediation shall be submitted to and approved in writing by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. The report shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance, and arrangements for contingency action, as identified in the verification report, and for the reporting of this in writing to the local planning authority.

- 18) No development shall commence until a Soil Resource Plan has been submitted to and approved in writing by the local planning authority. This shall set out how soils on the site are to be protected during construction and then recycled/reused in the new development layout. The soil protection/mitigation measures shall be implemented as per the document and then permanently adhered to throughout the construction and development of the site.
- 19) No development shall commence until an Employment and Skills Plan (ESP) for the construction of the development hereby approved has been submitted to and approved in writing by the local planning authority. The approved ESP shall then be implemented and permanently adhered to throughout the construction phase of the site.
- 20) Should any temporary showhome/s or sales areas be required then full details shall be provided prior to any part of the development site reaching damp proof course (DPC) level. Such details shall include any temporary buildings or temporary changes to buildings and any temporary change to the development layout. The approved details shall be for a temporary period only ending on or before the date that the last dwelling on the site has been sold. The buildings or area shall then be returned to their approved permanent appearance within 3 months of the date of the last building sold.
- 21) At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low carbon energy sources (as

described in the glossary at Annex 2 of the NPPF) unless it can be demonstrated that a fabric-first approach would achieve an equivalent energy saving. Details and a timetable of how this is to be achieved for each phase or sub phase of development, including details of physical works on site, shall be submitted to, and approved in writing by the local planning authority prior to construction above damp-proof course (DPC) level in that phase or sub phase. The development shall be implemented in accordance with the approved details and timetable and retained as operational thereafter.

- 22) No development above DPC level shall take place unless and until a scheme to demonstrate that internal noise levels within the residential units will conform to the 'Indoor ambient noise levels for dwellings' guideline values specified within Table 4 under section 7.7.2 of BS 8233:2014 has been submitted to and approved in writing by the local planning authority.

The submission shall include details compiled by a qualified acoustician on sound insulation and noise reduction for buildings and gardens. The scheme should take into account the correct number of air changes required for noise affected rooms. The works specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.

- 23) No development above DPC level shall take place unless and until details of the proposed location of the required fire hydrants have been submitted to and approved in writing by the local planning authority in consultation with West Sussex County Council's Fire and Rescue Service.

Prior to the first occupation of any dwelling forming part of the proposed development, the developer shall at their own expense install the required fire hydrants (or in a phased programme if a large development) in the approved locations to BS:750 standards or stored water supply and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of firefighting.

The fire hydrants shall thereafter be maintained as part of the development by the water undertaker at the expense of the Fire and Rescue Service if adopted as part of the public mains supply (Fire Services Act 2004) or by the owner/occupier if the installation is retained as a private network.

- 24) Prior to the occupation of any part of the development, a strategy for the provision of the highest available headline speed of broadband provision to future occupants of the site shall be submitted to and approved in writing by the local planning authority. The strategy shall take into account the timetable for the delivery of 'superfast broadband' (defined as having a headline access speed of 24Mb or more) in the vicinity of the site (to the extent that such information is available). The strategy shall seek to ensure that upon occupation of a dwelling, the provision of the highest available headline speed of broadband service to that dwelling from a site-wide network is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway. Unless evidence is put forward and agreed in writing by the local planning authority that technological advances for the provision of a broadband service for the majority of potential customers

will no longer necessitate below ground infrastructure, the development of the site will continue in accordance with the approved strategy.

- 25) No part of the development shall be first occupied until such time as the vehicular access, visibility splays and ancillary footway connections serving the development have been constructed in accordance with the details shown on the drawing "Proposed Access Arrangement" ref JNY10700-01 Rev D. Once provided the visibility splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above the adjoining carriageway level.
- 26) No part of the development shall be first occupied until a scheme of real time information screens at the two bus stops (north and southbound) on Pagham Road in the immediate vicinity of the development along with a timetable for their installation has been submitted to and agreed in writing by the local planning authority. Once approved the scheme shall thereafter be implemented in accordance with the approved timetable.
- 27) No part of the development shall be first occupied until a Travel Plan has been submitted to and approved in writing by the local planning authority. The Travel Plan shall accord with the principles set out in the Framework Travel Plan (JNY10700-01a) and once approved shall thereafter be implemented as specified within the approved document.
- 28) Prior to the first use of the electricity substation, an acoustic report assessing the impact shall be submitted to and approved in writing by the local planning authority. The report shall address the issue of noise (including low frequency noise) and vibration from the station to ensure that there is no adverse effect to residential or commercial properties.

The scheme shall ensure that the low frequency noise emitted from the substation is controlled so that it does not exceed the 'Low Frequency Criterion Curve' for the 10 to 160 Hz third octave bands inside residential accommodation as described in the DEFRA funded University of Salford guidance document entitled 'Procedure for the Assessment of Low Frequency Noise Complaints' (NANR45 Rev.1 – December 2011).

The electricity substation equipment shall be maintained in a condition so that it complies with the levels and mitigation measures specified in the approved acoustic report, whenever it is operating. After installation of the approved plant, no new plant shall be used without the written consent of the local planning authority. Where substation plant is replaced, it shall adhere to the noise and vibration levels specified herein.
- 29) Immediately following implementation of the approved surface water drainage system and prior to the occupation of any part of the development, the local planning authority shall be provided with as-built drawings of the implemented scheme together with a completion report prepared by an independent engineer that confirms that the scheme was built in accordance with the approved drawing/s and is fit for purpose. The scheme shall thereafter be maintained in perpetuity.
- 30) If during development any visible contaminated or odorous material, (for example, asbestos containing material, stained soil, petrol / diesel / solvent odour, underground tanks, or associated pipework) not previously identified is found to be present at the site, no further development (unless otherwise expressly agreed in writing with the local planning

authority) shall be carried out until it has been fully investigated using suitably qualified independent consultant(s). The local planning authority must be informed immediately of the nature and degree of the contamination present. A method statement detailing how the unsuspected contamination shall be dealt with must be prepared and submitted to the local planning authority for approval in writing before being implemented. If no such contaminated material is identified during the development, a statement to this effect must be submitted in writing to the local planning authority prior to completion of the development.

- 31) No demolition/construction activities shall take place other than from 08:00 hours until 18:00 hours on Mondays to Fridays and from 08:00 hours until 13:00 hours on Saturdays, with no work on Sundays or Bank/Public Holidays.
- 32) Should any gas boilers be installed in the dwellings then they shall meet the minimum standard set out in paragraph 8.6 of the Air Quality Assessment JAR02954 Rev 1 16/02/22.

APPENDIX 4

Interim Housing Statement RAG Rating

National Planning Policy Framework 2019 ¹ Considerations	Yes	No		Green ✓ Encouraged and likely to be determined positively. Amber ✓ Encouraged where sustainable, assessed against the Development Plan, National policy requirements and any material planning considerations and may potentially be determined positively. Red X Not encouraged, likely to conflict with the Development Plan and/or national policies as a whole, and therefore, likely to be refused
			IHS Criteria	Ridge Response
Does the site avoid impacts on any national habitat, landscape or heritage designation?			Paragraph 11 b i) of the plan making 'presumption in favour of sustainable development' clarifies that sites which affect assets designation of particular importance listed under footnote 6 of the NPPF 2019 should be avoided as they are not likely to meet the Government's definition of 'Deliverable' and are likely to introduce benefits which exceed harm when measured against the NPPF policies as a whole and as clarified by Paragraph 11 d i) and ii) for decision making such proposals are likely to be refused	The 2024 NPPF updates the requirements set out at Paragraph 11d). This reference is in relation to limb 1 which advises that planning permission should not be granted where the policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed. Footnote 7 sets out an exhaustive list of policies that would apply which includes, amongst others, habitats sites and areas at risk of flooding or coastal change. In terms of habitat sites, the supporting work demonstrates that the proposed development will not adversely affect the integrity of Pagham Harbour SPA. The Planning Statement assesses whether flood risk would provide a strong reason to refuse the development. It assesses a number of appeal decisions and concludes that given the specific forms of flood risk in this case, the sequential approach to the development location within the site, as well as the mitigation measures proposed, the proposals are acceptable in terms of flood risk throughout their lifetime, without increasing flood risk elsewhere. There would be no real-world effects after mitigation is taken into account. Given this context, it is considered that this would not represent a strong reason for refusal. As such, none of the exceptions at footnote 7 are engaged in this case.
Meet Appendix 2 Glossary Definition of Deliverable site?			Sites which do not meet the government's definition of 'Deliverable' in the Appendix 2 Glossary (See Appendix 3 extract) are not likely to be implemented within 5 years and will not address the Council's 5-year housing land shortfall.	The NPPF states that <i>'to be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years'</i> . The site offers a suitable location for new housing development and subject to the grant of planning permission would deliver housing within a five-year period. The site is subject of a promotion agreement with the landowner. The applicant has control over the delivery of the access to the site through the adjacent development and there is no reason that these sites cannot be delivered concurrently.

¹ References have been updated to the 2024 NPPF where relevant.

Sustainable location Adjacent to a Transport Node? Railway Station? Bus route? Walking and Cycling routes?		Impact on the transport network; opportunities to improve; walking and cycling; impact and mitigation; place making? Paragraph 102 a) to e) Limiting the need to travel? Choice of transport modes? Paragraphs 103 and 104 [Note: in addition to sustainable location, applicants will need to address the other elements of sustainable development policy and considerations set out in the NPPF 2019 (e.g. paragraph 8)]	The site is located adjacent to the built-up area boundary, with committed development to the east, south and south-east boundaries. It is within walking distance to a range of services and facilities, and the number of local facilities is set to be increased with the inclusion of the local centre and school permitted under P/140/16/OUT and P/155/21/RES. There is an extensive PRoW network in the vicinity of the site and the site is well connected by existing footways to the wider Pagham area and beyond. Whilst there are no dedicated cycle facilities in Pagham, the roads are lit, generally of a flat gradient and subject to a 30mph speed limit, which encourage cycling within Pagham and out towards Bognor Regis. In terms of cycling from Pagham towards Chichester, the Pagham South development included a contribution to improving FP100 to allow use by cycles. This provides a formal cycle route between Summer Lane and Chichester via a mixture of lightly trafficked roads and cycle lanes/paths. The site is suitably located to accommodate trips by foot and cycle. Pagham Road is a bus route with existing bus stops close to the junction with Summer Lane. These bus stops are served by route number 600, provides a regular service between Bognor Regis and Chichester. The site is therefore considered to be a sustainable location for residential development.
Density Maximises the use of land appropriate to accessibility and parking ?		Effective use of land paragraph 117 Mixed use? paragraph 118 a) Brownfield? Paragraph 119 c) considerable weight Identified need for different types of housing; Maximises the use of land appropriate to accessibility and parking ? Infrastructure; Character; viability; well -designed health places paragraphs 122 a) -e) Optimal densities appropriate to accessibility? Paragraph 123 a) and b)	The proposed development seeks to maximise density of the site, whilst still allowing for ample areas of public open space, play areas and a mix of detached, semi detached, terraced properties and flats. The site would not be overdeveloped, would look indistinguishable to nearby developments and be appropriate to it's surrounding context. It has also been tested from a technical perspective and is acceptable.
Achieving well designed places ?		High quality buildings and places? paragraph 124 Design polices; SPD; Neighbourhood plan design polices? Paragraph 126 [Also do proposals follow Arun Design Guide?] Function – lifetime of development; visually attractive; sympathetic; history; sense of place; appropriate mix? Paragraph 127	The Design and Access Statement submitted with the application demonstrates how the proposed development will achieve high quality design which responds to the site context, including recently approved developments. The Development Concept and Masterplan has been worked up into an Illustrative Masterplan to show how the site can be developed.

Addresses Climate Change and low carbon future and energy standards Mitigation and Adaptation ?		Avoiding increased vulnerability to risks of climate change; necessary adaptation; sustainable buildings apply national technical standards? paragraph 150 a) and b) Comply with local decentralised energy policies; layout, orientation to minimise energy consumption? Paragraph 153	Design measures have been included in the Design and Access Statement to ensure climate resilience and mitigate the impact of climate change.
Addresses Climate change Flooding and vulnerability over the lifetime of the development (100 years) ?		Avoid inappropriate development in areas of flood risk; direct away from highest risk 9existing or future; safe for the lifetime of development? Paragraph 156 Alternatives at lower flood risk; Sequential and exceptions test? Paragraph 157 a) 158 and 159 Risk of flood risk elsewhere; application supported by a Site -Specific Flood Risk Assessment? Paragraph Major development [10 dwellings or more or over 0.5 ha - Appendix 2 Glossary] should incorporate Sustainable Drainage Systems (SUDs) Paragraph 165.	The majority of the Site lies in Flood Zone 1, with a lower-lying area in the north central part of the Site in Flood Zones 2 and 3. The source of risk is the residual risk of a coastal flood event in the 'undefended' scenario. Modelled flood data supplied by the Environment Agency (EA) shows that the site is not affected by a present-day coastal flood event due to the presence of existing raised defences at Pagham Harbour. The proposed built development will be located entirely within Flood Zone 1, with land in Zones 2 and 3 reserved for green open space. However, there is an area identified within the SFRA of being at risk of future flood risk. The predicted 1 in 200 AEP flood level at the site allowing for climate change impacts to the year 2125 is 4.80m AOD. This is termed the 'design event' for mitigation purposes. To mitigate the residual risk during the design event, it is proposed to raise ground levels within the development parcels to at least 4.8m AOD. Ground raising will be limited to the land in Flood Zone 1. The minimum building floor level will be set 600mm higher at 5.4m AOD. These measures will protect the development during an extreme coastal event. Safe access and egress will remain available along Summer Lane by tying in the access where existing road levels are already at 4.8m AOD. Compensatory floodplain storage is not required because the source of residual risk is solely tidal. The coastal risk mitigation measures are more than adequate to mitigate the much lesser risk from fluvial and surface water sources
Coastal Areas		In coastal areas – regard to Marine Policy statement? Paragraph 166 [i.e. South Marine Plan in the case of Arun]	The proposed development does not conflict with the objectives set out in the South Inshore and South Offshore Marine Plan.
Protects and conserves wildlife and habitats and achieves a 'net gain' in biodiversity?		Contribute to protecting and enhancing the natural environment; valued landscapes; intrinsic character of countryside; maintaining character of undeveloped coast; minimising impacts on and achieving net gains in	The extended phase 1 ecological assessment has identified the habitats on site as being mostly well modified and including arable land, field margins with ditches, scrub, hedgerows and trees. The habitats on site are generally species-poor. Opportunities for enhancements have been provided, including habitat management and creation, reptile/amphibian hibernation/shelter habitat and the erection of bat and bird boxes. These measures, in tandem with appropriate future management, will result in a net gain for

			biodiversity; unacceptable soil, air or water pollution or land instability; land remediation? Paragraph 170 Weight to conserving national parks and AONB Significant harm to biodiversity; alternatives; mitigation – development should be refused. Paragraph 175 a) Loss of or deterioration of irreplaceable habitats; ancient woodland – refuse. Paragraph 175 c) Net gains in biodiversity? Paragraph 175 d)	biodiversity at the site. Indeed, the Biodiversity Impact Assessment calculations tool identifies that a net gain in excess of 10% can be achieved for the proposed development.
Conserves and enhances the Historic Environment?			Described the significance of the asset and its setting; archaeology – desk-based assessment and field evaluation? Paragraph 189. Weight to conservation of asset according to importance regardless of total, substantial or less than substantial harm. Paragraph 194.	There are no designated or non-designated heritage assets within the proposed development site, although there are a number of designated and non-designated heritage assets within relatively close proximity to the site. The Heritage Impact Assessment highlights that that the proposals would have no impact on the character, setting or significance of any adjacent heritage assets.
Safeguards Minerals and allows abstraction?			Great weight given to the benefits of abstraction: Not normally permit proposals in Minerals Safeguarding areas if it would constrain future use for mineral working. Paragraph 206.	The site is not within a mineral safeguarding area
Development Plan Considerations that may assist identification of sites of the right size in the right locations				
Location and Settlement				
Within BUAB and settlement hierarchy?			Policy SD SP1a Strategic Approach protects the Aruns' environment, coastal character the landscape setting of the SDNP and supports the development of the main towns of	Whilst a small part of the site sits inside the BUAB, the site is mostly located outside, but immediately adjacent to the BUAB Boundary at Pagham. Pagham is part of the Greater Bognor Regis Area that is a focus for new housing in the Local Plan. Given the housing land supply position in the District, there is a need to look beyond the BUAB in order to deliver housing.

		Bognor Regis and Littlehampton and historic role of Arundel and sustainable growth of villages. Policy C SP2 Built-Up Area Boundary. Development of housing within Sustainable Urban Extensions and existing settlement (towns and villages) is acceptable in principle. Neighbourhood Development Plans also set extent of BUAB and housing allocations¹⁶ and local evidence.	
Outside but Physically Adjacent to BUAB		Policy C SP1 Countryside. Only Countryside uses set out in the policy are permitted in the Countryside. Proposals for housing development is contrary to this policy. However, until a 5-year housing land supply is demonstrated, the application of the 'presumption' under national policy will mean that proposals will be assessed against the development plan, impact against national policy as a whole and any other material considerations. Policy TSP1 Transport and Development. Provision promotes economic base, safe health lifestyles, reduces congestion; provides highway improvements, sustainable transport and low emission fuels; alternative modes; parking standards; Arun Design Guide; evidenced with a Transport Assessment (impacts and mitigation) and a Travel Plans (e.g. provision for Electric Vehicles, disability etc). Policy T DM1 Sustainable travel and Public Rights of Way. Access to and provision of safe and sustainable travel modes; green infrastructure; public transport; joined up walking and cycling routes/facilities and community	The RAG table identifies that proposals that are accessible and immediately physically adjacent (whether separate by a road/footpath or other infrastructure) are likely to be sustainable because of access to shops and services within walking and cycling distances. Whilst a small part of the site sits within the BUAB, the majority of the site is situated immediately adjacent to the BUAB with committed development to the east, south and south-east. As such, it is well related to existing and approved development in Pagham. It is also within walking distance to a range of services and facilities and therefore a sustainable location for development.

			transport linking to settlements, schools, services and employment Neighbourhood Development Plans form part of the statutory Development Plan and local policies that apply within and outside of BUAB. Where policies are up to date (paragraph 14 of the NPPF) proposals that conflict with the NDP will constitute harm and be refused. Where NDP are not up to date the 'presumption' and material considerations will apply.	
Remote from BUAB?			Policy C SP1 Countryside Proposals that are in the countryside remote from and not easily accessible by public transport, cycling or walking are likely to conflict with the Development Plan	N/A - the site immediately adjoins the Built-up Area Boundary, and therefore this criterion does not apply.
Coalescence				
Avoids Gaps Between Settlements?			Policy SD SP3 Gaps Between Settlements. Safeguards the 10 named gaps from development preventing coalescence Evidence ALP Policies Map23 Arun Design Guide SPD24 Housing & Economic Land Availability Assessment25 e.g. Deliverable Sites Arun Green Infrastructure Maps and Green Infrastructure Study and the Arun Landscape Study 2017 26 Neighbourhood Development Plans also set out Local Green Space and settlement Gaps27 and local evidence	The site is situated outside of a Gap Between Settlements.
Within settlement gap but small or modest site size and location would not significantly compromise the			As above. However, small scale proposals that demonstrate a sensible degree of fit with the settlement pattern without prejudicing the openness and purpose of a local gap (including cumulatively) may be	N/A – the site does not fall within this designation.

gap or purposes of the gap?			considered where a location also has good connectivity and access to local services though walking and cycling distances and public transport, may be considered sustainable subject all other relevant policies and considerations.	
Agricultural Land				
Avoids, protects and conserves the best and most versatile/productive soils?			Policy SO DM1 Soils. Safeguards grades 1,2 and 3a Agricultural Land Classification; unless outweighed by need in the longer term; demonstrated in a 'sustainability and options appraisal'; must use the lowest grade; loss is mitigated; soil is preserved; referenced to DEFRA soils Strategy for England; Arun Soils and Agricultural Land Assessment Report; and subject to a submitted a 'soil resources plan'.	45% of the site falls within Grade 2, 36% falls within Subgrade 3a and 15% falls within Subgrade 3b. The majority of the site therefore comprises best and most versatile (BMV) agricultural land. Whilst development of the site would result in the loss of Grade 2 and 3a BMV land, it is considered that the need for housing is sufficient to outweigh this loss. There would potentially be some conflict with the policy, but the weight should be reduced given the inconsistency of the policy with the NPPF, the housing land supply position and the conclusions of a number of appeal Inspectors within the District.
Historic Environment				
Protects the special setting of Arundel and is not within the policy named locations?			Policy LAN DM 2 The Setting of Arundel. Protect views of Arundel, the setting of the Castle, Cathedral and its special setting. Applications that adversely affect views outward from the town and particularly from the 9 named locations will be refused within the area shown on the Policies map. Evidence ALP Policies Map28 Arun Landscape Study 2017 29	The site is not within the setting of Arundel
Protects and conserves Conservation Area.			Policy HER DM3 Conservation Areas. Sympathetic development respects and retains character, features and views. Evidence Policies map Conservation Area SPD30 Neighbourhood Development Plans also set out policies and local evidence.	The site is not within, nor in the setting of any Conservation Area.

Protects and conserves Area of Character			Policy HER DM4 Areas of Character. Retention of buildings and features; appropriate mix and character; preserving and enhancement. Evidence Policies map Neighbourhood Development Plans also set out policies and local evidence.	The site is not within, nor in the setting of any Area of Character.
Protects and conserves Scheduled Ancient Monument.			Policy HER DM6. Presumption in favour of preserving scheduled and other national important monuments and archaeology; sites listed Table 16.1 needing Scheduled Monument consent; evidenced by consulting HER and 'desk based archaeological assessment'; field evaluation; preservation in situ	The site does not have within it, nor is it part of the setting of a Scheduled Ancient Monument
Wildlife and Habitats				
Protects and conserves sites of National Importance for Nature Conservation?			Policy ENV DM1 Designated sites of biodiversity or geological importance. Proposals will not normally be permitted unless there are overriding reasons; and subject to interest and status of sites and safeguarding of features; the 'presumption' does not apply to proposals require an appropriate assessment under the Birds or Habitats Directives. Evidence ALP Policies Map	The site is not subject to any statutory nature conservation designation. In terms of the impact of the development on Pagham Harbour Special Protection Area (SPA), a Habitats Regulation Assessment has been undertaken and submitted with the planning application. This concludes that there would not be an adverse effect on the integrity of Pagham Harbour SPA/Ramsar site when the proposals are considered, either alone or in combination with other plans/projects.
Protects and conserves sites of Nature conservation Importance?			As above.	As above.
Protects and conserves Local Nature Reserve?			As above.	As above.

Sympathetic to Biodiversity Opportunity Area?			Policy ENV DM3 Biodiversity Opportunity Areas. Proposals be sympathetic and retain habitats and corridors; enhance, minimise impact; mitigate loss; evidence with survey of likely species and habitat impact. Evidence ALP Polices Map	The site contains a Biodiversity Opportunity Area. Surveys have been conducted on the site and the mitigation and enhancement measures proposed for the site will result in a net gain for biodiversity at the site.
Biodiversity – net gain?			Policy ENV DM5 Development and Biodiversity. Developments should seek to achieve a net gain in biodiversity and include provision (e.g. green walls, roofs, bat boxes, green networks etc.); where likely to impact on protected species – will need to include a detailed survey of species and mitigation; regard made to Natural England’s standing advice for protected species.	Mitigation and enhancement measures for the site will result in a net gain for biodiversity at the site. Indeed, the Biodiversity Impact Assessment calculations tool identifies that a net gain well in excess of 10% is achieved for the proposed development.
Addresses requirements of Pagham Harbour Buffer Zone A (400m) ?			Policy ENV DM2 Pagham Harbour. Buffer Zones A and B. Within Zone A development permitted exceptionally where no detrimental impact on Pagham Harbour; 4tests. Evidence Polices Map	The Application Site is not within Zone A.
Addresses requirements of Pagham Harbour buffer Zone B (5 km)?			As above. Within Zone B developments likely to impact to make contributions towards strategic management of the Harbour including provision of greenspace for recreation considerations for major developments.	The site lies within the 5km buffer around Pagham Harbour SPA, Ramsar, SSSI and LNR. Since the proposals are likely to lead to increased recreational pressure on the designation, Arun District Council requires a contribution towards strategic access management measures (SAMMs), in line with local plan policy ENV DM2. The proposed development will provide a contribution, whilst also creating easily accessibly green spaces within the development site.
Minerals				
Avoids Sharp Sand Minerals Safeguarding Area (MSA)?			Policy M9 Safeguarding Minerals. Sharp sand and gravel is safeguarded from sterilisation and non mineral development not permitted unless the mineral is not sterilised or can be won or there are overriding reasons. Supporting text recommends a	The site is not within any mineral safeguarding area.

			'Minerals Resource Assessment' and pre application discussions. [The Joint Minerals Local Plan 2018 forms part of the Arun Development Plan]. Minerals & Waste Safeguarding Guidance. Consultation with the Minerals Planning authority should take place where proposals are 10 dwellings or more and 0.5 ha or more withing the MSA (subject to exceptions) and where residential is proposed within 250m of an existing, permitted and allocated minerals sites . Evidence Polices Map Minerals & Waste Safeguarding Guidance	
Within MSA but less than 10 dwellings and size 0.5 ha or more			As above. However, smaller scale developments do not trigger consultation with the Minerals Planning Authority. Smaller scale proposals in these circumstances will be expected to demonstrate compliance with policy – but may be more likely to be able to. The implications for delivery timescales will need to be evidenced.	N/A – not within any mineral safeguarding area
Amenity Open Space				
Protects Existing and Contributes new Open Space			Policy OSR DM1 Open Space Sport and Recreation. Protection of open space from development; loss and replacement; alternative provision; and new prevision of open space sport and recreation within new development; Local Greenspace (NDP). Evidence Policies Map Open Space, Playing Pitches, Indoor and Built Sports Facilities DPD33	The site is not part of any existing area of open space. The proposed development provides significant areas of Green Infrastructure and public open space, providing significantly more than the required Public Open Space set out within the adopted Local Plan.
Avoids and protects Local Green Space			As above.	The site not part of any Local Green Space designation.

(in Neighbourhood Plans).				
Climate Change and Flooding				
Flood risk requirements are addressed.			Policy W DM2 Flood risk. In areas at risk of flooding only permit proposals where the sequential tests and exceptions tests are met; safety, evacuation; adaptation and mitigation; evidenced by and Site Level Flood Risk Assessment; contingency and climate change allowances. Evidence Strategic Flood Risk Assessment 2016	The application is accompanied by a Flood Risk Assessment (FRA) and Drainage Strategy and Flood Risk Sequential Test. The majority of the Site lies in Flood Zone 1, with a lower-lying area in the north central part of the Site in Flood Zones 2 and 3. The source of risk is the residual risk of a coastal flood event in the 'undefended' scenario. Modelled flood data supplied by the Environment Agency (EA) shows that the site is not affected by a present-day coastal flood event due to the presence of existing raised defences at Pagham Harbour. The proposed built development will be located entirely within Flood Zone 1, with land in Zones 2 and 3 reserved for green open space. However, there is an area identified within the SFRA of being at risk of future flood risk. The predicted 1 in 200 AEP flood level at the site allowing for climate change impacts to the year 2125 is 4.80m AOD. This is termed the 'design event' for mitigation purposes. To mitigate the residual risk during the design event, it is proposed to raise ground levels within the development parcels to at least 4.8m AOD. Ground raising will be limited to the land in Flood Zone 1. The minimum building floor level will be set 600mm higher at 5.4m AOD. These measures will protect the development during an extreme coastal event. Safe access and egress will remain available along Summer Lane by tying in the access where existing road levels are already at 4.8m AOD. Compensatory floodplain storage is not required because the source of residual risk is solely tidal. The coastal risk mitigation measures are more than adequate to mitigate the much lesser risk from fluvial and surface water sources. In terms of the Sequential Test, the application site is one of the most sequentially preferable sites for residential development; however, 4 sites have been identified which could be capable of accommodating the form of development proposed in this case, subject to the above. It is also worth noting that the Council cannot currently demonstrate a 5 year housing land supply and the Planning Statement indicates that that it will be necessary for the Council to approve or allocate a significant amount of housing on sites with a similar or worse flood risk profile to the application site if it is to have any chance of reducing its housing

			shortfall. In line with appeal decisions, it is considered that the these circumstances significantly reduce the weight to be given to the proposal's failure of the Sequential Test.
100-year Climate Change Contour Flood Allowance will allow a viable development?		As above. Avoid locations where 100% of the proposed site is affected. If part of a site is impacted, consider whether the residual development footprint outside of the Climate Change allowance flood contour is viable? Is there likely to be an 'Island effect' that would prevent safe access to services and facilities or require significant infrastructure to overcome?	The drainage strategy has taken account of climate change allowances.
Climate change design standards			
Adapting to climate Change, energy and renewable energy?		Policy ECC SP1 Energy and Climate Change Mitigation. New development to be energy efficient; meet standards; design layout; incorporate renewable, low carbon and decentralised energy; major development secure 10% of total predicted energy Policy ECC DM1 renewable Energy	Design measures have been included to ensure climate resilience and mitigate the impact of climate change.
Addressed water supply, quality and efficiency?		Policy W DM1 Water Supply and Quality. Sufficient supplies; not detrimental to abstraction, river flows, nature conservation etc; impacts; efficient optional technical standard 110 litres/day; water quality; within Lydsey Waste Water Treatment Works Catchment Area – full drainage impact assessment (including cumulative impacts). Evidence Policies Map	Adequate water supply can be provided to the proposed development.
Other delivery considerations			
Promoted with an evidenced 5 year delivery trajectory and signed		Set out infrastructure requirements and delivery strategy whether on or off site. Agree delivery timescales including a housing trajectory with statutory	As set out above, the site can be delivered in the next 5 years.

Statement of Common Ground			providers and evidence in signed Statements of Common Ground. Evidence of engagement with the Local community and Parish Council	
Viable Density and Yield?			Will the development mitigate its impacts and deliver necessary infrastructure (e.g. highways; SUDs; open space; surface water, foul drainage; wastewater disposal and treatment; affordable housing contribution, and be viable and 'Deliverable within five years? Evidence Infrastructure Capacity Delivery Plan 2017.	The proposed development is viable and there are no issues with the deliverability of infrastructure.
All relevant evidence and studies are included to ensure that the application can be validated?			Consult the Councils validation list. Ensure that all policy requirements for supporting statements, studies and assessments are completed for submission with the application Take particular care to ensure that habitat and species surveys are completed within the appropriate seasons.	This is not a criterion that determines whether the site is suitable for housing development. However, a full suite of technical reports have been prepared and submitted with the planning application.

APPENDIX 5

Appeal Decision – Bilsham Road,
Yapton



Appeal Decision

Hearing held on 10 December 2024

Site visits made on 9 and 11 December 2024

by Mark Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2025

Appeal Ref: APP/C3810/W/24/3343922

Land West of Bilsham Road, Yapton BN18 0LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by BoKlok Housing Ltd against the decision of Arun District Council.
 - The application Ref is Y/52/23/PL.
 - The development proposed is erection of 170 residential dwellings with access and parking, the provision of open space, play space and ecology areas with associated vehicular and pedestrian access, attenuation ponds and landscaping and associated works.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of 170 residential dwellings with access and parking, the provision of open space, play space and ecology areas with associated vehicular and pedestrian access, attenuation ponds and landscaping and associated works at Land West of Bilsham Road, Yapton BN18 0LA in accordance with the terms of the application, Ref Y/52/23/PL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of the proposal is taken from the planning application form with minor editing to omit aspects that are not acts of development.
3. The revised National Planning Policy Framework (Framework) came into force on 12 December 2024. Accordingly, I gave the appellant and the Council an opportunity to comment on any implications of this to the appeal. The 2023 Housing Delivery Test results were published on the same date. These show a slight improvement in housing delivery in the district compared with the results from 2022. However, the presumption in favour of sustainable development, as set out by paragraph 11(d) of the Framework, remains applicable as a consequence of the results. Moreover, the presumption applies in any case as the Council cannot demonstrate 5 years supply of deliverable housing sites. Hence, I have not sought the views of the main parties about the latest results.
4. The Council's objections to the proposal do not fully reflect the refusal reasons specified on its decision notice. This follows a review of its position after the decision was made and the submission of a Section 106 legal agreement¹ dated 15 October 2024 to support the appeal. The main issue below is based on the outstanding substantive dispute between the appellant and the Council.

¹ Together with a corresponding Deed of Variation dated 17 December 2024

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the site and the surrounding area.

Reasons

6. The site principally comprises part of an agricultural field that is outside but adjacent to the south-western limits of Yapton's Built-Up Area Boundary (BUAB) as defined by the Arun Local Plan (LP). It extends alongside and is accessed from Bilsham Road to the south-east, with seemingly 20th century residential properties leading out of the settlement and then allotments present opposite. A recent, cohesively designed housing estate is accessed from Bittern Avenue to the north-east. A watercourse marks the north-western boundary, beyond which are further fields. There is also a field to the south-west followed by the hamlet of Bilsham. Public rights of way crossing or at the boundaries of the fields are to the south and west. The site is mostly flat and at a higher land level than Bilsham Road. Vegetation is present beside the road and the south-western boundary.
7. The site is perceived as countryside at the edge of a settlement when viewed from surrounding land including Bilsham Road, Bittern Avenue and the public rights of way. Its undeveloped, open and rural characteristics contribute positively to Yapton's setting. Varying ages, sizes and designs of housing are present within and at the edges of Yapton. In contrast, Bilsham is characterised largely by a loose pattern of mostly traditional properties sited within countryside. These are appraised in detail in the Bilsham Area of Character Designation document, which supports Yapton Neighbourhood Development Plan 2 (NP).
8. The proposal would mainly include 2 storey dwellings with pitched and gabled roofs set among gently curving roads and shared drives in a similar way to the new housing to the north-east. Although 3 storey buildings are also proposed, most would be located away from the site's boundaries and appear congruent in the context and against the backdrop of the rest of the development and 3 storey housing elsewhere in Yapton, including in Taylor's Close which is visible from Bilsham Road.
9. The Council and others contend that the proposed housing would be harmful in adopting a contemporary design approach with a sense of uniformity. However, residential development off Cinders Lane² demonstrates that contemporary approaches can be successful near the settlement's edge. While NP policy SA2 identifies there as an allocated former horticultural nursery site, it is nevertheless now an established part of Yapton that is compatible with adjacent countryside. The appeal scheme would be comparatively prominent as Bilsham Road is a key route in and out of Yapton, but there are no compelling reasons why a similarly modern approach would be inappropriate in the site's location.
10. In particular, concerns have been raised that proposed features such as clean lines, low squat roofs and unusually shaped windows would be incongruous with the surrounding built environment. However, the Yapton Contextual Appraisal and Design Guide to the NP acknowledges that there is no dominant architectural character or vernacular style to provide a reference for future development. Indeed, I saw no strongly prevailing aesthetics, roof forms, or fenestration

² Identified as 'The Potteries' in the appellant's Design and Access Statement

arrangements in the vicinity, except where housing forms part of a single scheme, such as to the north-east and at Lambs Cottages leading out of the settlement. The proposal would be no different in having its own cohesive design, identity and sense of uniformity. While the Design and Access Statement acknowledges there is limited scope to amend the form and architectural style of the housing, there would be sufficient variety in their forms, finishes and detailing. Further, these would be in 3 distinct character areas that would provide variation in a broader sense through the changing uses and landscaping of open spaces, for example.

11. Concerns have also been raised about the promotion of modular construction methods for the housing and the quality of the external finishes achievable. However, the construction method is not relevant to how the housing would look and feel in its local context. In addition, following suggestions by attendees at the event, I visited another of the appellant's schemes which is under construction off Fitzalan Road. While it occupies a different setting to the proposal, I nevertheless saw that the construction method has no bearing on the quality of its finish. Hence, an appropriately high quality finish could be achieved for the housing proposed.
12. The scheme would not therefore contrast negatively with nearby development or appear or feel incongruous on entering or leaving Yapton or from the surrounding countryside. It thereby accords with the Arun Design Guide Supplementary Planning Document (SPD), insofar as it adopts a contemporary design that takes cues from well-designed elements of the existing environment while expressing its own complementary character.
13. Furthermore, the Council agrees with the findings of the appellant's Landscape and Visual Impact Assessment. Although negative short to medium term visual impacts of the development are identified, after 15 years its effects would either be neutral or beneficial, except from 3 viewpoints that would be slightly adversely affected. This corroborates with my assessment when I visited. In many cases, level changes or existing and proposed landscaping would screen or filter views of the scheme. Views from Bittern Road, its junction with Bilsham Road and the public rights of way would be most affected, but in these cases the scheme would be viewed alongside existing housing or with the settlement in the background. No long term adverse effects from viewpoints in or near Bilsham have been identified. Open space in the southerly part of the site combined with boundary vegetation would provide an appropriate transition to the countryside and retain a strong sense of separation with the Bilsham Area of Character. The scheme would not be harmful to the hamlet or its surroundings in that context.
14. The Landscape and Visual Impact Assessment also concludes that the landscape impacts would be beneficial in all respects except for localised, slightly adverse effects on the Bilsham Coastal Plain Landscape Character Area. Clearly a considerable proportion of the site would change fundamentally as its undeveloped, open and rural qualities would be replaced by housing, but this does not necessarily equate to harm. On the contrary, only a small part of the Landscape Character Area would be affected, with the development well-contained by buildings and vegetation next to or slightly beyond its boundaries. The characteristics of the wider landscape would be maintained. Overall, the development would be a well-related and logical extension to the built-up area of Yapton that would be compatible with its countryside setting.

15. It is also relevant that the scheme follows the approval of applications³ enabling the construction of 140 dwellings at the site, with 110 dwellings granted in outline and the rest with full permission. No design parameters have been fixed for the outline element and thus a scheme promoting modern construction methods could be delivered with similarities to the one now proposed, subject to the approval of the reserved matters. While the appeal scheme would not have an unacceptable effect on the character and appearance of the site or the surrounding area in its own right, this finding is reinforced by the appellant's fallback position.
16. The proposal would not harm the character and appearance of the site and the surrounding area. In these respects, it complies with LP policies D DM1 and LAN DM1 and NP policy H4. Among other things, these seek that development that reflects or improves upon the character of the site and the surrounding area, is sympathetic to local design, protects landscape character and accords with the Arun Design Guide SPD and the Yapton Contextual Appraisal and Design Guide.

Other Matters

Whether the site is a suitable location for housing, having regard to the development plan's spatial strategy and the loss of agricultural land.

17. The site is within the countryside for the purposes of planning policy. Consequently, the proposal conflicts with LP policies SD SP2 and C SP1 and NP policies BB1 and H1. Taken together, these direct development to within BUABs and support development in the countryside in prescribed circumstances and locations that are not applicable to the scheme.
18. Additionally, the site constitutes Grade 1 and 2 agricultural land and was last used for arable purposes. LP policy SO DM1 and NP policy E1 resist development of such land. The former states that the protection of agricultural land can be outweighed if several criteria are satisfied. A condition to require that the development is carried out in accordance with a Soil Resource Plan would ensure some of the best and most versatile soil would be used productively in the interests of environmental sustainability. This would comply with part (g) of LP policy SO DM1, but evidence demonstrating compliance with its other criteria has not been provided. The proposal thus conflicts with these policies too.
19. The main parties attribute limited weight to the above policy conflicts in the context of the Council's housing and delivery issues and the fallback scheme. Notably, the Council accepts that sites need to be found outside BUABs and its Housing and Economic Land Availability Assessment and Interim Housing Statement from 2021 suggest that the site could be suitable for development, albeit these are not policy. It is also pertinent that the site was omitted from the Yapton BUAB despite the NP being adopted after the hybrid permission was granted, whereas other permissions were included. Cogent reasons for this have not been provided. In any case, I must be mindful that the permission has been granted for development outside the BUAB and, when compared to the proposal, a lesser but nonetheless significant amount of agricultural land would be lost as a result of the fallback scheme.
20. The Framework's approach to housing in rural areas and agricultural land must also be considered. The site is accessibly located near services, facilities and sustainable transport options in Yapton and, through future occupiers spending

³ Council references: Y/3/22/OUT; Y/15/24/NMA

money locally, the housing would be located where it would enhance the vitality of the rural community in accordance with paragraph 83 of the Framework. Furthermore, the proposal recognises the intrinsic character and beauty of the countryside as per paragraph 187 of the Framework insofar as this pertains to character and appearance matters, in line with my findings for the main issue. Conversely, however, the loss of the agricultural land would clearly not accord with that part of the Framework.

21. A rigid application of the spatial strategy would further constrain housing supply and delivery in the district. For this and the other reasons identified, the conflict with the spatial strategy and the associated policies attract limited weight. While the foregoing reasoning is also applicable to the loss of the agricultural land, I attribute moderate weight to the conflict with LP policy SO DM1 and NP policy E1 having regard to their degree of consistency with the Framework's objectives to conserve and enhance the natural environment.

Flood risk, drainage and water supply

22. The land adjacent to the watercourse and to the south-west of the site would be within Flood Zones 2 and 3 but most of it, including the proposed dwellings, would be in Flood Zone 1. The Council's Strategic Flood Risk Assessment also identifies that the site is in an area with a 50 to 75 percent susceptibility of groundwater flooding. However, the appellant's site-specific Flood Risk Assessment (FRA) indicates that there are low risks of flooding from other sources. Interested parties disagree, but technical evidence comparable to the FRA has not been provided to substantiate an alternate conclusion.
23. Sequential and exceptions tests have not been undertaken, and the Council anecdotally indicated at the hearing that areas at lower risk of flooding than the site are likely to exist. However, the main parties contend this should not be a barrier to the development having regard to the approved scheme, and as management and mitigation measures could be secured to reduce the risks of flooding. No objection is raised by the Environment Agency. While the layout of the outline element of the permitted scheme is yet to be finalised and the FRA indicates that groundwater levels are broadly lower to the north of the site, the fluvial and groundwater risks for the approved and appeal schemes would be comparable. Moreover, paragraph 175 of the Framework does not require sequential testing if no built development in a site would be at risk of flooding, which would be the case for the residential buildings in fluvial terms.
24. Nevertheless, the proposal conflicts with LP policy W DM2, NP policy E11 and section 14 of the Framework, which direct development away from areas at highest risk of flooding. However, my above findings lead me to conclude that this issue and the corresponding policy conflicts attract limited weight.
25. The Council believes that an adequate drainage strategy can be delivered through the use of conditions. The Lead Local Flood Authority objects to the scheme, but the Council reported with confidence that this was based on outdated information. In the absence of clear reasons indicating differently, the proposal would be satisfactory in respect of drainage matters. However, this would necessarily be subject to conditions to require the approval of a surface water drainage scheme that addresses outstanding concerns particularly regarding groundwater, secure

appropriate maintenance and management measures and relating to discharge to and any other impacts on watercourses.

26. Similarly, the proposal would be acceptable in terms of foul drainage, sewerage capacity and water supply, with no objections made by Southern Water, subject to a necessary condition to require occupation of the dwellings to be phased to align with any sewerage network reinforcement required and make sure that adequate waste water capacity is available. However, to accommodate for consequences that may arise from the surface water drainage scheme ultimately taken forward, conditions would also need to require details of the foul drainage scheme and its maintenance and management to be approved.

Parking and other highway implications

27. The proposal would provide 2.5 percent fewer parking spaces than required by NP policy PK1. However, this is unlikely to give rise to tangible highway issues, especially given that the site is in an accessible location and a travel plan would encourage use of sustainable transport modes. Consequently, this matter and the policy conflict attracts negligible weight.
28. The appellant's Transport Assessment provides robust analysis of the highway implications of the scheme in other respects and, moreover, technical evidence to counter it has not been submitted. A single vehicular access would be provided with visibility splays appropriately reflecting speed survey work. Swept path analysis shows no issues in respect of vehicle turning. Pedestrian links and crossings would aid safe walking in the vicinity including to bus stops and the centre of Yapton. It was also confirmed at the event that pedestrian links to the housing to the north-east can be achieved. Additionally, trip generation analysis suggests there would only be a modest increase in the amount of traffic generated, especially in the context of the approved scheme.
29. A condition to secure the provision and retention of the access, parking and turning areas, footways and visibility splays, and ensure that the splays would be free from obstructions would be needed for highway safety purposes. Additionally, a pre-commencement condition to require the approval of a Construction and Environmental Management Plan (CEMP) would also be required to address highway impacts during construction. Subject to those conditions, the development would have acceptable highway impacts in the respects identified above.
30. Notwithstanding this, based on the Transport Assessment's analysis, Highway Authority and Highways England correspondence and my observations, improvements to the nearby A27/Yapton Lane and A259/Yapton Road junctions are needed to ensure the safe and efficient operation of the strategic and local highway networks. The main parties are content that these matters could be addressed by a condition preventing occupation of the dwellings until works to the A27/Yapton Lane junction are completed and a financial contribution secured towards the latter in the legal agreement. It was also put forward that this would not jeopardise the scheme's delivery, with the A27/Yapton Lane junction reportedly funded. In the absence of clear evidence to the contrary, the approaches are appropriate. Moreover, the obligation is necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development, in accordance with the tests at paragraph 58 of the Framework.

Housing mix, supply and delivery

31. Policy H DM1 of the LP seeks a mix of dwelling types and sizes to address the nature of local housing needs and market demand whereas NP policy H2 requires a mix falling within prescribed ranges of bedroom numbers. The scheme would fail to provide any 1-bed dwellings and overprovide in other respects when compared to the prescribed ranges. However, the proposed mix is supported by the appellant's Housing Mix Assessment which based on demographics and market trends finds an increasing local need for family sized housing. Comparable evidence indicating otherwise has not been provided. It should also be noted that the proposal would include accessible and adaptable dwellings and wheelchair user dwellings in the terms of Approved Document M of The Building Regulations 2010, in excess of the requirements of NP policy H3, and thereby has the scope to satisfy varying needs. As such, the housing mix would be appropriate and limited weight should be attached to the conflict with NP policy H2.
32. The most recent Authority Monitoring Report dated January 2024 indicates 4.17 years supply of deliverable housing sites can be demonstrated, but the Council explained that a new report will soon be published which will show supply having dropped to somewhere between 3 and 4 years. Increases to the district's housing need as a result of changes to the standard method set out in Planning Practice Guidance⁴ are also likely to further impact on supply. I have also been referred to a recent appeal decision⁵ that discusses lower figures. However, as information enabling detailed scrutiny of the alternate figures has not been provided, I have taken forward 4.17 years supply as a best-case scenario.
33. In terms of delivery, the latest Housing Delivery Test results show that the number of homes delivered has fallen below the amount required, such that its test result is 70 percent. The appellant contends that modular housing could come forward more quickly than conventional housing but interested parties have put forward that there are supply chain issues. The appellant set out a few different options for ensuring delivery in a timely manner, including by using a range of suppliers and varying the specific type of modular construction, which would continue to provide a range of sustainability benefits over conventional housing such as in terms of carbon and construction waste reduction. I do not doubt that adjustments could be made if needed so the scheme would contribute to housing supply and delivery.
34. It is important to note that 30 percent of the scheme is secured for affordable housing in line with LP policy AH SP2. The submissions indicate a significant and rapidly increasing need for affordable housing alongside the acute need for further market housing. Loose clustering of the affordable housing as proposed would facilitate its management satisfactorily. Interested parties contend that the quantity of affordable housing could be reduced in the future due to claims that the scheme is unviable. However, there is no evidence that this would or is more likely to occur than for comparable schemes elsewhere in the district and beyond.
35. It is argued that Yapton has contributed significantly to addressing the housing supply shortfall in the district, which is corroborated by the approach to its housing requirement in the NP. Nevertheless, this does not diminish the need for housing across the district. Having regard to the Council's supply and delivery positions,

⁴ Reference ID: 2a-004-20241212

⁵ Appeal reference: APP/C3810/W/24/3343785

including the extent of the shortfalls, the proposed provision of the market and affordable housing weighs substantially in favour of the scheme.

Infrastructure provision

36. LP policy INF SP2 identifies a need for a new secondary school arising from growth in the district, but it does not designate land for such a purpose and an appropriate site has not yet been found. West Sussex County Council (WSCC) explains that existing schools in the district are unable to expand to accommodate pupils from the LP's strategic allocations and thus new housing schemes. Furthermore, the evidence indicates that demand for secondary school places is or will soon exceed anticipated capacity. As such, WSCC seek a contribution for transporting children from the development to the nearest school with capacity.
37. The appellant does not dispute the necessity of the contribution in principle. Moreover, Planning Practice Guidance⁶ suggests that transport costs are within the scope of education contributions. However, such a contribution is not secured by the approved scheme and, on that basis, the appellant and the Council agree that the contribution should be based on an uplift of 30 dwellings beyond those already permitted. At the time the application was determined this was also the stance of WSCC, but it now seeks a contribution based on the whole scheme. These positions are reflected as Option B and Option A respectively within the legal agreement. There is also misalignment between the parties in respect of the number of years of transport that should be provided.
38. Notwithstanding the disputes, the methodology for calculating the contributions is otherwise considered to be fit for purpose. There was much discussion about whether the terminology used in the legal agreement accurately reflects the calculation inputs. However, the parties to it are ultimately content that it reflects the established approach of WSCC to school transport contributions and I am confident that the relevant headline contribution figure for whichever of the options would be payable if the appeal is allowed.
39. Both options would finance transport for a maximum of 16 years. However, the legal agreement includes provisions and phasing which would ensure that payments are only made until a new school has been provided. This is an appropriate approach which will ensure that payments are only made where necessary. Accordingly, I am satisfied that this would not disincentivise the procurement of a school site, which would clearly be contrary to the interests of the district, the Council and WSCC in any case.
40. WSCC reportedly began requesting contributions towards secondary school transport in general terms prior to the determination of both the approved and proposed schemes. Additionally, there are no documented alterations to its established approach since the application subject to this appeal was refused, and the change in WSCC's stance has not otherwise been justified. Having regard to the evidence presented and the fallback position, a contribution based on the uplift of 30 dwellings is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. The Option A contribution would thus logically exceed what is necessary to grant permission. As such, the Option B contribution would need to be made in the event the appeal is allowed.

⁶ Reference ID: 23b-008-20190315

41. Local infrastructure capacity concerns are raised in various other respects. However, the development would be liable to a Community Infrastructure Levy charge, and there is insufficient evidence demonstrating specific infrastructure provision beyond that already secured by the scheme would satisfy paragraph 58 of the Framework. Additional infrastructure cannot therefore be required.

Other considerations

42. A range of other considerations have been raised. Several grade II listed buildings are located broadly to the south of the site⁷. Each gains special interest and significance in part from their setting within historic Bilsham and the agricultural landscape. Nevertheless, the settings and thus special interest and significance of the listed buildings would be preserved due to their distance from the development, changes in land levels and intervening vegetation. Accordingly, the proposal does not conflict with the expectations of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
43. The separation distances between some of the proposed dwellings would fall slightly short of the guidelines within the Arun Design Guide SPD, but the relationship between buildings for the scheme overall would be satisfactory in terms of privacy, outlook and light receipt. No mitigation measures such as obscured or fixed shut windows would be necessary as a result.
44. Noise concerns have been lodged particularly in respect of cumulative impacts of air source heat pumps proposed for the dwellings. The appellant's Acoustic Planning Assessment does not consider such implications, but there is sufficient scope for a condition to require the dwellings to be constructed so that internal noise levels would be within acceptable limits. The occupiers would benefit from satisfactory living conditions subject to that condition, together with ones relating to land levels and the timing of the installation of boundary treatments, to control the time periods for construction, and the CEMP condition, which could also require mitigation of amenity impacts such as noise experienced by any early occupiers. Additionally, due to the distance between the existing and proposed housing and subject to safeguards in the CEMP, there would be no significant living conditions impacts on occupiers of surrounding land.
45. I am also content with the conclusions of the appellant's Ecological Assessment, which sets out that with mitigation there would be no residual negative ecological impacts. Those measures could be secured by condition. Further conditions pertaining to external lighting and ongoing management through the approval of a Landscape and Ecological Management Plan would also be necessary for ecological purposes. The CEMP could also mitigate ecological impacts. Moreover, the scheme would bring about ecological enhancements and biodiversity net gain provision, and include a significant amount of public open space and facilities for children and young adults. Conditions could ensure that these are provided and managed to meet the needs of the development.

Whether the NP contains policies and allocations to meet its identified housing requirement

46. The proposal conflicts with the NP for the reasons given above. The NP will have been part of the development plan for less than 5 years by the time my decision is

⁷ National Heritage List for England references: 1237749, 1222544, 1274593 and 1274594

made. In these circumstances, paragraph 14 of the Framework indicates that the adverse impact of allowing the development is likely to significantly and demonstrably outweigh the benefits, provided that the NP contains policies and allocations to meet its identified housing requirement.

47. This matter was a consideration for the aforementioned appeal and another following it⁸. These conclude that the NP contains policies and allocations to meet its identified housing requirement, and the appellant acknowledged that arguments beyond those considered for those appeals have not been made. Consequently, I have no reason to come to different conclusions to the Inspectors for those appeals. The presumption in favour of sustainable development must be considered in that context.

Conditions

48. The appellant and the Council have agreed to a schedule of conditions in the event that the appeal is allowed. Pre-commencement condition wording has also been agreed. I have considered if the conditions meet the tests set out at paragraph 57 of the Framework. Editing of some would be necessary for precision and clarity. In particular, several refer to phasing of the development. However, justification for this, other than to account for waste water network capacity as explained above, has not been provided. Hence, phasing for other reasons has not been demonstrated to be necessary. Conversely, I do not doubt that allowances would be needed for certain 'enabling works' to be carried out where there would otherwise be pre-commencement requirements, to facilitate the delivery of the modular housing. The conditions would need to be drafted accordingly.
49. In addition to the conditions referenced throughout this letter, the standard time limit condition and one to require the development to be carried out in accordance with the approved drawings would be needed for certainty. A pre-commencement condition to require archaeological work to be undertaken as set out in the appellant's Written Scheme of Investigation would also be required in the interests of preserving any archaeological features present on site prior to potentially damaging works being carried out.
50. Conditions to require compliance with the appellant's Energy and Sustainability Statement and the optional requirements for water consumption for dwellings in The Building Regulations 2010 would be necessary to achieve the energy, climate change mitigation and water supply requirements of LP policies ECC SP2 and W DM1. Furthermore, the provision of communications infrastructure facilitating connections to the highest available broadband speeds would need to be secured to improve access to goods and services and opportunities to work from home in accordance with LP policy TEL SP1.
51. Additionally, the provision and maintenance of fire-fighting apparatus such as hydrants within the site and address any unexpected contamination would be necessary for public safety. A condition relating to any temporary show homes or sales areas would also be required so the development reverts to its otherwise approved following disposal of the dwellings. The approval of elevational details for the proposed boundary treatments and cycle storage would also be necessary to protect the character and appearance of the area. The cycle storage would be needed prior to occupation to encourage the use of sustainable transport modes.

⁸ Appeal reference: APP/C3810/W/23/3330541

52. The Council has recommended a condition to require a landscaping scheme to be submitted yet it has also agreed that hardworks and softworks masterplans should be included as approved drawings. There are no obvious deficiencies with the details already submitted and so there would be no need to require an amended scheme. However, a condition relating to the timing of planting and seeding, and the replacement of any trees or plants that fail, would be necessary in the interests of the character and appearance of the area and to preserve the settings and significance of listed buildings.
53. A condition relating to the provision of electric vehicle charging facilities would be unnecessary as this is addressed by the requirements of Approved Document S of The Building Regulations 2010. The submission of a dedicated Biodiversity Enhancement Strategy would also be unnecessary as its potential content would be addressed by the detail specified on the drawings and the Ecological Assessment and Landscape and Ecological Management Plan conditions.
54. The Environmental Health Officer has suggested conditions to require the investigation of potential air quality and asbestos impacts, but these have not been put forward by the Council in its capacity as local planning authority. Given this, the site's edge of settlement location and the number of trips generated by the scheme, the air quality condition would not be necessary. The other would be unnecessary as the contaminated land condition would protect against any unexpected asbestos. Similarly, the Highway Authority's recommended travel plan condition would not be needed as this is secured by the legal agreement.

Planning Balance and Conclusion

55. The proposal would not harm the character and appearance of the site and the surrounding area but adverse impacts and conflicts with LP and NP policies have been identified in respect of the spatial strategy and matters relating to the loss of agricultural land, flood risk, parking provision and housing mix. Taken together these considerations attract moderate weight for the reasons given above; however, the proposal resultantly conflicts with the development plan as a whole.
56. Notwithstanding this, the presumption in favour of sustainable development must be considered. Given that the development would be located in an area at risk of flooding, it conflicts with policy referenced at footnote 7 of the Framework that protects areas or assets of particular importance. However, I have explained above factors indicating that this issue attracts limited weight and so the application of the policy does not provide a strong reason for refusal. The scheme does not conflict with any other policies of the Framework referenced at footnote 7.
57. Accordingly, the presumption indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination, which relate to specific paragraphs identified by footnote 9 of the Framework.
58. The weight I attribute to the development's contribution to housing supply and delivery is substantial. Moreover, on applying the Framework's policies, I consider that the scheme would be in an accessible location served by sustainable modes of transport, provide an appropriate mix of affordable homes to meet identified local

needs, and make efficient use of land in providing different types of housing that reflects market conditions in a sympathetic manner appropriate to local character and the setting of the area. Overall, the benefits of the development attracts considerable weight. The adverse impacts do not significantly and demonstrably outweigh the benefits. This is the case despite the conflicts with the NP and the provisions of paragraph 14 of the Framework.

59. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any determination must be taken in accordance with the development plan unless material considerations indicate otherwise. In this case the presumption in favour of sustainable development is a material consideration which outweighs the conflicts with the development plan. A decision should thus be taken otherwise than in accordance with the development plan.

60. I conclude that the appeal should be allowed.

Mark Philpott

INSPECTOR

Appearances

FOR THE APPELLANT:

S Sykes – ECE Planning
A Harper – BoKlok Housing Ltd

FOR THE LOCAL PLANNING AUTHORITY:

S Davis – Planning
K McLaughlin – Flooding and drainage
S McDougall – Councillor, Planning Committee
F Tandy – Councillor, Planning Committee

FOR WEST SUSSEX COUNTY COUNCIL:

D Innes – Education
T Dunn – Education

INTERESTED PARTIES:

A Worne – Ward Councillor, Arun District Council
V Newman – Parish Councillor, Yapton Parish Council
C Inglis – Local resident
A Knight – Local resident
D Lownsborough – Local resident
D Robinson – Local resident
K Roy – Local resident

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan BRY-ECE-XX-XX-DR-A-SL-5010_P03
 - Block Plan BRY-ECE-XX-XX-DR-A-SL-5011_P03
 - Site Layout BRY-ECE-XX-XX-DR-A-SL-0512_P06
 - Hardworks Landscape Masterplan BRY-NTA-XX-XX-DR-L-PL-0501-P06
 - Softworks Landscape Masterplan BRY-NTA-XX-XX-DR-L-PL-0502-P06
 - Landscape GA Softworks Sheet 1 of 2 BRY-NTA-XX-XX-DR-L-PL-0503-P06
 - Landscape GA Softworks Sheet 2 of 2 BRY-NTA-XX-XX-DR-L-PL-0504-P06
 - Topographical Survey BRY-ECE-XX-XX-DR-A-SL-5013_P02
 - Parking Provision and Cycle Stores BRY-ECE-XX-XX-DR-A-SL-0514_P03
 - Refuse Stores and Tracking BRY-ECE-XX-XX-DR-A-SL-5015_P03
 - Tenure-Affordable Plan Allocation BRY-ECE-XX-XX-DR-A-SL-5016_P05
 - Building Heights BRY-ECE-XX-XX-DR-A-SL-5018 P02
 - Building Materials BRY-ECE-XX-XX-DR-A-SL-5019 P02
 - Boundary Treatments Plan BRY-ECE-XX-XX-DR-A-SL-5020_P02
 - Houses 165-170 (3 Bed Terrace) BRY-ECE-T01-ZZ-DR-A-XX-5100 P02
 - Houses 21-22 (4 Bed Semi) BRY-ECE-HC908-ZZ-DR-A-XX-5101 P02
 - Houses 7-10_30-33 Aff (2 Bed Terrace) BRY-ECE-T02-ZZ-DR-A-XX-5102 P02
 - Houses 23-25 (2 Bed Terrace) BRY-ECE-T03-ZZ-DR-A-XX-5103 P02
 - Houses 141-143 (2 Bed Terrace) BRY-ECE-T04-ZZ-DR-A-XX-5104 P02
 - Houses 102-103_144-145_161-162 (4 Bed Semi) BRY-ECE-HC908-ZZ-DR-A-XX-5105 P02
 - Houses 112-13_137-138_153-154_163-164 (4 Bed Semi) BRY-ECE-HC908-ZZ-DR-A-XX-5106 P02
 - Houses 1-2_15-16_104-105_155-156 (2 Bed M4(3)) BRY-ECE-HC602-ZZ-DR-A-XX-5107 P02
 - Houses 128-132_147-152 (3 Bed_Study Detached) BRY-ECE-HC401-ZZ-DR-A-XX-5108 P02
 - Houses 86-87_133_146 (3 Bed_Study Detached) BRY-ECE-HC401-ZZ-DR-A-XX-5109 P02
 - Houses 26-27_75-76_90-93_98-99_116-117_122-125_139-140 (3 Bed Semi) BRY-ECE-HC308-ZZ-DR-A-XX-5110 P02
 - Houses 17-20_42-45_49-52_61-62_88-89_126-127_100-101_114-115_159-160 (3 Bed Semi) BRY-ECE-HC308-ZZ-DR-A-XX-5111 P02
 - Houses 77-79 (3 Bed Terrace) BRY-ECE-T05-ZZ-DR-A-XX-5112 P02
 - Houses 59-60 (3 Bed Semi) BRY-ECE-HC308-ZZ-DR-A-XX-5113 P02
 - Houses 108-109 (3 Bed Semi) BRY-ECE-HC302-ZZ-DR-A-XX-5114 P01
 - Houses 106-107 (3 Bed Semi) BRY-ECE-HC302-ZZ-DR-A-XX-5115 P02
 - Houses 82-85 (3 Bed Semi) BRY-ECE-HC302-ZZ-DR-A-XX-5116 P02
 - Houses 53-54_110-111 (3 Bed Semi) BRY-ECE-HC302-ZZ-DR-A-XX-5117 P02
 - Houses 37-38 (3 Bed Semi) BRY-ECE-HC302-ZZ-DR-A-XX-5118 P02

- Houses 28-29_63-66_96-97_118-119 (2 Bed Semi) BRY-ECE-HC211-ZZ-DR-A-XX-5119 P02
 - Houses 55-58_67-68_94-95_120-121_157-158 (2 Bed Semi) BRY-ECE-HC211-ZZ-DR-A-XX-5120 P02
 - Houses 34-36 (2 Bed Terrace) BRY-ECE-T06-ZZ-DR-A-XX-5121 P02
 - Houses 80-81 Aff (2 Bed Semi) BRY-ECE-HC208-ZZ-DR-A-XX-5122 P02
 - Houses 39-41 Aff (2 Bed Terrace) BRY-ECE-T07-ZZ-DR-A-XX-5123 P02
 - Houses 72-74 Aff (2 Bed Terrace) BRY-ECE-T08-ZZ-DR-A-XX-5124 P02
 - Houses 134-136 Aff (2 Bed Terrace) BRY-ECE-T09-ZZ-DR-A-XX-5125 P02
 - Houses 69-71 Aff (2 Bed Terrace) BRY-ECE-T10-ZZ-DR-A-XX-5126 P02
 - Houses 3-6_11-14 Aff (2 Bed/3 Bed Terrace) BRY-ECE-T11-ZZ-DR-A-XX-5127 P02
- 3) Development shall not take place until archaeological work has been carried out in accordance with the Written Scheme of Investigation by Development Archaeology Services Ltd.
- 4) Development shall not take place until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The approved CEMP shall be adhered to throughout the construction period.
- 5) Development shall not take place, other than for enabling works, until details of proposed land levels across the site and finished floor levels for the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) Development shall not take place, other than for enabling works, until a Soil Resource Plan (SRP) has been submitted to and approved in writing by the local planning authority. The SRP shall set out how the best and most versatile soils on the site are to be protected during construction and then recycled or reused. The development shall be carried out in accordance with the approved SRP.
- 7) Development shall not take place, other than for enabling works, until details of a foul drainage scheme and a phasing plan have been submitted to and approved in writing by the local planning authority. The phasing plan shall align the occupation of the dwellings hereby permitted with capacity in the waste water network to adequately drain the development. The development shall be carried out in accordance with the approved details and the dwellings shall be occupied in accordance with the phasing plan.
- 8) Development shall not take place, other than for enabling works, until details of a surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The details shall include results of winter groundwater monitoring and percolation testing to support the design of any infiltration drainage. The scheme shall be implemented, and a completion report prepared by an independent engineer confirming that it has been built in accordance with the approved details and is fit for purpose shall be submitted to the local planning authority, prior to the occupation of the dwellings hereby permitted.

- 9) Development shall not take place, other than for enabling works, until details of any discharge flows to watercourses; or for the culverting, diversion, infilling or obstruction of any watercourse on or adjacent to the site, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 10) Development shall not take place, other than for enabling works, until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The LEMP shall be implemented in accordance with the approved details.
- 11) Development shall not take place, other than for enabling works, until a scheme of communications infrastructure enabling access to the highest available broadband speeds to each dwelling hereby permitted has been submitted to and approved in writing by the local planning authority. The communications infrastructure shall be provided prior to the occupation of the dwellings in accordance with the approved details.
- 12) Development shall not take place, other than for enabling works, until details of a scheme for protecting occupiers of the dwellings hereby permitted from noise have been submitted to and approved in writing by the local planning authority. The scheme shall be provided prior to the occupation of the dwellings in accordance with the approved details.
- 13) Prior to the occupation of the dwellings hereby permitted, a scheme for the provision and maintenance of fire-fighting apparatus within the site shall be submitted to and approved in writing by the local planning authority. The fire-fighting apparatus shall be installed prior to the occupation of the dwellings and maintained thereafter in accordance with the approved details.
- 14) Prior to the occupation of the dwellings hereby permitted, elevation details of the proposed walls, fences and gates identified on drawing reference BRY-ECE-XX-XX-DR-A-SL-5020_P02 shall be submitted to and approved in writing by the local planning authority. The walls, fences and gates shall be constructed prior to the occupation of the dwellings in accordance with the approved details.
- 15) Prior to the occupation of the dwellings hereby permitted, elevation details of the cycle storage identified on drawing reference BRY-ECE-XX-XX-DR-A-SL-5014_P03 shall be submitted to and approved in writing by the local planning authority. The cycle storage shall be provided prior to the occupation of the dwellings in accordance with the approved details.
- 16) Prior to the occupation of the dwellings hereby permitted, details of any external lighting shall be submitted to and approved in writing by the local planning authority. The lighting shall be installed in accordance with the approved details.
- 17) Prior to the occupation of the dwellings hereby permitted, the vehicular access parking and turning areas, footways and visibility splays serving the development shall be constructed in accordance with the approved plans and retained for their intended uses thereafter. The visibility splays shall be kept free of all obstructions over a height of 0.6 metres above the adjoining carriageway level.

- 18) Prior to the occupation of the dwellings hereby permitted, details of the public open space and play provision within the site and associated management arrangements shall be submitted to and approved in writing by the local planning authority. The public open space and play provision shall be implemented prior to the occupation of the 85th dwelling hereby permitted and maintained and managed in accordance with the approved details.
- 19) Prior to the occupation of the dwellings hereby permitted, details of the maintenance and management of the approved surface water drainage and foul drainage schemes shall be submitted to and approved in writing by the local planning authority. The schemes shall be maintained and managed in accordance with the approved details.
- 20) No dwellings hereby permitted shall be occupied until the improvements to the A27/Yapton Lane junction shown on drawing reference ITB11324-GA-014 Rev C dated 30 August 2017 have been completed and are open to the traveling public.
- 21) No individual dwelling hereby permitted shall be occupied until the optional requirement set out by Regulation 36(2)(b) of The Building Regulations 2010 to limit wholesome water consumption to 110 litres per person per day has been complied with for that dwelling.
- 22) The development hereby permitted shall be carried out in accordance with the ecological mitigation and enhancement measures specified at paragraph 6.2 of the Ecological Assessment, reference DFA23031V2.
- 23) The development hereby permitted shall be carried out in accordance with the energy efficiency and renewable energy measures specified within the Energy and Sustainability Statement, reference YPT-HYD-XX-ZZ-RP-ME-0001.
- 24) Prior to any show home(s) and/or sales area(s) being created details of such including a timetable for their subsequent removal from the site shall be submitted to and approved in writing by the local planning authority. The show home(s) and/or sales area(s) shall be created and then removed from the site in accordance with the approved details.
- 25) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings hereby permitted or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the 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.
- 26) If during development, any visible contaminated or odorous material (for example, asbestos containing material, stained soil, petrol /diesel/solvent odour, underground tanks or associated pipework) not previously identified is found to be present at the site, no further development shall be carried out until it has been investigated. The local planning authority shall be informed immediately of the nature and degree of any contamination present and a method statement detailing how it will be dealt

with shall be submitted to and approved in writing by the local planning authority before being implemented. If no contamination is identified, a statement to this effect must be submitted to and approved in writing by the local planning authority.

- 27) No demolition/construction activities shall take place other than from 08:00 hours until 18:00 hours Monday to Friday and from 08:00 hours until 13:00 hours on Saturdays with no noisy work (defined as not involving any machinery/plant) on Sundays or Bank/Public Holidays.
- 28) For the purposes of conditions 5 to 12, 'enabling works' shall be limited to the following: site investigations and surveys; ecological preparatory works; the provision of security fencing, hoarding and sales signage; the clearance of the site; the provision of any temporary site point of access for construction traffic; provision of temporary welfare and accommodation facilities; and provision of facilities for temporary utility supplies (e.g. electricity, water and data) during the construction period.

APPENDIX 6

Appeal Decision – Wandleys Lane,
Fontwell



Appeal Decision

Hearing held on 11 March 2025

Site visits made on 10 and 11 March 2025

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 April 2025

Appeal Ref: APP/C3810/W/24/3349836

Land East of Wandleys Lane, Fontwell, West Sussex

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Welbeck Strategic Land II LLP against the decision of Arun District Council.
 - The application Ref is WA/35/23/OUT.
 - The development proposed is described as 'outline planning application for up to 95 dwellings (including 30% affordable), with all matters reserved apart from access'.
-

Decision

1. The appeal is allowed, and outline planning permission is granted for up to 95 dwellings (including 30% affordable) with all matters reserved apart from access, at Land East of Wandleys Lane, Fontwell, West Sussex in accordance with the terms of the application, Ref WA/35/23/OUT, subject to the conditions in the attached schedule.

Preliminary Matters

2. The planning application was submitted in outline with all matters of detail reserved for future consideration save for access into the site. I have assessed the proposal on this basis and have otherwise treated the drawings as simply being an illustration of how the proposal could ultimately be configured. The late evidence listed at the end of this decision was brief and capable of being addressed by those at the hearing. As such, I accepted the evidence and have considered it in reaching my decision. The National Planning Policy Framework (the 'Framework') was revised after the appeal was submitted. The Council and appellant provided further comments on this, which I have considered in reaching my findings.

Background and Main Issues

3. The Council refused the planning application for four reasons. In response to the second reason for refusal, a planning obligation in the form of a counterpart legal agreement has been submitted pursuant to Section 106 of the Town and Country Planning Act 1990. This makes provision for affordable housing and education transport. Both the Council and West Sussex County Council are content with its terms and party to the agreement. On this basis, the Council has understandably confirmed that it does not wish to pursue its second reason for refusal.
4. Further discussions between the appellant, Council and National Highways have taken place since the application was refused. Common ground has been reached between these parties that the proposal would not have an adverse impact on the

strategic road network. The reasons for this are set out in a Highways Statement of Common Ground between the appellant's Highway Engineers and National Highways. Accordingly, the Council confirmed that it did not wish to pursue its third reason for refusal. I have no substantive reason to conclude contrary to this expert opinion. Indeed, it is clear from correspondence that National Highways undertook a protracted and robust assessment which required the submission of additional evidence by the appellant.

5. Further survey work has taken place in respect of T35 and T36, both being Ash trees subject to a Tree Preservation Order (TPO). These additional investigations concluded that the trees have Ash Dieback. This will result in a marked deterioration in their physical condition over time. Furthermore, the trees are suffering areas of decay which is having an impact on the structural stability of some branches. The appellant's arboriculturist is therefore recommending a 30% reduction in the crowns of both trees regardless of the outcome of the appeal.
6. Expert evidence to the contrary is not before me and the Council does not dispute these findings in any event. Consequently, it has no objection to the removal of T35 and T36. During the hearing, the Council also confirmed that the loss of G16, the only other Category B trees which would be affected by the proposed access, would be outweighed by the benefits of the scheme. On this basis, the Council confirmed that it no longer wished to pursue its fourth reason for refusal because a conflict with Policy ENV DM4 of the Arun Local Plan would not occur. On the balance of the evidence before me they were right to do so.
7. Considering the foregoing, the main issues in this appeal are:
 - Whether the appeal site is a suitable location for the proposed development with reference to the spatial strategy in the development plan; and
 - The effect of the proposed development on the character and appearance of the area.

Reasons

The suitability of the location with reference to the spatial strategy

8. The Walberton Neighbourhood Development Plan (NP) sets out several key aims, including prioritising the use of brownfield sites for housing, avoiding large development sites in the countryside and dispersing new housing on several small sites to avoid urbanising the villages. To this end, Policy HP1 of the NP states that proposals for development within the Built-Up Area Boundaries (BUAB) of Walberton and Fontwell will be supported, as will proposals outside the BUAB where they accord with the countryside policies of the Arun Local Plan (LP). This approach echoes that in Policy SD SP2 of the LP.
9. Policy C SP1 of the LP is concerned with development outside BUABs and states that land defined as countryside, such as the appeal site, will be recognised for its intrinsic character and beauty. The policy goes on to explain that certain listed types of development in the countryside will be permitted, such as where it is for agriculture or informal recreation. The corollary of this is that types of development not listed would be contrary to Policy C SP1.
10. Being a proposal for up to 95 homes in the countryside, the appeal scheme would not be within a BUAB and would not be any of the types of development listed in

Policy C SP1. It would therefore be at odds with Policies SD SP2 and C SP1¹, and the broad strategic approach in Policy SD SP1a to focus development on the major towns whilst maintaining the countryside setting of villages. As a result, the proposal would be at odds with Policy HP1 of the NP because it would not be in accordance with the countryside policies of the LP.

11. Accordingly, the appeal site is not a suitable location for the appeal scheme when applying the spatial strategy in the development plan. Indeed, being a large development on a greenfield site, the proposal would seriously undermine the aims of Policy HP1 and the spatial strategy more widely. This would be harmful given the public interest in having a planning system that provides consistency and direction on account of being genuinely plan led.

The effect on the character and appearance of the area

Baseline conditions of the site and its context

12. The appellant has submitted a Landscape and Visual Impact Assessment (LVIA) as a means of methodically assessing the effects of the proposal on the character and visual amenity of the area. The Council does not take issue with the methodology in the LVIA and therefore I have used it to guide my assessment.
13. The first step is to consider the baseline character of the area. This is informed by the condition and intactness of the landscape and the extent to which it is representative of the key characteristics of the relevant landscape character area (LCA). Generally, an area will have a higher degree of character if it exhibits greater intactness and is more reflective of the positive key characteristics of the LCA. However, it is important to note that few if any parcels of land would have all the key characteristics of an LCA.
14. Historic mapping² demonstrates that around 100 years ago the area around Fontwell was deeply rural with small fields, woodland and hedges being predominant features. This has been significantly eroded over time by infilling, road infrastructure and estate development. Indeed, the villages of Walberton, Fontwell, Eastergate and Barnham are broadly contiguous. Nevertheless, the underlying rural character is still evident. The district landscape character assessment³ places the appeal site and its environs in Landscape Character Area 16 (LCA 16) where ancient woodland, mature trees, undulating pasture, winding hedged lanes and leafy settlements are positive key characteristics.
15. The appeal site is a pastoral field that is flanked by ancient woodland and a chalk stream to the immediate south and the 'leafy' West Walberton Lane to the north. To the west is Wandleys Lane, which is a narrow route flanked by mature trees and defined in the NP as a biodiversity corridor. The area therefore has many of the positive key characteristics of LCA 16. That said, there are also the significant detracting influence of the suburban fringe of Fontwell, most notably Fontwell Meadows. Wandleys Lane has also seen extensive infilling and a deterioration in the extent and quality of the roadside hedges. Accordingly, the appeal site and its surroundings are of moderate character and condition, as there is a recognisable pattern of a once deeply rural landscape that over time has increasingly seen the

¹ The Council confirmed at the hearing that Policy SD SP1 was included in the first reasons for refusal in error, as there would be no direct conflict. The Council were correct to make this concession given the terms of the policy.

² See the Built Heritage Statement, November 2022 by RPS Group

³ There is overlap with the county assessment 'A Strategy for the West Sussex Landscape'

insertion of incongruous and detracting suburban elements. Because of this, the area has a medium susceptibility (or ability/capacity) for change.

16. A list of landscape attributes published by the Landscape Institute⁴ can be used to frame an assessment of the value of the local landscape. Given the presence of ancient woodland, a chalk stream and biodiversity corridors, the area is of high natural heritage value. Indeed, the biodiversity surveys demonstrate the locality's functional importance for dormice, slow worm and bats. Wandleys Lane is also a pleasant route for walking, cycling and horse riding, and this imparts some moderate recreational value. Views along Wandleys Lane or across the appeal site towards mature trees or ancient woodland are also of scenic value.
17. That said, several of the properties in Fontwell Meadow incongruously back onto the lane. For example, there is a property broadly opposite the proposed site access which is positioned close to the lane and presents an unrelieved brick flank to the public realm. This is symptomatic of some of the insensitive alterations that have recently occurred in Wandleys Lane resulting in its rural character becoming more semi-rural or even suburban. There is also a proliferation of fencing and disjointed infilling along much of the road. As such, the scenic quality of the area, as principally experienced from Wandleys Lane, is of moderate value.
18. There are few listed buildings or archaeological sites nearby and the deeply rural pattern of the landscape has been considerably eroded. There is no substantive evidence before me that the area is associated with any notable events or people. As a result, there is limited cultural value. Similarly, noise from the A24 and A29, and the presence of the settlement fringe of Fontwell, means the area is not especially wild or tranquil. Overall, the attributes of the appeal site and its immediate environs are such that it is of moderate value. This is principally on account of the local natural heritage value.
19. In this respect my findings depart from those of the LVIA, which concluded in Table 1 that both LCA 16 and the site were of low value. However, by narrowly assessing the value of the site in isolation, important contextual features such as the ancient woodland were omitted. Alternatively, the LCA is too big an area and therefore features of local value get diluted. Instead, the judgments in respect of value should have focussed on the site and its context as the study area. The significance of this becomes apparent when applying the methodology in the LVIA. This is because the medium susceptibility to change and the moderate landscape value in combination result in the site and its immediate context having moderate, rather than low, sensitivity to change.
20. The baseline for considering the visual impact of the scheme is focussed on a zone of visual influence (ZoVI) and representative viewpoints. The Council are content that both the ZoVI, and the viewpoints within, have been correctly identified. This demonstrates that the visual envelope of the appeal scheme would be a modest geographical area. The ZoVI would be much smaller if only public vantage points were included. This demonstrates that the existing tree and woodland cover, taken with existing buildings along West Walberton Lane and Wandleys Lane, provide a high degree of screening and containment from public views. The appeal site is, however, very visible from several neighbouring residential properties. Each view

⁴ *Assessing Landscape Value Outside National Designations*, Landscape Institute

has been analysed to ascertain its susceptibility to change as well as its value and sensitivity. Again, the Council take no issue with this analysis or the findings.

The effects of the proposal

21. The construction of 95 homes and estate roads with the associated activity and lighting would be an inherently urbanising intrusion into this rural field resulting in a high magnitude of change to the appeal site. There is no dispute between the Council and appellant that this would have a substantial negative impact on the field's landscape character. Similarly, the Council and appellant seem to agree that there would be a minor adverse impact on the wider landscape character of LCA 16 taken as a whole.
22. However, and as already explained, I share the view of the Council that the assessment of effects should focus on the site and its immediate context rather than the site and its wider context. Outside the appeal site, the impacts on character would be most apparent in Wandleys Lane, as the semi-rural feel of this thoroughfare would be urbanised by the presence of a large housing estate. In addition, the proposed access would breach the boundary hedge and thus interrupt the continuity of planting along the lane. Indeed, a Category B tree group (G16) would need to be removed. In addition, a pavement could be provided along Wandleys Lane as well as white line markings. These features would negatively suburbanise Wandleys Lane. The development would also result in an increase in traffic along the lane, adding perhaps 1 movement every minute in the peak hours. This activity, taken with the localised road widening required to allow vehicles to pass, would be a further erosion of the semi-rural character of the lane.
23. However, the appeal scheme would read as a continuation of the Fontwell Meadows development. This scheme already has a notable and inescapable presence and influence on the local context given the proximity of housing to the lane and lack of extensive new boundary planting. Indeed, the proposal would read as a logical expansion of the settlement, especially so when considering the enclosing effect of existing development along West Walberton Lane. The ancient woodland also provides a natural defensible boundary to the south which would be enhanced by the provision of further buffer planting and a public opens space. As such, there would be no coalescence with other settlements.,
24. The density of the proposal would not reflect that in West Walberton Lane or Wandleys Lane, but it would be reasonably low for a modern estate and not out of place relative to Fontwell Meadows. Indeed, the proposed density would be a reasonable trade-off between making an efficient use of land whilst responding to the semi-rural settlement edge character of the area.
25. The indicative layout also outlines how the scheme could be designed in a sensitive way. In particular, the site entrance could be flanked by a community orchard and woodland buffer planting. Trees could also be planted so that, in time, the canopy matures to breach the gap caused by the access. The houses nearest the lane could also face the public realm and be set back some way behind this new planting, so the sense of a green corridor is broadly retained. Internally, the development could also be leafy with hedging used to define front gardens and streets lined with trees. Over time, the development need not be a stark urbanisation and could soften to reflect the verdancy of West Walberton Lane.

26. It is also important to note that the road safety audit recommended the removal of the white lines on safety grounds. Moreover, and for reasons I go into, the necessity of the pavement has not been made out. Accordingly, there is no need to provide these harmful features. However, even if the pavement is provided then the evidence before me demonstrates it can be constructed without harming the longevity of trees along Wandleys Lane.
27. In the round, the magnitude of change to landscape character would be high for the site, dropping to medium for its immediate context and low beyond this. Given the moderate sensitivity of the site and its immediate context, the overall significance of effect would be somewhere between moderate and substantial at day 1, dropping to moderate at Year 15 if the extensive and well considered landscaping shown on the indicative layout is provided alongside a sensitive design. It is reasonable to consider the effects over a 15-year period given the likely lifetime of the development and the time it will take for the landscape mitigation to take hold.
28. In visual terms there would be a substantial negative effect on private views from adjoining properties in Wandleys Lane and West Walberton Road. However, this effect would soften in time as the buffer landscaping matures. Moreover, the indicative layout demonstrates that the new homes can be orientated to face the site boundaries thereby providing scope for attractive facades to be presented to existing neighbours softened by planting in front gardens. Moreover, the fencing and paraphernalia in rear gardens would be less prominent. In addition, the houses could (and should in my view) be no greater than two storeys in height to further reduce the visual impact. Therefore, the views from neighbouring properties need not be dominated by large or unattractive buildings. Thus, the initial raw and substantial significance of effect would fall to a moderate.
29. Public views from West Walberton Road would be broadly unaffected by the scheme given the distance, very dense planting and position of existing buildings. Thus, the main public views of the proposal would be from Wandleys Lane albeit a limited section of this route. Initially, there would be a high magnitude of change looking into the site along the proposed access and through gaps in the hedge. However, this would soften significantly over time if the areas of landscaping shown on the indicative layout are provided. As a result, by Year 15 the magnitude of the visual impact from the effected section of Wandleys Lane would drop from high to medium with a corresponding drop in the significance of the effect from substantial to moderate. The effect would also be experienced in the context of the Fontwell Meadows development across the lane.

Overall conclusions

30. Beyond the immediate context of the site, broadly defined by West Walberton Lane, Wandleys Lane and the Ancient Woodland, there would be little impact on either landscape character or visual amenity. This strongly illustrates the localised and contained nature of the impact. That said, the initial impact of the appeal scheme on the site and its immediate context would be substantial adverse. Over time, this could fall to a moderate adverse impact if the extent of landscaping proposed on the indicative layout is provided alongside a sensitive design.
31. Accordingly, the proposal would result in harm to the character and appearance of the area, albeit not a high level. It would therefore be at odds with Policies C SP1, D DM1, LAN DM1 and SD SP1a of the LP, which seek to secure development that

recognises the intrinsic character and beauty of the countryside, maintains the open countryside setting of villages and reflects the character of a site and its surroundings. The proposal would also be at odds with Policy VE3 of the NP, which seeks to resist the loss of trees and hedgerows of amenity value.

Other Matters

32. Several interested parties have raised concerns that the appeal scheme would harm highway safety and would result in congestion. I have already explained that a substantial body of evidence has been supplied to demonstrate to the satisfaction of National Highways an acceptable impact on the strategic road network. In a similar vein, the Local Highway Authority (LHA) have also reviewed the submissions, including the Transport Assessment (TA) and the TRICS data therein, and have concluded that the site access would operate safely and the movements arising from the scheme could be absorbed without severely impacting the highway network. This is an independent expert view to which I afford significant weight.
33. The TA has provided tracking to demonstrate that two cars can pass, although it is likely that passing places would need to be used if an HGV were to meet a car. This may be a likely occurrence during construction but less so during occupation. The temporary nature of the construction impacts and the ability to mitigate them through a condition are sufficient to ensure there would be no harm. The submissions also demonstrate that the site access would have adequate visibility. Accordingly, there is no substantive reason to depart from the conclusions of both the appellant's TA and the LHA.
34. The Flood Risk Assessment submitted by the appellant confirms that the appeal site is at a low risk of flooding from rivers and surface water. However, it also indicates that the site is at a medium risk from ground water and sewer flooding. The Council and appellant have confirmed that following ground water monitoring it can be concluded the site is at a low risk of ground water flooding. In addition, a condition can be imposed to prevent occupation of the scheme until any necessary upgrade to sewerage infrastructure is undertaken. This would ensure there is capacity for the foul water flows from the development and thus a low risk of flooding. Furthermore, another condition can be imposed to require details of the scheme's foul sewerage design with the aim of minimising surface water ingress. It is of note that the Lead Local Flood Authority did not object to the scheme after a robust assessment.
35. The appeal scheme would be located, and can be designed, to minimise adverse visual impacts on views out of the South Downs National Park. Indeed, the National Park Authority have not objected subject to a sensitive lighting scheme, which can be secured by condition. For reasons I go into, there would be no harm to the important bat colony within the National Park and therefore its setting, by virtue of functional links, would not be adversely affected in this regard.
36. The appeal site is not located within walking distance of a primary school and the Number 500 bus service is regular but not currently permanent. However, there is a shop, public house, community hall, fast food restaurant and public open spaces nearby. These could all be accessed easily through the Fontwell Meadows development or via West Walberton Lane. The site is also within a short cycle ride or drive from a rail station. It would also be possible to walk to Eastergate where there is a secondary school and other facilities. The walk would be longer than the

800m recommended in the National Design Guide or the preferred maximum of 1,200m in *Providing Journeys on Foot*. However, it is not an entirely unrealistic option or the only one available for reaching services and facilities.

37. It is also important to note that the appeal site adjoins Fontwell Meadows, which was an allocation of 400 homes that was judged a 'sustainable location' at the time it was approved. An inconsistency would arise if I found the locality to be unsustainable for up to 95 homes. Overall, there would be no conflict with Policies GA5 of the NP or T SP1 of the LP.
38. The appeal site adjoins ancient woodland, which is a highly fragile ecosystem and irreplaceable habitat influenced by surrounding land use. To this end, the indicative layout demonstrates that a minimum 15m buffer can be provided to protect the trees. Indeed, the buffer would be planted to prevent access and trampling, and no gardens need adjoin the woodland. As a result, garden clippings would not be deposited with the risk of invasive species taking root. In addition, and after discussions at the hearing, it was confirmed that a drainage scheme could be devised to ensure the hydrological conditions of the woodland are not harmed. Neither Natural England nor the Council's Ecological Advisors or Arboricultural Officer have objected to the scheme on account of a loss or deterioration of the ancient woodland. I afford these expert views significant weight.
39. Similarly, the appellant has advanced a mitigation and enhancement strategy for dormice, which is a European Protected Species (EPS). Natural England were consulted and did not give any indication they would withhold the grant of an EPS licence. Based on the submissions before me, including the evidence of expert ecologists, I am satisfied there is a reasonable prospect that a licence would likely be granted. This matter can therefore be addressed through the imposition of a planning condition. The scheme can also make provision, through a buffer, to protect species rich hedgerow, which is a Habitat of Principal Importance.
40. The appellant has confirmed that mineral extraction would be unviable on account of the small size of the site and the proximity of neighbouring residents. I also consider the overriding need for the development outweighs the safeguarding of minerals in this case. Accordingly, there would be no conflict with Policy M9 of the West Sussex Joint Minerals Local Plan. The proposal would result in a modest loss of Grade 3b agricultural land, but this would also be outweighed by the benefits of the scheme. Accordingly, there would be no conflict with Policy SO DM1 of the LP or Paragraph 187(b) of the Framework. Reference was made at the hearing to another application relating to a site in Wandleys Lane for a Permission in Principle. However, this related to a much smaller scheme with considerably fewer benefits. It is therefore of limited relevance. The Council operates a Community Infrastructure Levy so there would be a mechanism to address any issues with local infrastructure through this process.

Conditions and Planning Obligation

41. The Council and appellant agree that many of the appeal scheme's impacts can be entirely mitigated by the imposition of conditions and through the planning obligation submitted shortly after the hearing closed. In addition to standard commencement conditions, with a reduce time period to reflect the important of a quicker delivery, it is necessary to define the reserved matters and require their approval prior to development starting.

42. A drawings condition confirming the extent of the appeal site is added in the interests of certainty. In the interests of highway safety and accessibility, it is necessary to secure road widening and pedestrian improvements prior to occupation. To encourage walking to the cluster of services near to the Fontwell West Roundabout, as well as the bus stops, it is necessary to prevent occupation until either the pedestrian access from the Fontwell Meadows development to Wandleys Lane⁵ is completed or a pavement along Wandleys Lane is constructed. The former would be preferable as it is more direct and would minimise the impact on Wandleys Lane. To secure a benefit of the scheme it is necessary to impose a condition requiring a biodiversity net gain of at least 10% as well as an ecological design, management and monitoring strategy.
43. To reduce carbon emissions from the scheme it is necessary to require a 10% energy supply reduction from renewable or low carbon sources, as required by the LP. Similarly, to manage water use, it is necessary to impose a condition limiting water consumption to 110 litres per person per day, as required by the LP. To safeguard the landscape and biodiversity it is necessary to secure details of external lighting. To secure a benefit it is necessary to impose a condition requiring the minimum quantum of open space by typology. To adhere to the LP it is necessary to trigger the optional Building Regulations M4(2) and M4(3) through the imposition of a condition.
44. As previously set out, it is necessary to secure details of the foul drainage system and to prevent occupation until any necessary upgrades have been undertaken. This would ensure the scheme would not exacerbate flooding of the sewer network. In the interests of safeguarding highway safety and living conditions, it is necessary to secure a construction management plan and an advisory construction traffic plan. A separate plan is also required to ensure construction works do not harm biodiversity. In the interest of managing surface water, it is necessary to secure a sustainable drainage scheme, including its management and implementation. To protect living conditions, it is necessary to investigate potential sources of land contamination and remediate any contaminants. To protect dormice, it is necessary to ensure the works do not start until a European Protected species licence has been granted by Natural England. To enhance bat habitat, it is necessary to provide at least 48 bat tubes, bricks and boxes. For similar reasons it is necessary to secure at least 48 bird nesting bricks.
45. In the interests of living conditions, and to comply with Policy AE DM3 of the LP, it is necessary to seek to minimise air pollution through an air quality assessment. To protect groundwater, it is necessary to control piling. To adhere to the development plan and support the local economy to grow, it is necessary to secure an Employment and Skills Plan. To minimise fire risk, it is necessary to secure the provision of fire hydrants. To protect currently unknown archaeology, it is necessary for a scheme of investigation and recording to be secured. In the interest of living conditions and highway safety it is necessary to ensure the roads, footways and parking areas are provided before occupation.
46. The legal agreement makes provision for the obligations set out below. These obligations are necessary to prevent harm or meet the requirements of the development plan, are directly related to the proposal and there is no substantive

⁵ This has not been provided yet. However, it is part of the approved scheme, and I was advised at the hearing that the Council could pursue enforcement action to ensure the pedestrian access is provided.

evidence before me to demonstrate they would be unfair in scale and kind. I have therefore taken the obligations into account when having regard to Regulation 122 of the Community Infrastructure Levy Regulations and Framework Paragraph 58.

47. *Affordable Housing* – As will be explained, there is an identifiable need to provide affordable housing in the district. To this end, and in this instance, Policy AH SP2 of the LP seeks to secure 30% of homes as affordable housing. The planning obligation would do this. The Council has not raised any objections to the inclusion of First Homes pursuant to Footnote 31 of the Framework.
48. *Travel plan* – To promote sustainable transport as required by Policy T SP1 of the LP, it is necessary for a travel plan to be prepared and implemented to promote a proportionate modal shift away from car travels. As part of this, it is necessary for the developer to pay a monitoring fee to the County Council, to provide vouchers and appoint a Travel Plan Co-Ordinator. In addition, a bus service contribution of £448.73 per dwelling plus a monitoring fee is necessary.
49. *Secondary school transport contribution* - For the reasons set out in West Sussex County Council's hearing statement, it is necessary to secure a financial contribution, in accordance with a set methodology, towards secondary school transport plus a monitoring fee. This is because local schools are at capacity and a new one needs to be constructed. Consequently, there may be a need to bus pupils living at the appeal scheme to other schools in the interim.

Habitat Regulations Assessment

50. To the north of the appeal site is the Singleton and Cocking Tunnels Special Area of Conservation (SAC). This area is designated on account of hosting Barbastelle and Bechstein's bats. The SAC citation explains that Singleton and Cocking Tunnels constitute the most important sites for hibernating bats in southeast England. The conservation objectives of the SAC can be summarised as ensuring its integrity, by maintaining or restoring the populations and habitats, structures and supporting processes of the qualifying species.
51. The proposed development site falls within the 12km wider conservation area of Singleton and Cocking Tunnels SAC, but outside the 6.5km Key Conservation Area. Impact pathways can be divided into direct and indirect. Direct impacts are usually associated with development on land that is designated or undesignated land that is 'functionally linked'. The latter is land, which is used by, or important to, the qualifying features. Indirect effects and those that may not result in the direct loss or fragmentation of habitats.
52. Bats are mobile species that can forage or roost on land outside of the SAC boundaries. Development within the appeal site boundaries may impact upon flight lines within the wider landscape, in turn impacting upon the qualifying features of the SAC. Accordingly, the proposal in combination with other plans and projects would be likely to have a significant adverse effect on the SAC when following a precautionary approach. Hence, an appropriate assessment, in accordance with the Habitat Regulations⁶, is required to consider the implications of the proposal on the SAC in view of the conservation objectives.

⁶ See Regulation 63 Conservation of Habitats and Species Regulations 2017 (as amended).

53. To assess the levels of use of the site by Bechsitens and Barbastelle bats, surveys were conducted throughout 2022. In total 3917 bat passes were recorded over the survey period comprising at least nine bat species. The fourth most frequent species on site is Barbastelle, accounting for 4.9% of the total. The lack of significant woodland blocks near to the appeal site limits the likelihood of Bechsteins being present. Moreover, Wandleys Copse is too small to support a colony of Bechsteins. This survey work indicates that Barbastelle bats use the site boundaries on a regular basis as a flight line and for foraging, albeit in low numbers and probably not for roosting. Thus, it can be concluded that the appeal site is functionally linked to the SAC.
54. The development will avoid impacts from loss or severance of flightlines by retaining and enhancing the perimeter hedges and trees. Moreover, additional native buffer species will be planted around the edge of the site as well as a community orchard. A buffer would also be provided with the ancient woodland and extensive areas of open space included. Furthermore, no gardens need back on to the ecological enhancement zone, allowing them to be retained in a natural state. Built development would also be away from the site boundaries and lighting minimised and controlled by condition to prevent severance of the commuting and foraging routes. With the mitigation in place, the proposal would avoid effects on commuting, foraging and roosting barbastelles.
55. Natural England have reviewed the suite of proposed mitigation measures and are satisfied the proposal would not have an adverse effect with them secured. I afford this expert independent view significant weight. Thus, the proposal would not adversely affect the use of functionally linked land by qualifying features. The integrity of the SAC and qualifying features would therefore be preserved and no conflict with Policy VE10 of the NP would occur.

Other Considerations

56. An appeal should be determined in accordance with the development plan unless material considerations indicate otherwise. The benefits of the scheme and the provisions of the Framework are important considerations in this instance.

The benefits of the appeal scheme

57. The Council are only able to currently demonstrate a housing land supply of between 2.83 - 3.41 years. This is well below the five years required by the Framework and, even on the Council's figures, amounts to a significant shortfall of at least 2,822 homes. The situation has deteriorated from a year ago given the changes to the Framework and the subsequent increase in the housing requirement. In addition, the Council's Housing Delivery Test measure is 70%. This is a slight improvement but is still below the threshold of 75%. As such, the delivery of housing has been substantially below the housing requirement for the last three years. In fact, delivery is even worse than this, as evidence provided by the appellant, which is not disputed by the Council, demonstrates that the Council has failed to deliver its housing requirement in every year between 2012 and 2024.
58. The appellant has indicated that the appeal scheme would likely be commenced in the next five years and therefore promptly contribute to addressing the significant shortfall. They are content with a shorter implementation timescale for this reason. Therefore, it would seem that matters have moved on from the Council's Housing and Economic Land Availability Assessment in 2021, which indicated the site is 'not

currently developable'. Moreover, going forward there is likely to be a 'policy off'⁷ need for between 187-465 homes in the parish before 2041⁸. These figures are based on the application of a methodology outlined in the Planning Practice Guide (PPG)⁹ which states that outstanding commitments should not be discounted from the housing need figure until they are completed.

59. However, I am mindful that the NP area has already had high levels of growth in recent years with perhaps an 'over delivery' of around 64-184 homes¹⁰ (excluding outstanding commitments). It is also likely that several commitments will become completions soon, including a large site currently under construction at Tye Lane. This will reduce the outstanding need going forward. In a local context, there has been a significant boost in the supply of housing in recent years. That said, the proposal would make a notable contribution to the persistent shortfall in housing when considered at a district level. Overall, the delivery of housing carries significant rather than substantial weight in favour of the proposal
60. Evidence provided by the appellant, which is also unchallenged by the Council, demonstrates that housing affordability in Arun has got worse in the last ten years and is acute in the context of the southeast of England. At a local level, Walberton is an expensive area. This may account for the significant reduction in the population of those under 49 years of age in the parish. Because of the appellant's analysis, the Council has changed its position from that recorded in the committee report and is now of the view the provision of affordable housing should carry significant weight as a benefit and I share this view.
61. The appeal scheme is not caught by the requirement in the Environment Act to provide a mandatory 10% biodiversity net gain. Instead, the LP requires net gains to biodiversity. The indicative details before me demonstrate how a net gain of at least 10% could be achieved. Added to this, the appellant has committed to planting at least 200 trees (not including the community orchard or woodland scrub). Over time this would result in notable benefits to biodiversity that carry at least moderate weight. The proposal would also include large areas of public open space including allotments, play areas and a community orchard. This carries moderate rather than significant weight because the open space would be tucked away and principally used by residents of the proposal. Although there would be scope to form part of a network or trail with the open space at Fontwell Meadows subject to the provision of the pedestrian link between the schemes.
62. The proposal would deliver economic benefits during construction and again during the subsequent occupation of the houses as the residents spend on local services and facilities. Some of the residents may use the temporary 500 bus service and thus make it a more viable prospect as a long-term facility. Other residents could also get involved in local clubs and societies and consequently add to the vitality of the community. These would amount to moderate benefits.
63. The indicative landscape masterplan details the foundations of a promising scheme. It includes generous levels of landscaping and open space, street trees, hedged front gardens and a carefully considered response to the character of Wandleys Lane, albeit mindful of the inherent design constraint of providing a

⁷ This is the total housing demand unconstrained by the limits of the land available to build on

⁸ Fontwell Local Housing Need Assessment February 2025 - Summary Note, Tables 3 and 4

⁹ Planning Practice Guide - Paragraph: 105 Reference ID: 41-105-20190509

¹⁰ Fontwell Local Housing Need Assessment February 2025 - Summary Note, Tables 1 and 2

engineered highway access. The structure of the indicative layout also exhibits important urban design principles such as perimeter blocks, coherent building lines, active edges and internal views. Aspects of the street scene could be tightened up and better balanced¹¹ and some of the house types would need refinement¹², but overall, the scheme has the groundings of being internally well designed and thus a pleasant place to live. Although this is to be expected as a prerequisite, it nevertheless carries weight as a benefit.

64. Substantive evidence has not been provided by the appellant or the Local Highway Authority which demonstrates that the safety of pedestrians currently using Wandleys Lane needs to be improved. Having walked the route several times, I found traffic speeds to be low, forward visibility good and the width more than adequate to allow cars and pedestrians to coexist. Although a snapshot in time, there is nothing to suggest what I observed and experienced was untypical. Indeed, no pedestrian improvements are proposed to the southwest along Wandleys Lane, which is the most direct route to the centre of Eastergate, around a mile from the site access. This suggests walking within Wandleys Lane is safe and will continue to be so. As such, the provision of a pavement is unnecessary to improve existing pedestrian safety and would not be a benefit.

Whether Paragraph 14 of the Framework is relevant

65. To promote localism, Paragraph 14 of the Framework provides added protection to areas covered by a neighbourhood plan. It states that in situations where Paragraph 11d of the Framework is engaged, the adverse impacts of allowing development that conflicts with a neighbourhood plan is likely to significantly and demonstrably outweigh the benefits if the neighbourhood plan is less than five years old and it contains policies and allocations to meet its identified housing requirement. Paragraph 70 of the Framework explains that the identified housing requirement can be an indicative figure offered by the local planning authority provided it takes into account relevant factors, such as the latest evidence of housing need, the population of the neighbourhood plan area and the most recent planning strategy of the local planning authority.
66. During the hearing, the Council submitted that the indicative housing requirement is 51 homes. This figure is a proportion of the 1,250 homes allocated to the rural areas in the LP and was calculated by a Local Plan subcommittee. The Council advised the NP Examiner that the figure was formulated after considering the local population and the existing spatial strategy, amongst other factors. It also flowed from the housing requirement in the local plan, which itself was based on evidence of local housing need. It would therefore seem that this figure was calculated with reference to the relevant factors in Paragraph 70 of the Framework that should guide an indicative housing requirement for the purposes of a neighbourhood plan.
67. However, there are two problems with the 51-home figure. Firstly, there is little evidence to indicate how the Council calculated it with due regard to the relevant criteria in the Framework. Indeed, the Examiner makes the point in their report¹³

¹¹ For example, Plots 15, 23 and 76 would appear squeezed in or fail to respond to the building line. Plot 77 would not turn the corner very well. Plots 60-63 would not amount to coherent street scene whereas Plots 79 and 80 would affect the balance of another given the semi-detached form of Plots 89-92.

¹² For example, the house types show on the character area elevations lack local distinctiveness and detailing, those shown in Character Area A would have awkward forms and a single window at first floor in the gable ends would be an architectural improvement.

¹³ See Paragraph 42 of the Examiners Report. The 51 home figure was originally 60.

that the evidence behind the 51-home figure is very limited. Secondly, the Examiner specifically confirms that the 51-home figure is not an indicative housing figure as set out in the Framework. It is therefore difficult to reconcile the Council's position with what the Examiner ultimately concluded. Indeed, the Examiner clearly states that the indicative housing figure for Walberton NP Area is 748 homes. This is then reiterated in the NP itself, albeit with little to explain how it was calculated.

68. However, in arriving at the 748-home figure, the Examiner seems to have included existing strategic allocations¹⁴, existing NP allocations and existing commitments. It is unclear where this methodology derives from. There is also the added complication that if the indicative figure is to be taken as 748, then the NP does not include policies and allocations to meet it. This is because the Fontwell Meadows development was allocated in the LP and not the NP. The PPG¹⁵ is clear that policies and allocations in other development plan documents will not meet the criterion in Paragraph 14b of the Framework.
69. The appellants submit that the Examiner's approach does not tally with the methodology in the PPG. Indeed, their illustrative analysis¹⁶, which does follow the methodology in the PPG, suggests that an indicative housing requirement formulated using the factors in Paragraph 70 of the Framework would have been 280 homes if based on population or 400 if derived from the development strategy in the LP. However, this level of need would have been more than met by existing allocations, including Fontwell Meadows. This perhaps supports the Council's position that the indicative housing requirement should have been set at 51 homes, this being an additional requirement to existing allocations.
70. Accordingly, there is uncertainty as to whether the indicative housing requirement in the NP was properly formulated, underpinned by adequate evidence and informed by the methodology in the PPG. The Council's preferred figure of 51-homes lacks evidence and was discounted by the Examiner but seems logical from the evidence before me. The Examiner settled on a different figure but the methodology behind it is unclear. Even if the 748 figure is correct, the NP does not appear to contain allocations and policies to meet it.
71. However, an appeal made under s78 of the Town and Country Planning Act is not the forum to review a NP, rerun arguments tested at the Examination or set an indicative housing requirement. After hearing all the evidence, the Examiner ultimately reached a conclusion that the NP has proper regard to national policies and advice and complied with the basic conditions. Thus, I consider Paragraph 14 of the Framework should be engaged as a precaution.

Paragraph 11 of the Framework

72. In circumstances where the Council cannot demonstrate a five-year housing land supply, the relevant part of Paragraph 11 of the Framework states, in this instance, that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework taken as a whole. In undertaking this balance Paragraph 14 of the Framework explains that the adverse impacts of allowing development that conflicts with a neighbourhood plan (where the two criteria are met) is likely to

¹⁴ Including 400 homes at Fontwell Meadows

¹⁵ Planning Practice Guide - Paragraph: 097 Reference ID: 41-097-20190509

¹⁶ Fontwell Local Housing Need Assessment, February 2025

significantly and demonstrably outweigh the benefits. In other words, a conflict with a neighbourhood plan is a matter of considerable importance and is likely to be decisive. However, it is important to emphasise that this is the *likely* outcome of the balance rather than a prescribed one. Contextual circumstances may be such that a conflict with a NP would not be decisive, although this would be a rare occurrence.

73. As an adverse impact, the proposal would be residential development in the countryside at odds with the spatial strategy. The broad underlying aims of the spatial strategy to focus new development in settlements and close to services and facilities is broadly consistent with the Framework. Added to this, there would be moderate harm to the character and appearance of the area, including the loss of trees. In addition, and although not resulting in a policy conflict, the loss of agricultural land would also be a modest adverse impact of the proposal.
74. However, the significant and persistent shortfall in the five-year housing land supply and the substantial past under delivery demonstrate the spatial strategy at a district level has failed and will likely continue to fail for the time being. The acute shortfall in the number of homes in the area has had real-world impacts on the availability and affordability of housing. A rigorous application of the spatial strategy would undermine attempts to remedy this situation. Moreover, it is unclear how the Council intends to address the housing land supply shortfall as the Non-Strategic Sites Allocation Plan has not progressed and a new LP seems some way off.
75. At a local level the NP has been more successful and seen a significant boost in housing. However, the evidence before me suggests that there is an ongoing need in Walberton parish for perhaps 187 to 465 homes by 2041. With this in mind, the appeal scheme would, in a practical sense, be an extension of an existing strategic allocation in a 'sustainable location' on the edge of a settlement. In addition, it would only moderately harm the character and appearance of the area. Indeed, much of this moderate harm would be to the site itself, which will be an inevitable consequence if countryside is to be released for housing, as seems necessary. Moreover, for the reasons I have already gone into, the appeal scheme would have benefits of a high order. In particular, it would be a sizeable contribution to the housing land supply with 30% affordable housing.
76. Accordingly, this is a rare occasion where the adverse impacts of conflicting with a neighbourhood plan are unlikely to significantly and demonstrably outweigh the benefits. Indeed, the benefits of the scheme would outweigh the harm. This strongly indicates that the appeal should be allowed.

Conclusion

77. The proposed development would not adhere to the development plan but material considerations, namely the Framework, indicate that the appeal should be determined other than in accordance with the development plan. Accordingly, the appeal succeeds.

Graham Chamberlain
INSPECTOR

APPEARANCES

FOR THE APPELLANT

Robert Walton KC	Barrister
Huw James	ECE Planning
Gary Heard	Stantec
Dan Usher	Marrons
Saskia Lower	ECE Planning
James Bardey	Aspect Arboriculture
Tristram Bushby	Allen Pyke Associates

FOR THE LOCAL PLANNING AUTHORITY

Simon Davis	Arun District Council
Tracey Dun	West Sussex County Council
Tracey Flitcroft	West Sussex County Council

INTERESTED PARTIES

Andrew Vawer	Walberton Parish Council
Steve McAuliffe	District Councillor (Arundel and Walberton)
Sue Wallsgrove	Local Resident
Cathy Boniface	Local Resident
Amanda Sutton	Local Resident
Paul Madeley	Local Resident

DOCUMENTS SUBMITTED DURING AND AFTER THE HEARING

1. Plan showing parish boundaries
2. Email dated 10 March 2025 from Mr Davis regarding the housing land supply
3. Correct to the appellant's Fontwell Local housing Need Assessment Summary Note
4. Recommendation report for application BN/11/25/PIP
5. Decision notice for application BN/11/25/PIP
6. Updated list of suggested planning conditions following the discussion at the hearing
7. Counterpart Planning Obligation dated 18 March 2025

Schedule of Conditions

1	Details of the access (internal circulation routes), appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved. Application for approval of the reserved matters shall be made to the local planning authority not later than two years from the date of this permission.
2	The development hereby permitted shall be begun before the expiration of 4 years from the date of this permission, or before the expiration of 2 years from the date of the approval of the last of the reserved matters to be approved, whichever is the later.
3	The development hereby approved shall be carried out in accordance with the following approved plan: Site Location Plan Dwg PL-03 Rev B.
4	The development hereby approved shall not be occupied until the road widening as detailed on drawing 332610169-STN-GEN-SW-DR-H-003 and either the approved pedestrian access from the Fontwell Meadows development to Wandleys Lane or the pedestrian improvements set out on drawing 332610169-STN-GEN-SW-DR-H-003 are completed.
5	The development shall achieve a minimum of 10% energy supply reduction from either the use of decentralised/renewable or low carbon energy sources (as described in the glossary at Annex 2 of the NPPF). Any physical features that are required as part of the works must be installed prior to the occupation of each dwelling and shall be thereafter permanently maintained in good working condition.
6	No dwelling hereby approved shall be occupied until the means to ensure a maximum water consumption of 110 litres use per person per day, has been complied with for that dwelling and retained in perpetuity thereafter.
7	Details to be submitted pursuant to condition 1 shall include full details of all new external lighting (including type of light appliance, the height and position of fitting, predicted illumination levels and light spillage). This submission should also cover new streetlighting if required. The scheme should seek to conform with the recommendations of the Institution of Lighting Professionals (ILP) "Guidance Notes for the Reduction of Obtrusive Light" (GN01:2011) but also be designed to be sensitive to bats.

	The lighting scheme shall include a bat friendly Lighting Plan. The recommended lighting specification shall use LED's (at 3 lux) with the recommended spectrum being 80% amber and 20% white with a clear view, no UV, a horizontal light spread of less than 70 degrees and a timer. A 3D plan of the illumination level should be supplied so that the Local Planning Authority can assess the potential impact on protected species. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.
8	The layout and landscape details to be submitted pursuant to condition 1 shall include full details of the required public open space (POS), play areas and management arrangements. The proposed provision should include an Open Space Area (minimum of 30,448sqm) comprising: • Community Orchard (minimum of 2,115sqm) • Allotments (minimum of 792 sqm) • Ecological Enhancement Areas (minimum of 13,000 sqm) • Shared POS and Ecological Enhancement (minimum of 3,300sq²) • Public Open Space (minimum of 8,930 sqm) including LEAP and LAP • At least 200 new trees (in addition to those provided within the above areas) The above shall thereafter be completed in accordance with the approved details prior to occupation of the 48th dwelling and permanently retained thereafter. The approved management details shall be permanently adhered to.
9	Detailed plans and particulars of the Reserved Matters submitted to the Local Planning Authority for approval pursuant to condition 1 shall ensure that the scheme makes provision for accommodation to meet the Building Regulations Standards M4(2) and M4(3) in accordance with the Council's guidance note "Accommodation for Older People and People with Disabilities Guidance".
10	Before the development hereby permitted is commenced, details of the proposed foul drainage system shall be submitted to and approved in writing by the Local Planning Authority (including details of its siting, design and subsequent management/maintenance, if appropriate). The development shall not be occupied until a phasing and implemented plan has been submitted to and approved in writing by the local planning authority detailing how the development will be phased to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that wastewater network capacity is available to adequately drain the development. Thereafter, no dwelling shall be occupied otherwise than in accordance with the phasing and implementation plan.

11	No development shall commence until a Construction Management Plan and accompanying Site Setup Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. This shall require the applicant and contractors to minimise disturbance during demolition and construction and will include (but not be limited to) details of the following information for approval: 1. The phased programme of construction works. 2. The anticipated, number, frequency, types, and timing of vehicles used during construction. 3. Provision of wheel washing facilities (details of their operation & location) and other works required to mitigate the impact of construction upon the public 4. Details of street sweeping. 5. Details of a means of suppressing dust & dirt arising from the development. 6. A scheme for recycling/disposing of waste resulting from demolition and construction works (i.e., no burning permitted). 7. Details of all proposed external lighting to be used during construction (including location, height, type & direction of light sources and intensity of illumination). 8. Details of areas for the loading, unloading, parking, and turning of vehicles associated with the construction of the development. 9. Details of areas to be used for the storage of plant and materials associated with the development. 10. Details of the temporary construction site enclosure to be used throughout the course of construction (including access gates, decorative displays & facilities for public viewing, where appropriate). 11. Contact details for the site contractor, site foreman and CDM co-ordinator (including out-of-hours contact details). 12. Details of the arrangements for public engagement/consultation both prior to and continued liaison during the construction works. 13. Details of any temporary traffic management that may be required to facilitate the development including chapter 8 traffic signage. 14. Measures to minimise the noise (including vibration) generated by the construction process to include hours of work, proposed method of piling for foundations, the careful selection of plant and machinery and use of noise mitigation barrier(s). 15. Details of pest control. Details of how measures will be put in place to address any environmental problems arising from any of the above shall be provided. A named person shall be appointed by the applicant to deal with complaints, shall be available on site and their availability made known to all relevant parties. No demolition/construction activities shall take place other than from 08:00 hours until 18:00 hours (Monday to Friday) and from 08:00 hours until 13:00 hours (Saturday) with no work on Sunday or Bank/Public Holidays.
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12	No development shall commence on the site hereby permitted until the details of a Construction Traffic Management Plan have been submitted to and approved in writing by the local planning authority. Thereafter the construction of the development shall proceed in strict accordance with the approved Construction Traffic Management Plan unless otherwise agreed in writing by the local planning authority.
13	The layout and landscaping details submitted pursuant to condition 1 shall include a surface water drainage strategy. The supporting surface water drainage information must include: 1. A full winters groundwater monitoring, 2. Winter infiltration testing in accordance with BRE DG 365 or similar approved, 3. Details of the proposed method and location of surface water disposal, in accordance with the SuDS hierarchy, 4. Impermeable area or catchment plan, 5. Calculations modelling the surface water drainage network for the following storm events: a. 100% Annual Exceedance Probability [AEP] b. 10% AEP + climate change allowance c. 3.3% AEP + climate change allowance d. 1% AEP + climate change allowance All storm events must include an allowance for urban creep and surcharged outfalls where appropriate, 6. Detailed drainage plans conforming to local planning authority guidance, 7. A plan showing no conflicts between existing and proposed trees, their potential growth and surface water drainage design, 8. A plan showing the impact of the proposed development on existing watercourses (where applicable) 9. Details of any necessary permissions relating to the discharge location, works to watercourses or adoption of the SuDS scheme. 10. Details of how the drainage scheme shall effect the hydrological conditions of the adjoining ancient woodland such that no loss or deterioration shall occur Development shall be undertaken in accordance with the approved details.
14	Development shall not commence until full details of the proposed surface water drainage scheme have been submitted and approved in writing by the local planning authority. The detailed design must be based upon and build on the surface water information submitted pursuant to condition 16 (as required to be discharged through the reserved matters application). The full details submitted for approval shall include: 1. Detailed drainage plans conforming to Local Planning Authority guidance, 2. Specifications for all surface water drainage components and associated infrastructure or flow control mechanisms,

	3. Any relevant permissions relating to the discharge location, works to watercourses or adoption of the SuDS scheme. The scheme shall then be constructed as per the approved plans. No building shall be occupied until the complete surface water drainage system serving that building has been implemented in accordance with the agreed details. The surface water drainage scheme shall remain for the lifetime of the development unless agreed in writing by the local planning authority. The local authority shall be granted access to inspect the sustainable drainage scheme for the lifetime of the development.
15	Construction shall not begin until a detailed construction phase surface water management plan for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be carried out in accordance with the approved details.
16	The development hereby approved shall not be first occupied until details of the maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be implemented prior to the first occupation of the development hereby approved and thereafter managed and maintained in accordance with the approved details in perpetuity. The Local Planning Authority shall be granted access to inspect the sustainable drainage scheme for the lifetime of the development. The details of the scheme to be submitted for approval shall include: I. A timetable for its implementation, II. Details of SuDS features and connecting drainage structures and maintenance requirement for each aspect, IV. A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.
17	Prior to first use, a detailed verification report, (appended with substantiating evidence demonstrating the approved construction details and specifications have been implemented in accordance with the surface water drainage scheme), shall be submitted to and approved (in writing) by the Local Planning Authority. The verification report shall include photographs of excavations and soil profiles/horizons, any installation of any surface water structure and Control mechanism.
18	Prior to commencement of the development hereby approved (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority: 1. A 'Preliminary Risk Assessment' which has identified: all previous (historical) uses;

	potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; and potentially unacceptable risks arising from contamination at the site. 2. A 'Site Investigation Scheme', based on (1) above to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. 3. Based on the 'Site Investigation Scheme' and the detailed risk assessment (2), an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. 4. A 'Verification Plan' providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these parts, (1) to (4) require the express written consent of the Local Planning Authority. The scheme shall be implemented as approved above and, prior to occupation of any dwelling (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a Verification Report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of that remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved Verification Plan to demonstrate that the site remediation criteria have been met. The report shall also include a 'long-term monitoring and maintenance plan' for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the Verification Plan, and for the reporting of this in writing to the Local Planning Authority.
19	No development shall commence until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.
20	Any works which will impact the breeding / resting place of Hazel Dormice, shall not in in any circumstances commence unless the local planning authority has been provided with either: (a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity or development to go ahead; or (b) a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.

21	No development shall take place, (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following. 1. Risk assessment of construction activities potentially damaging to biodiversity. 2. Identification of "biodiversity protection zones". 3. Practical measures (both physical measures and sensitive working practices) to avoid or reduce ecological impacts during construction (may be provided as a set of method statements). 4. The location and timing of sensitive works to avoid harm to biodiversity features. 5. The times during construction when specialist ecologists need to be present on site to oversee works. 6. Responsible persons and lines of communication. 7. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person. 8. Use of protective fences, exclusion barriers and warning signs. 9. Containment, control, and removal of any invasive non-native species present on site. The approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.
22	No development shall take place until an Ecological Design, Management and Monitoring Strategy (EDMMS) for the provision of a minimum 10% on-site biodiversity net gain, has been submitted to and approved in writing by the Local Planning Authority. The EDMMS shall include the following: 1. Description and evaluation of habitat/features proposed (to include full Metric (using most current version) and details of condition assessments). 2. Identification of adequate baseline conditions (for management and monitoring purposes) prior to the start of works (to include full Metric (using most current version) and details of condition assessments). 3. Aims and objectives for the proposed works. 4. Site specific and wider ecological trends and constraints that might influence works. 5. Details of the body/organisation/person/s responsible for undertaking the works and lines of communication. 6. Details of the legal and funding mechanism(s) by which the implementation of the EDMMS will be secured by the developer with those responsible for its delivery. 7. Detailed design(s) and/or working method(s) to achieve stated objectives including type/source of materials, disposal of any wastes arising from works and appropriate scale plans showing location/area of proposed works. 8. Works Schedule, aligned with any proposed phasing and including an annual work plan capable of being rolled forward over a five-year period.

	9. Prescriptions for initial aftercare and long-term management that will ensure the aims/objectives are met. 10. Details for on-going monitoring in years 2, 5, 10, 15, 20, 25 and 30, including: a. Appropriate success criteria, thresholds, triggers, and targets against which the effectiveness of the work can be measured. b. Methods for data gathering and analysis. c. Location, timing, and duration of monitoring d. Review, and where appropriate, publication of results and outcomes, including when monitoring reports will be submitted to the Local Planning Authority. e. How contingencies and/or remedial action will be identified, agreed with the Local Planning Authority, and implemented so that the original aims/objectives of the approved scheme are met. The EDMMS shall be implemented in accordance with the approved details and all habitats/features shall be retained in that manner thereafter.
23	Prior to any works commencing, an air quality assessment must be submitted to and approved in writing by the Local Planning Authority. The assessment shall include full details of the measures necessary to mitigate the emissions as calculated in the assessment which shall be implemented prior to the occupation of any dwellings.
24	Prior to commencement of development the applicant shall prepare and submit for approval in writing, an Employment and Skills Plan. Following approval of the Employment and Skills Plan the developer will implement and promote the objectives of the approved plan.
25	No development above damp-proof course (DPC) level shall take place unless and until details of the proposed location of the required fire hydrants have been submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Service. Prior to the first occupation of any dwelling or building forming part of the proposed development, the applicant/developer shall at their own expense install the required fire hydrants (or in a phased programme if a large development) in the approved locations to BS:750 standards or stored water supply and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of firefighting. The fire hydrants shall thereafter be maintained as part of the development by the water undertaker at the expense of the Fire and Rescue Service if adopted as part of the public mains supply (Fire Services Act 2004) or by the owner/occupier if the installation is retained as a private network.
26	Details of bat tubes, bricks or boxes shall be submitted to and approved in writing by the Local Planning Authority prior to any development above damp-proof course (DPC) level.

	No less than 48 bat tubes or bricks shall be provided, and the details shall include the exact location, specification, and design of the habitats. The bat tubes, bricks or boxes shall be installed with the development prior to the first occupation of the building/s to which they form part or the first use of the space in which they are contained. The bat tubes, bricks or boxes shall be installed strictly in accordance with the details so approved and shall be permanently maintained in good working condition thereafter.
27	Details of integral nesting bricks shall be submitted to and approved in writing by the Local Planning Authority prior to any development above damp-proof course (DPC) level. No less than 48 integral universal nesting bricks shall be provided, and the details shall include the exact location, specification, and design of the bricks. The bricks shall be installed within the development prior to the first occupation of the building/s to which they form part or the first use of the space in which they are contained. The nesting bricks shall be installed strictly in accordance with the details so approved and shall be permanently maintained in good working condition as such thereafter.
28	No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the details shown on drawing 332610169-STN-GEN-SW-DR-H-003.
29	No part of the development shall be first occupied until the road(s), footways, and casual parking areas serving the development have been constructed, surfaced, and drained in accordance with the plans and details approved by the reserved matters permission and the relevant drainage conditions.
30	No dwelling shall be first occupied until the car parking serving the respective dwellings has been constructed in accordance with plans and details approved by the reserved matters permission. Once provided the spaces shall thereafter be retained at all times for their designated purpose.
31	No piling or any other foundation construction using penetrative methods shall be carried out other than with the express written consent of the local planning authority (who shall consult with the Environment Agency & Portsmouth Water). The development shall be carried out in accordance with the approved details. A piling risk assessment and method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, vibration, and the programme

	for the works) should be submitted to and approved in writing in consultation with Portsmouth Water. It must be demonstrated that any proposed piling: a. Will not result in contamination of groundwater. b. Will not increase risk to drinking water supplies (including turbidity); and c. Will not deteriorate the transmissivity of the aquifer.
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APPENDIX 7

Appeal Decision – Bewley Lane,
Angmering



Appeal Decision

Inquiry held on 28-31 October & 4 November 2025

Accompanied site visit made on 31 October 2025

by Nick Fagan BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th December 2025

Appeal Ref: APP/C3810/W/25/3369419

Land west of Bewley Road, Angmering, West Sussex BN16 4JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Gleeson Land against the decision of Arun District Council.
 - The application Ref is A/154/24/OUT.
 - The development proposed is: Outline planning application with all matters reserved, other than principal means of access from Bewley Road, for the construction of up to 190 residential dwellings and a community building (Use Class E (d,e) or F2(b)), together with the provision of open space, landscaping and associated infrastructure.
-

Decision

1. The appeal is allowed and outline planning permission is granted with all matters reserved, other than principal means of access from Bewley Road, for the construction of up to 190 residential dwellings and a community building (Use Class E (d,e) or F2(b)), together with the provision of open space, landscaping and associated infrastructure at Land west of Bewley Road, Angmering, West Sussex BN16 4JL in accordance with the terms of the application, Ref A/154/24/OUT, subject to the conditions in the Schedule below.

Applications for costs

2. An application for costs has been made by the appellant against the Council. This application is the subject of a separate simultaneous decision.

Preliminary Matters

3. The Inquiry was adjourned on 4 November pending receipt of the completed S106 agreement (the S106), signed/sealed by all the parties, which was received and dated 12 November 2025. I refer as necessary to the obligations this provides below.

Main Issues

4. The main issues in dispute are as follows:
 - The principle of the proposed development outside any Built-Up Area Boundary (BUAB) in the adopted Arun Local Plan (ALP).
 - The effect of the development on the landscape and visual amenity of footpath users.

- Whether the development, including the access to it, can be made safe from surface water flooding for its lifetime and ensure that flooding off-site is not increased.
 - The loss of Best and Most Versatile (BMV) agricultural land.
 - The planning balance of harms against benefits.
5. Leading up to the submission of Proofs of Evidence, Angmering Community Alliance (ACA, the Rule 6 Party) was also contesting the highway safety of the (sole access) route into the site from the end of Bewley Road, the only detailed highway safety issue being considered. However, following my acceptance of the revised plans in compliance with the Wheatcroft principles and appropriate public consultation of such, ACA's highway witness confirmed in his Proof that these detailed revised highway access plans overcome its initial concerns, such that there are no remaining highway safety objections from it, notwithstanding some lesser residual concerns.
6. Nonetheless, I heard at the Inquiry from several local residents, Councillors and the MP serious concerns about the alleged inability of Bewley Road and Arundel Road to accommodate the additional vehicular traffic from the proposed development. In particular, the perceived increased danger to school children walking to and from the two primary schools in Arundel Road resulting from photographic evidence of current poor car parking at road junctions near the schools at drop-off and pick-up times, and a perceived likely increase in incidents of road rage resulting from more drivers having to negotiate parked cars and the curb build-outs on these roads.
7. Whilst I sympathise with such concerns and fears, there is now no highway safety objection raised by either West Sussex County Council (WSCC) as the highway authority for the area, or from ACA. Additional vehicular traffic from the development could, I realise, result in additional pick-ups and drop-offs at the schools on Arundel Road, further poor parking and further incidents of road rage. But none of this is argued to result in significant highway safety or capacity impacts by WSCC or ACA, nor have I been presented with any detailed evidence from any third parties that it would. As such, highway safety is not one of the main disputed issues in this appeal.

Reasons

Principle of Development

8. The site, comprising principally of four arable fields 16.1Ha in area, is situated immediately to the west of existing residential development in Palmer Road, Bewley Road and Fletcher Way, Angmering. It lies outside Angmering's BUAB. There is agreement between the main parties that the proposed development would therefore conflict with ALP Policy SD SP2, which states that development should be focused in BUABs, and with linked Policy C SP1, which defines land outside of BUABs as countryside, which '*will be recognised for its intrinsic character and beauty.*' Policy HD1 of the 'made' Angmering Neighbourhood Plan (ANP) mirrors those Policies.
9. The appellant accepts that the failure to comply with these policies means that the proposed development would fail to comply with the development plan read as a

whole. Its argument that ‘recognised’ does not necessarily mean preserved as open countryside is untenable because otherwise these BUAB policies would be meaningless; development on open countryside cannot possibly ‘recognise’ the intrinsic character and beauty of that countryside by taking it away and replacing it with built urban or suburban development.

10. The appellant also raises several contextual factors, including the lack of a five-year housing land supply in the District, which it argues lessen the weight to be given to the development plan. I deal with these in the planning balance below. However, there is a clear breach of the ALP’s spatial strategy and of the ANP, and thus the development plan read as a whole.

Effect on the Landscape and Visual Amenity of Footpath Users

11. The appellant’s Landscape and Visual Assessment (LVA), submitted with the application, acknowledges that the appeal scheme would result in landscape effects as summarised in its Table EDP 6.1 and visual amenity effects in its Table EDP 6.2. Mrs Lancaster for the appellant, although she (somewhat unhelpfully, albeit GLVIA3¹ compliant) uses a different grading structure – with a different number of tiers and descriptive terms – to assess such effects, agrees that there will be some effects. Mr Leaver for ACA, unsurprisingly, considers that such effects or impacts will be greater than those suggested by the LVA or Mrs Lancaster. The differences are summarised in the comparison Tables within Inquiry Document (ID)22.
12. Although the Council did not refuse the application for any landscape or visual amenity reason, it did raise in its Statement of Case that it considers the development scheme would significantly detract from the environmental and amenity benefits of the two public footpaths that cross/about the site (Public Rights Of Way/PROWs 2176 and 2198), and that consequently it considers Policy GI SP1 would be breached. This position was maintained at the Inquiry by its planning witness, notwithstanding that it advanced no separate landscape witness.
13. The A3 Effects Table in ID22 is the most useful in analysing the differences between the LVA, Mrs Lancaster and Mr Leaver, in that it lists the agreed most important receptors that would be impacted by the development. These are the 4 main landscape receptors: the site and its immediate context, Landscape Character Area (LCA) SC11-Littlehampton and Worthing Fringes, LCA SC12-Angmering Upper Coastal Plain², and LCA 40-Lyminster Angmering Coastal Plain³. And the users of the 4 most important PROWs as shown on the Viewpoints (VPs) in the LVA: 2198 (VPs 1&2), 2176 (VP 3), 2155 (VPs 6-8) and 2201 (VP 9).
14. In terms of the overall level of effects as set out in ID22 it is worth highlighting that on the scale of Very Substantial (at the apex) to Negligible (at the base) as set out in Table EDP A3.8 of the LVA, neither the LVA or Mrs Lancaster consider any of the effects on the above 8 receptors to be more than Moderate adverse. Even Mr Leaver did not consider more than 2 of the receptors to suffer a residual (i.e. at Year 15, once the scheme’s landscape screening would have taken effect) Major adverse effect and 3 a Major/Moderate effect; he did not consider that any of the 8 would suffer a Substantial or Very Substantial Effect.

¹ Guidelines for Landscape and Visual Impact Assessment, 3rd Edition, 2013

² SC11 & SC12 are LCAs set out in in the *Strategy for the West Sussex Landscape 2005*

³ LCA 40 is set out in the *Arun Landscape Study 2006*

15. Regardless of this, GLVIA3 cautions against the use of scales in assessing the significance of effects on landscape and visual amenity receptors and stresses the importance of the definition or descriptions of effects, whether adverse or beneficial, as well as the importance of professional judgment in deciding which level/scale an effect falls within in terms of the specific local characteristics of the area. As such, GLVIA3 and the LVA are professional aids for me to assess such effects, but it is more useful for the readers of this decision if I describe my judgement on the likely effects in plain words below. I concentrate on the residual (Year 15) effects, because these will obviously be long term, but acknowledge that the effects on all 8 receptors will obviously be greater in the early years following completion of the housing development.
16. Dealing first with the 4 landscape receptors, it is obvious that the site and its immediate context would suffer a Major/Moderate effect at Year 15, as Mr Leaver argues: it would be transformed from arable fields to a new housing estate, which is clearly a material change to the landscape resource and visual amenity, as per the definition of Major in LVA Table EDP A3.9. Obviously, such effects would be considerably greater at Year 1.
17. In terms of the 3 LCA areas at Year 15, Mr Leaver considers they would all suffer Moderate adverse effects, based on them having a medium sensitivity and medium magnitude of change. However, the site is only a small proportion of all these LCAs and would not affect their overall character, and so I have sympathy with ACA and the appellant's lower level of effect. Even if I did accept Mr Leaver's judgement, Moderate only means that the proposals '*would result in a slight but non-material change to the landscape resource*' (Table EDP A3.9).
18. Turning to the visual amenity receptors, even Mrs Lancaster conceded that there would be "*really big effects*" on PROWs 2176 and 2198 including in Year 15. That is because much of the length of both these footpaths would no longer look out onto open countryside but would largely be surrounded by residential development, which would completely alter their character and therefore the amenity of the people who use them, notwithstanding that the appellant would improve their widths and surfacing. Clearly, this would result in an adverse material change to their visual amenity even at Year 15: a Major adverse effect, as Mr Leaver maintains.
19. Footpaths/PROWs 2201 and 2155 are physically unaffected by the proposed scheme and I accept that the proposed tree screening belts shown on the illustrative masterplan and landscape strategy plans would be likely by Year 15 to screen the vast bulk of the houses on the new estate. But I accept Mr Leaver's suggested level of effect at Year 15 as Major/Moderate adverse because the scheme brings built development nearer to the open countryside location of these footpaths and its western extent would still be obvious in the kinetic experience of walking the 'Angmering Ring', including from VPs 7-9 and other viewpoints on this walk in either direction, bearing in mind that this seems to be an important walk that is regularly used by locals for exercise and dog walking, as I was able to see.
20. The development would also have, at worst, a Moderate adverse effect on residents in Palmer Road and Bewley Road who overlook the site from their rear windows, but ACA does not raise this as an important visual objection to the scheme and it is an inevitable consequence of any greenfield development next to existing housing, bearing in mind that there is no right to a view.

21. In conclusion, I generally agree with Mr Leaver's suggested levels of effects. These are Major or Major/Moderate (as set out above) in relation to the landscape character of the site and its surroundings and the visual amenity of the users of PROWs 2176, 2198, 2201 and 2155. As such, at worst, the proposed scheme would result in '*a material but non fundamental change to the landscape resource or visual amenity*' of the area, as per the definition of a Major adverse effect in LVA Table EDP A3.9.
22. ALP Policy GI SP1 states: '*All major development must be designed to protect and enhance existing Green Infrastructure assets, and the connections between them, in order to ensure a joined up Green Infrastructure Network.*' PROWs are themselves Green Infrastructure (GI). The appellant is proposing to widen PROWs 2176 and 2198 and to improve their surfaces in order to facilitate their wider usership including by the residents of the scheme, but which will also benefit existing local residents. I acknowledge the benefits of such physical improvements to these footpaths.
23. But, for the above reasons, much of the length of these footpaths will be surrounded by or feature the proposed housing in views from them, which cannot be said to enhance them as GI assets. In my judgement the physical improvements to these footpaths would not outweigh the harm to them by loss of their countryside location, views and the rural experience of walking through them for their users. The proposed tree planting beds on the western edge of the development would to a large extent screen the bulk of the new housing from PROWs 2201 and 2155 to the west and southwest of the site, but the westerly extension of Angmering into the countryside would still be noticeable for walkers along these footpaths. For the above reasons, Policy GI SP1 would therefore be breached.
24. I have already indicated above that ALP Policy C SP1 is conflicted with, because urban/suburban development cannot recognise the intrinsic character and beauty of the countryside by removing and developing part of it.
25. ALP Policy LAN DM1 states: '*Development throughout the plan area should respect the particular characteristics and natural features of the relevant landscape character areas and seek, wherever possible, to reinforce or repair the character of those areas.*' The settlement edge of Angmering abuts all 3 LCAs as set out above. The scheme will obviously lead to the loss of open countryside on the appeal site, but the illustrative landscaping proposals set out in the masterplan and landscape strategy involve reinforcing and replanting hedgerows and maintaining the ditches on the site, as well as providing woodland planting belts and SUDS ponds to its western part. This would not only help screen the development as requested by the Council's officers during the iterative design of the proposals but also all of which complements and mirrors existing landscape features that characterises these LCAs⁴ – for instance Decoy and Steyne Woods immediately to the north and the ponds within them. For these reasons I consider that Policy LAN DM1 would not, on balance, be breached.
26. ALP Policy QE SP1 seems to be concerned with avoiding pollution from development and protecting existing industrial and commercial uses from agents of change such as proposers of new residential development. As such this policy

⁴ For instance, in accordance with the Land Management Guidelines for LPAs SC11 (CD3.17) & SC12 (CD3.18) published by WSCC

does not seem to be relevant here because the layout and design of the houses in the scheme are reserved matters and because the site would abut merely existing residential rather than commercial property. The policy would not therefore be breached by this outline proposal.

27. In terms of national policy, the proposed development does not recognise the intrinsic character and beauty of the countryside of the site and therefore conflicts with paragraph 187 b) of the National Planning Policy Framework (NPPF), which requires such recognition, as per the conflict with ALP Policy C SP1. However, in terms of paragraph 135 c), whilst built development removes countryside, the illustrative masterplan and landscape strategy would successfully incorporate key elements of the 3 local LCAs and physically improve the width and surfacing of PROWs 2176 and 2198 such that landscape harm would be minimised.
28. In summary, there would be a breach of ALP Policies C SP1 and GI SP1 in that the proposed development would result in some adverse effects, but there would not be significant harm (my emphasis) to the local landscape or the visual amenity of users of the above most affected PROWs.

Surface Water Flood Risk

29. Owing to a recent change to national flood risk advice in Planning Practice Guidance (PPG)⁵, the Council withdrew its second refusal reason in terms of the development's failure to comply with the sequential test, given that it does not object on grounds that the proposed scheme or land elsewhere would be at risk of flooding. Consequently, neither the Council nor WSCC as the Local Lead Flood Authority have any such objections.
30. However, ACA argues that:
 - i. the development would not be safe for its lifetime from surface water flooding due to the flood flows from the upstream catchment to the east;
 - ii. the single access into the site from Bewley Road would not be safe for the same reasons;
 - iii. the development would increase surface water flood risk elsewhere, specifically in terms of the inadequacy of flood compensation storage and because greenfield run-off flows from the site have not been adequately characterised or attenuated;
 - iv. and, therefore, the sequential test does apply, and it is agreed (that if it does because of the above flood risk) between the parties that it is failed – because there are other sequentially preferable sites.
31. The site is in low risk Flood Zone 1 as shown on the EA Flood Map for Planning (in respect of fluvial/tidal flood risk). But it is agreed that the EA's Long Term Flood Risk mapping identifies areas of high surface water flood risk on the site. ACA considers the proposed development would be at such risk as well as adjacent land downstream of the site to the west, whereas the appellant argues that the

⁵ PPG Ref ID: 7-027-20220825, amended on 17 September 2025, which states that the sequential test need not be applied when a site-specific flood risk assessment demonstrates clearly that occupiers and users would remain safe from current and future surface water flood risk without increasing flood risk elsewhere.

proposed scheme will negate any such risk by suitable drainage mitigation measures, as set out in its revised Flood Risk Assessment (FRA) for the site⁶.

Safety of the Development for its Lifetime

32. The land levels of the topography in Angmering and its surroundings are greater in the east than the west and it is agreed that water from this eastern watershed flows westwards onto the site, either via the soil or on the surface. Water from the site flows westwards including from the existing ditches⁷ located on the field boundaries towards Black Ditch, which flows westward again into the River Arun that drains into the sea at Littlehampton⁸.
33. What is disputed is the size of the catchment and therefore how much water could realistically enter the site from the east. The ACA maintain the watershed is an area to the east and northeast of the site of 43.2Ha, and that this will all have to be drained via Ditch A. It estimates the volume of water within the inundation area (a width of 50m around the natural depression on the site in Development Parcel B on Mr Lecocq's Figure 7.3) to be 720m³ in the 1 in 100-year flood event + climate change allowance⁹.
34. The appellant maintains that the catchment area would more likely be 7.4Ha comprising only the residential development block around Palmer Road to the west of Arundel Road, because the existing drainage infrastructure outside that area discharges to either Ditch B or southwards outside the site. I understand why the EA does not take into account the existing road drainage infrastructure, given its age/condition and lack of certainty regarding its current operational efficiency, but failure to take its existence into account implies that it doesn't work at all, which is very unlikely, otherwise there would be many more flooding events on the local roads. In reality it is likely to function to some extent, and that Ditch B conveys water westwards, as it would continue to do post the development's completion.
35. Even if ACA's calculation of the watershed catchment is correct and all that water does reach the site in the 1 in 100-year rainfall event, some of it will be channelled through Ditch B westwards. Even if all that water, combined with run-off water from the development on the site itself, exceeds the volume of the existing ground depression on the site (which currently stores water in times of heavy rainfall), the proposed drainage scheme (as required by Condition 8 in the Schedule below) can be designed to provide storage for this water in the SUDs ponds on the western part of the site¹⁰.

Safety of the Access

36. The EA surface water flood maps show a high risk of flooding on Bewley Road, the sole access to the site. There is a more than 3.3% chance a year of flooding up to a depth of 20cm each year for most of the length of the road, and the same 3.3% chance of flooding up to a depth of 60cm each year for a 50m stretch of its lowest point, its eastern end near the Arundel Road junction. Such flooding will only worsen with climate change.¹¹ This is illustrated by the photograph of such flooding on 4 July 2025 in Figure 4 of Mr Carpenter's Proof.

⁶ CD5.2

⁷ Referred to as Ditches A-D on Figure 7.3 of Mr Lecocq's Proof

⁸ This is illustrated in Mr Carpenter's Proof, Figure 6

⁹ Mr Carpenter's Proof, para 17

¹⁰ Mr Lecocq's Proof, para 7.10 & Figure 7.3

¹¹ As shown in Mr Carpenter's Figures 5A-5D

37. Although that photo demonstrates a failure of the road gulleys in Bewley Road to drain incidents of heavy rainfall without resulting in ponding/flooding, Mr Lecocq has shown that the trial pit closest to Bewley Road (in his Appendix D) has a measurable infiltration rate and there is no reason to suggest that the gulleys in Bewley Road that drain to soakaways (on the permeable subsoil there) do not function to some extent. His conclusion of a peak flood depth, including an addition for climate change up to 2060 of 29cm is unlikely to prevent access by most vehicles down Bewley Road to and from the site, and I note that his 29cm depth evidence in this respect is unchallenged. ACA's argument that the drainage gulleys on Bewley Road should be disregarded on the basis that they are old – and therefore completely ineffective – is unrealistic, albeit I accept they may well not work to their original design capacities.
38. PROW 2176 could provide a walkable access and egress route from the site to the north and south of the vehicular access point, if that were to be flooded, which was accepted by ACA at the Inquiry. The fact that some vulnerable residents – who could not walk along the footpath – would suffer from flooding at the vehicular access point is relevant but given that the depth of any such flooding (as set out above) is unlikely to prevent most vehicles accessing the site, I attribute little weight to this objection.

Flood Risk Elsewhere

39. ACA maintain that the existing greenfield run-off rate from Development Area B, where the depression is, to be zero, such that if there is any run-off from the development site, flood risk would be increased downstream. However, Mr Lecocq's ground investigations found no meaningful infiltration in trial pit TP10 closest to the depression, which suggests some likely run-off from the site.
40. The importance of this is because ACA claim that the appellant has inflated the current run-off rate, which it maintains is zero. I find this hard to believe, for the above reason, and because there must be times of persistent heavy rainfall where the depression or the ditches are overtopped and there is run-off in a westerly direction, as Mr Carpenter himself confirms in his Figure 6 run-off routes westerly from the site.
41. In any case, the main concern here is whether the current flood storage on the site (the depression and the pale blue area around it on Mr Carpenter's Figure 1) can be adequately replaced, including in terms of accommodating any additional rainfall run-off from the hard landscaped areas of the housing development itself. Whether or not the proposed flood storage areas – the SUDs ponds near the western boundary of the site – are precisely on the same level as the development areas is not particularly important provided the drainage from the site is into these SUDs ponds, which is the design intention. As indicated above, the depth and area of these ponds can, if necessary, be expanded to ensure greater volumes of storage, to ensure that downstream run-off rates from the estate are no greater than they currently are. They would be able to accommodate a 730m³ volume of water plus any additional run-off from the new estate.
42. Furthermore, run-off rates will be restricted to QBAR (the greenfield run-off rate for the 1:2 annual return event), which is less than the run-off rate for the current 1:100 annual return event storm, and hence an improvement on the current situation.

Conclusion on Flood Risk

43. For the above reasons I conclude that the development, including the access to it, can be made safe from surface water flooding for its lifetime and ensure that flooding off-site is not increased.
44. Consequently, the sequential test need not be applied. There is therefore no breach with Policy W DM2, assuming the recent PPG updates the Policy in this respect.

Loss of Best and Most Versatile (BMV) Agricultural Land

45. It is agreed that 62% (9.9Ha) of the site is BMV, 43% (6.9Ha) being Grade 3a and 19% being Grade 2 (3Ha).
46. ALP Policy SO DM1, in its first paragraph, states: *'Unless designated by this Plan or a Neighbourhood Development Plan, the use of Grades 1, 2 and 3a [presumably this means land] of the Agricultural Land Classification for any form of development not associated with agriculture, horticulture or forestry will not be permitted unless need for the development outweighs the need to protect such land in the long term.'*
47. It then goes on, in its second paragraph, to state: *'The requirement to protect the best and most versatile land can be outweighed if it is demonstrated through sustainability and options appraisals that:'* (my emphasis) and then lists three requirements (a, b & c) of such appraisals including c) *'The proposed development meets the requirements of the countryside policy and/or equine development policy.'* The countryside policy is Policy C SP1. As explained above, the proposal fails to comply with this policy.
48. The appellant's Closing Submissions (ID 30, paragraph 60, last sentence) claims that there is no requirement to undertake a sustainability and options appraisal *'because, as the policy makes clear, doing so provides one way of demonstrating that the requirement to protect BMV is outweighed.'*
49. I disagree. The second paragraph of Policy SO DM1 is explanatory: it explains the process for determining whether the need for development outweighs the need to preserve BMV, and makes it clear that this process requires the submission of sustainability and options appraisals that demonstrate all of criteria a-c. This is not therefore 'one way' of demonstrating that the requirement to protect BMV is outweighed – it is the only way. And it has not been done, because no such appraisal(s) have been submitted. Mr Ross in paragraph 9.7 of his Proof accepts this and, further, accepts that there is a conflict with the policy. For these reasons the proposed development would fail to comply with Policy SO DM1. I deal with the contextual matters including the need for the development, and the weight that should be given to this policy conflict below

The Planning Balance¹²

Harms

50. As the appellant acknowledges, there is a clear breach of the ALP spatial strategy in Policy SD SP2 and linked Policy C SP1, as well as with ANP Policy HD1, and

¹² In terms of the scale of harms and benefits, I adopt the same scale as set out in paragraph 7.3 of the main Statement of Common Ground

consequently with the development plan read as a whole. There would also be breach of ALP Policy GI SP1 in terms of the harm to the amenity of users of PROWs 2176 and 2198.

51. The Council's spatial strategy and development plan policies are out-of-date because the housing need in the ALP was based on the former standard method, which only assessed need for 1,000 dwellings per annum (dpa) on average, rather than the current standard method, where the need is 1,458dpa. The Council agrees that in its emerging local plan, in order to deliver this new level of housing, it will have to amend the historically defined BUABs to include land that is currently countryside.
52. The Council lacks a five-year supply of housing land (5YHLS). It is agreed that now, at best, it can only demonstrate a 3.4YHLS and the latest Housing Delivery Test indicates that delivery was less than 75% of the housing requirement over the previous three years (it was only 70%). I have concluded above that flood risk would not be a reason to dismiss the appeal and there are no other NPPF policy clashes in terms of the issues mentioned in Footnote 7 and paragraph 11 d) i). That includes habitat sites, because Natural England, in its letter of 23 October 2025 (ID19) has ruled out any harm to the identified SPA, SACs¹³ and Ramsar sites, having assessed the appellant's latest shadow appropriate assessment. This means that the appeal falls to be decided under the tilted balance in paragraph 11 d) ii).
53. Because of its failure to meet the HDT, the Council has had to prepare an Action Plan (CD3.2), which encourages applications to come forward for deliverable sites identified in the HELAA. There is no suggestion that the two HELAA sites of which the appeal site is composed are deliverable (merely developable) and HELAA sites are not a substitute for the development management process. But it is agreed by the Council that some housing could come forward on the site within the next 5 years if the appeal is allowed. Additionally, if the Council is to deliver its annual housing requirement, I would suggest that relatively unconstrained sites in sustainable locations like this will be required to achieve that.
54. For these reasons I consider that no more than moderate weight should be given to the proposed development's failure to meet the Council's above spatial strategy policies.
55. Turning to BMV, it is clear from the appellant's submitted Agricultural Land Classification and Considerations Report (CD4.19) that Arun has a much higher proportion of its land classified as BLV than England as a whole. Indeed, ALP paragraph 11.1.4 states: *'Most of the undeveloped coastal plain within the District is high grade agricultural land and falls within ALC Grades 1, 2 and 3a.'* Arun District essentially comprises this coastal plain to the east and west of the River Arun: the built-up urban areas along the coast including Bognor and Littlehampton and Arundel to the north, separated by open largely agricultural land also containing villages. So, most of the agricultural land within Arun is BMV.
56. This indicates to me that at least some, if not the majority, of greenfield residential allocations in the forthcoming emerging local plan are likely to be on BMV land, as they seem to have been in the ALP. Consequently, the appeal site is unlikely to be

¹³ Arun Valley Special Protection Area; Arun Valley Ramsar, and the following Special Areas of Conservation: The Mens, Singleton & Cocking Tunnels, & Ebernoe Common.

any worse than other similar sized residential developments in the District which are likely to come forward either as allocated sites or simply as development proposals. Indeed, as drawn to my attention in Section 9 of Mr Ross's Proof, the Council itself has granted permission itself for development on Grade 1 land at Kingston and Inspectors have granted various permissions on appeal for residential development on BMV land in Arun. Of course, crucial to many of these decisions was the lack of a 5YHLS, which persists today.

57. This is pertinent to criterion b) in ALP Policy SO DM1: *'That any site preferred for development is demonstrated to be the best and most sustainable option, including but not limited to the terms of land quality, ecosystem services, infrastructure and proven need'*. There is no dispute here that there is a need for additional housing on greenfield sites, nor that the appeal site is in a sustainable location close to all the day-to-day facilities in the large village of Angmering – close enough to walk or cycle and also close enough to walk to regular bus services on Arundel Road that quickly link to the nearby towns.
58. This explains why officers who drafted the Committee Report (for approval of the application) only considered that moderate weight should be attributed to the loss of BMV on the site, in line with similar conclusions of moderate weight by Inspectors granting four appeal decisions cited by Mr Ross in paragraph 9.20 of his Proof. The Council points out that all the above decisions, including the Kingston decision granted by itself, were for smaller residential developments. I agree and agree that the loss of a greater number of hectares of BMV here should be taken into account. However, there is a great need for additional new housing in the District, much of which will inevitably have to be on greenfield agricultural BMV land, and I therefore only attribute moderate weight to the loss of nearly 10Ha of BMV here, including to the conflict with Policy SO DM1.
59. I have concluded above that the proposed scheme would fail to meet ALP Policies C SP1 and GI SP1 in terms of landscape and visual harm. But I have also concluded that such harm would not be significant, and so I attach no more than moderate weight to it and to these breaches of policy.

The S106

60. The S106 secures delivery of the following planning obligations as set out on the Summary drafted by the appellant's solicitor (ID33):

Schedule 1 (Obligations other than Affordable Housing)

- Contributions & Monitoring Fees to be paid prior to commencement or at set yearly intervals: Travel Plan & general monitoring fees, and Secondary School Transport contribution.
- Travel Plan & Highway Works, the former to be submitted & approved and the latter delivered prior to any occupation of the new dwellings. [It should be noted here that the Highway Works as defined (on page 15 of the S106) do not include the widening and re-surfacing of PROWs 2198 and 2176, although they are covered by Condition 4, which specifies what the landscaping reserved matters application should contain.]
- Open Space provision & ongoing maintenance to be approved under reserved matters

- Safeguarding, servicing & transfer of the Community Building Land to Cancer United charity (that provides facilities for cancer sufferers in West Sussex) within 3 years providing the latter can secure funding to construct the building.
- Fee to monitor implementation of biodiversity net gain (BNG, covered by condition) plan prior to first occupation.

Schedule 2 (30% Affordable Housing, AH)

- Comprising 25% First Homes, 67% Affordable Rent & 8% Intermediate Housing in accordance with an AH Scheme to be submitted & approved prior to commencement; no more than 60% of the market housing units to be occupied until the affordable units (excluding First Homes) have been provided and transferred to an AH Provider & the First Homes ready for sale/occupation.

61. Planning obligations must only be sought and may only constitute a reason for granting planning permission where they meet the following tests in *The Community Infrastructure Regulations 2010*, as explained in NPPF paragraph 58: necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. Hence planning obligations are customarily requirements for mitigation to offset any harms or financial or off-site infrastructure demands that arise because of proposed development.
62. I accept that the Cancer United charity, which provides prehabilitation, rehabilitation and survivorship programmes including physical fitness that improves recovery and wellbeing outcomes for cancer sufferers for hundreds of residents of Adur and Arun, will include cancer sufferers from the proposed development as well as the wider Angmering area.
63. Whilst it is certainly arguable whether the above obligation to gift the land in the southeast corner of the site to the charity meets the above three statutory tests for planning obligations, I am lax to exclude it from the S106 because it will benefit future residents of the estate on the site as well as many others in West Sussex and the charity has spent six years (so far in vain) searching for a suitable home for its new facility. Such a search has involved approaching Parish and District Councils and the County Council as well as developers. It is likely that only by means such as this obligation will a site for the charity be likely to be found and to come forward. The fact that it will be a benefit to local residents as well as occupiers of the estate should not exclude it from the S106, just as an Open Space area larger than that required by ALP requirements that other local residents can use should not be similarly excluded. I address the weight to these and other benefits below.

Benefits

64. However, I cannot attach more than limited weight to the Cancer United land benefit. First, because it will mainly benefit people unrelated to the proposed dwellings on the site. Secondly, because the obligation itself places onerous terms on the charity to secure the funding for the construction of the building within three years of the first occupation of the development, which is far from certain, given that the charity does not currently have such funding available.

65. There is no dispute that substantial (i.e. the highest) weight should be attached to the delivery of up to 133 market homes, and up to 57 affordable homes, given the lack of a 5YHLS in the District. In terms of the delivery of more than 9Ha of new Public Open Space (POS) at the northern end of the site, I acknowledge that this would be at the northern edge of Angmering, but it would still be used by locals including walkers additional to the scheme's residents and I consider moderate weight should be given to this benefit.
66. In terms of the 20% BNG that would be achieved on the site, I agree that moderate weight should be given to this benefit, given that it is double the nationally prescribed requirement. I also agree with the Council that moderate weight should be given to the economic benefits of the proposed development in terms of jobs and multiplier benefits during the construction period and the future spending of the estate's occupants. NPPF paragraph 85 does not mean that the economic benefits of a scheme automatically get significant weight, as per the current caselaw on this issue, as rehearsed at the Inquiry.

Planning Balance Conclusion

67. The substantial weight placed on the delivery of new dwellings alone (including 30% affordable dwellings) in such a sustainable location, in the current circumstances where the Council cannot demonstrate a 5YHLS and whose emerging plan is unlikely to be adopted until, at the very best, the summer of 2028, easily outweighs the moderate harms of failing to comply with an outdated spatial strategy, harms to landscape and visual amenity and to the loss of BMV.
68. Added to the substantial weight of the new housing by the moderate weight of a generous amount of POS, moderate weight of BMG double the required amount, moderate weight of the economic benefits and the limited weight of providing land for Cancer United's new building, the adverse impacts of granting permission would come nowhere near significantly and demonstrably outweighing the combination of these benefits. Consequently, the appeal should be allowed.

Conditions

69. The conditions in the Schedule below are agreed between the main parties. I agree that they all meet the tests for conditions in the NPPF and Planning Practice Guidance and that they are necessary for the individual reasons appended to each condition in the Schedule.

Conclusion

70. For the reasons given above the appeal is allowed.

Nick Fagan

INSPECTOR

Schedule of Conditions

Condition 1

The permission hereby granted is an outline permission under s92 of the Town and Country Planning Act 1990 (as amended) and an application for the approval of the Local Planning Authority to the following matters must be made not later than the expiration of 3 years beginning with the date of this permission:

Layout.

Scale.

Appearance.

Landscaping.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

Condition 2

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

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

Condition 3

The development hereby approved shall be carried out in accordance with the following approved plans:

- Site Boundary Plan (Location Plan) (Ref: P23-2720_DE_001_F_8);
- Land Use Parameter Plan (Ref: P23-2720_DE_001_19_H); and
- Proposed Access Arrangements (Ref: ITS19620-GA-008 Rev A).

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policies C SP1, D DM1, QE SP1, QE DM3, T SP1 and T DM1 of the Arun Local Plan.

Condition 4

The landscape and layout details to be submitted pursuant to condition 1 shall include the following items:

1. Details of all existing trees and hedgerows on the land indicating which are to be retained and which are to be removed. These required details are to include a 'Tree Survey Schedule', a 'Root Protection Area (RPA) Schedule', a 'Tree Constraints Plan', and in the event that a root protection area of any tree which is proposed for retention overlaps the development, then an 'Arboricultural Method Statement' and a 'Tree Protection Plan'. Development shall be carried out in accordance with the approved details. No hedge or tree shall be felled, uprooted, or otherwise removed before, during or after the construction period except where removal is indicated on a plan approved by the Local Planning Authority.

2. Full landscaping details including the use of native trees and compensatory planting on the basis of 2 trees/hedge units for every 1 lost.
3. Details of the position, design, materials, height, and type of all boundary treatments to be provided. The boundary treatments shall be provided to each dwelling before the dwelling is occupied or in accordance with the approved phasing plan. Gaps shall be included at the bottom of the fences to allow movement of small mammals across the site. Development shall be carried out in accordance with the approved details and permanently retained in a useable condition thereafter.
4. Full details of all new external lighting (including type of light appliance, the height and position of fitting, predicted illumination levels and light spillage). This submission should also cover new streetlighting if required. The scheme should seek to conform with the recommendations of the Institution of Lighting Professionals (ILP) "Guidance Notes for the Reduction of Obtrusive Light" (GN01:2011). It must also:
 - identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - show how and where external lighting will be installed (through provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.
 - All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.
5. Full details of the required public open space (POS) & play areas and management arrangements. The POS and play areas shall thereafter be implemented in accordance with the provision as agreed prior to occupation of the 70th dwelling and permanently retained thereafter. The approved management details shall be permanently adhered to.
6. Full details of the proposed location and extent of enhancements (widening and surfacing) to PRoW F.P. 2198 and 2176. Development shall be carried out in accordance with the approved details.

Reason: In the interest of visual amenity, the quality of the environment, the site biodiversity, the interests of minimising crime and to minimise unnecessary light spillage outside the development site in accordance with policies OSR DM1, D DM1, QE SP1, QE DM2, ENV DM4 and ENV DM5 of the Arun Local Plan and the NPPF.

Condition 5

The layout, scale, and appearance details to be submitted pursuant to condition 1 shall include the following items:

1. A scheme for the provision of facilities to enable the charging of electric vehicles in accordance with the Arun Parking Standards SPD to serve the approved dwellings and community building. This requires that where a dwelling has a driveway or garage then one of those parking spaces shall be provided with a charging point, with electric ducting provided to all other spaces where appropriate to provide passive provision for these spaces to be upgraded in future. The individual charge points shall be in accordance with the technical

requirements set out in Part S, section 6.2 of the Building Regulations applicable at the time (or any subsequent guidance). As required by the Arun Parking Standards SPD (2022) at table 2.2, 30% of all parking spaces for the community building shall provide active EV charging points. The electric vehicle charge points shall thereafter be retained and maintained in good working condition.

2. A detailed level survey of the site including existing and resulting ground levels and the slab levels of the buildings the subject of this approval.
3. 5% of all parking provided as suitable for disabled persons. This must include a percentage of the proposed visitor parking spaces.
4. Full details of cycle storage including elevations where such is provided in separate buildings; and
5. A colour schedule of the materials and finishes to be used for the external walls and roofs of the proposed buildings.

Reasons: In the interests of visual amenity, road safety, the needs of the disabled, to mitigate against any potential adverse impact of the development on local air quality and as new petrol, diesel and hybrid cars/vans will not be sold beyond 2030 all in accordance with policies T SP1, D DM1, QE SP1, QE DM3 of the Arun Local Plan, the Arun Parking Standards SPD and the NPPF.

Condition 6

Detailed plans and particulars of the Reserved Matters submitted to the Local Planning Authority for approval pursuant to condition 1 shall ensure that the scheme makes provision for accommodation to meet the Building Regulations Standards M4(2) and M4(3) in accordance with Angmering Neighbourhood Development Plan Policy H2 and the Councils guidance note "Accommodation for Older People and People with Disabilities Guidance".

Reason: To ensure that part of the development allows for residents to remain in their own homes over the course of their lifetime in accordance with policies D DM1 and D DM2 of the Arun Local Plan and section 4 of the Councils guidance Note "Accommodation for Older People and People with Disabilities Guidance".

Condition 7

The layout, scale and appearance details referred to in Condition 1 shall include details of any temporary sales areas that may be required during the construction and marketing of the development. Such details shall include any temporary buildings or temporary changes to buildings and any temporary change to the development layout. The approved details shall be for a temporary period only ending on or before the date that the last dwelling on the site has been sold. The buildings or area shall be returned to their approved permanent appearance within 3 months of the date of the last building sold.

Reason: In the interest of visual & residential amenity and the character/appearance of the surrounding area in accordance with policies D DM1 and QE SP1 of the Arun Local Plan.

Condition 8

The layout and landscaping details submitted pursuant to condition 1 shall include supporting surface water drainage information to show that the site can be sustainably

drained within the proposed layout. The supporting surface water drainage information must include:

1. A full winter's groundwater monitoring
2. Winter infiltration testing in accordance with BRE DG 365 or similar approved
3. Details of the proposed method and location of surface water disposal, in accordance with the SuDS hierarchy
4. Impermeable area or catchment plan
5. Calculations modelling the surface water drainage network for the following storm events:
 - 100% Annual Exceedance Probability
 - 10% AEP + climate change allowance
 - 3.33% AEP + climate change allowance
 - 1% AEP + climate change allowance
6. All storm events must include an allowance for urban creep and surcharged outfalls where appropriate
7. Detailed drainage plans conforming to Local Planning Authority guidance
8. A plan showing no conflicts between existing and proposed trees, their potential growth and the surface water drainage design
9. Details of surface water flood compensation storage design,
10. A plan showing the impact of the proposed development on existing watercourses
11. Details of any proposals to discharge flows to watercourses; or for the culverting, diversion, infilling or obstruction of any watercourse on or adjacent to the site. Any discharge to a watercourse must be at a rate no greater than the pre-12. development run-off values and in accordance with current policies
12. Details of any necessary permissions relating to the discharge location, works to watercourses or adoption of the SuDS scheme
13. Specifications for all surface water drainage components and associated infrastructure or flow control mechanisms

No construction is permitted, which will restrict current and future landowners from undertaking their riparian maintenance responsibilities in respect to any watercourse or culvert on or adjacent to the site.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies W DM1, W DM2 and W DM3 of the Arun Local Plan and to ensure that the duties and responsibilities, as required under the Land Drainage Act 1991, and amended by the Flood and Water Management Act 2010, can be fulfilled without additional impediment following the development completion.

Condition 9

Prior to the commencement of the development hereby approved, details of a proposed foul drainage system shall be submitted to and approved in writing by the Local Planning

Authority (including details of its siting, design, and subsequent management / maintenance) and no dwelling shall be occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details.

Reason: To ensure that the development has a satisfactory means of disposing of foul sewerage in accordance with policies W DM1 and W DM3 of the Arun Local Plan. This is required to be a pre-commencement condition because it is necessary to implement the foul water drainage system prior to commencing any building works.

Condition 10

Prior to the commencement of the development hereby approved, a site-specific SuDS Maintenance and Management Manual must be submitted and approved in writing by the Local Planning Authority. The SuDS Maintenance and Management Manual submitted for approval shall include:

1. Details of SuDS features, connecting drainage infrastructure and watercourses with maintenance requirements for each element.
2. A management and maintenance plan for the lifetime of the development, including a schedule for the timing and funding of planned replacement of components at the end of their design life.
3. Details of the financial management of the maintenance of the surface water drainage on the site.
4. Details of who is responsible for the implementation of the SuDS Maintenance and Management Manual.
5. Details of the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the surface water drainage scheme for the lifetime of the development.

Upon completed construction of the approved drainage system, the persons responsible for the maintenance of drainage on the site shall strictly adhere to and implement the recommendations contained within the manual.

Reason: To ensure that the surface water drainage for the site is adequately maintained, and therefore not increasing flood risk for the lifetime of the development with policies W DM2 and W DM3 of the Arun Local Plan and the NPPF. This is required to be a pre-commencement condition to ensure that the future maintenance and funding arrangements for the surface water disposal scheme are agreed before construction commences.

Condition 11

Prior to the commencement of the development hereby approved, a drainage construction programme must be submitted and approved in writing by the Local Planning Authority. The construction programme submitted for approval shall include:

1. Details of the phasing arrangements for the approved surface water drainage design. Each drainage design phase of development must be able to operate in isolation from later phases.
2. Details of any temporary arrangements to enable the surface water drainage of the entire site whilst under construction.

3. Details of reinstatement of any surface water drainage features after construction.
4. A programme detailing inspections of surface water drainage features during the construction of the development.
5. A programme detailing the functional operation of the approved final surface water drainage design for the development.

The surface water drainage scheme for the development must then be constructed in accordance with the approved surface water drainage construction programme.

Reason: To ensure that flood risk is not increased and water quality not decreased during the construction of the development with policies W DM2 and W DM3 of the Arun Local Plan and the NPPF. This is required to be a pre-commencement condition because it is necessary to approve the construction methodology prior to construction commencing.

Condition 12

Prior to commencement of the development hereby approved, the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority:

1. A Preliminary Risk Assessment which has identified: all previous (historical) uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; and potentially unacceptable risks arising from contamination at the site.
2. A Site Investigation Scheme, based on (1) above to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. Based on the Site Investigation Scheme and the detailed risk assessment (2), an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A Verification Plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these parts, (1) to (4) require the express written consent of the Local Planning Authority.

The scheme shall be implemented as approved above and, prior to occupation of any dwelling or part of the site, a Verification Report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of that remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved Verification Plan to demonstrate that the site remediation criteria have been met. The report shall also include a 'long-term monitoring and maintenance plan' for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the Verification Plan, and for the reporting of this in writing to the Local Planning Authority.

Reason: To ensure that the development complies with approved details in the interests of protection of the environment and prevention of harm to human health in accordance with policies QE SP1 and QE DM4 of the Arun Local Plan. This is required to be a pre-commencement condition because these details have to be agreed and in place before any work commences.

Condition 13

Prior to the commencement of the development hereby approved, including any works for demolition, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority (in consultation with National Highways). Thereafter, the approved Plan shall be implemented and adhered to throughout the entire construction period. The plan shall provide details as appropriate but not limited to the following matters:

- The anticipated number, frequency and types of vehicles used during construction.
- Details of construction phasing.
- The method of access and routing of vehicles during construction.
- Permitted construction traffic arrival and departure times.
- The parking of vehicles by site operatives and visitors.
- The loading and unloading of plan, materials and waste.
- The storage of plant and materials used in construction of the development.
- The erection and maintenance of security hoarding.
- The provisions of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including provisions of temporary Traffic Regulation Orders).
- Details of public engagement both prior to and during construction works.
- Details of the drainage phases.

Reason: In the interests of road safety and in accordance with policy T SP1 of the Arun Local Plan and to mitigate any adverse impact from the development on the A27 in accordance with DfT Circular 01/2022.

Condition 14

Prior to the commencement of the development hereby approved, a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority.

The CEMP (Biodiversity) shall include all avoidance and mitigation measures set out in the approved EclA Report (EAD Ecology, 2025) and include the following:

1. Risk assessment of construction activities potentially damaging to biodiversity.
2. Identification of "biodiversity protection zones".
3. Practical measures (both physical measures and sensitive working practices) to avoid or reduce ecological impacts during construction (may be provided as a set of method statements).
4. The location and timing of sensitive works to avoid harm to biodiversity features, including habitat and protected species.
5. The times during construction when specialist ecologists need to be present on site to oversee works.

6. Responsible persons and lines of communication.
7. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
8. Use of protective fences, exclusion barriers and warning signs.
9. Containment, control, and removal of any invasive non-native species present on site.

The approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To conserve protected and Priority species and allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended), s40 of the Natural Environment and Rural Communities Act 2006 (Priority habitats & species), and policy ENV DM5 of the Arun Local Plan. This is required to be a pre-commencement condition as otherwise there would be a risk of harm to protected species and their habitat.

Condition 15

Prior to the commencement of the development hereby approved, a Biodiversity Enhancement Strategy shall be submitted to and approved in writing by the Local Planning Authority. The content of the Biodiversity Enhancement Strategy shall include the following:

1. Purpose and conservation objectives for the proposed enhancement measures;
2. Detailed designs or product descriptions to achieve stated objective;
3. Locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans (where relevant);
4. Persons responsible for implementing the enhancement measures; and
5. Details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details shall be retained in that manner thereafter.

Reason: To conserve and enhance protected and Priority species in accordance with policy NV DM5 of the Arun Local Plan and to allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the Natural Environment and Rural Communities Act 2006 (Priority habitats & species).

Condition 16

Prior to the commencement of the development hereby approved, a further survey shall be undertaken to confirm the continued absence of badgers and badger setts and the results shall be submitted to the Local Planning Authority for approval in writing. If there is evidence then no development shall take place until a comprehensive method statement indicating how the protected species are to be safeguarded during the

construction period and how appropriate mitigation measures are to be incorporated into the development has been integrated into the proposed CEMP Biodiversity (Condition 14) and submitted to and approved in writing by the Local Planning Authority. The approved method statement shall be implemented in full accordance with the details, recommendations and timescales contained therein and any mitigation measures shall be fully implemented before the first occupation and retained as such thereafter, together with proposals for mitigation if required. The development shall be carried out in complete accordance with the approved surveys.

Reason: To conserve and enhance protected and Priority species in accordance with policy ENV DM5 of the Arun Local Plan and to allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the Natural Environment and Rural Communities Act 2006 (Priority habitats & species). This is required to be a pre-commencement condition because badgers must be protected during construction.

Condition 17

Prior to the commencement of the development hereby approved, a Biodiversity Net Gain Design Stage Report, in line with Table 2 of CIEEM "Biodiversity Net Gain Report and Audit Templates" (July 2021), shall be submitted to and approved in writing by the Local Planning Authority. This shall provide 20% measurable biodiversity net gain, using the DEFRA Biodiversity Metric 3.0 or any successor. The content of the Biodiversity Net Gain report should include the following:

1. Baseline data collection and assessment of current conditions on site.
2. A commitment to measures in line with the Mitigation Hierarchy and evidence of how BNG Principles have been applied to maximise benefits to biodiversity.
3. Provision of the full BNG calculations, with detailed justifications for the choice of habitat types, distinctiveness and condition, connectivity, and ecological functionality.
4. Details of the implementation measures and management of proposals.
5. Details of any off-site provision to be secured by a planning obligation.
6. Details of the monitoring and auditing measures.

The proposed enhancement measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To ensure measurable net gains to biodiversity and in accordance with the Environment Act 2021 and policies ENV SP1 and ENV DM5 of the Arun Local Plan. This is required to be a pre-commencement condition by virtue of schedule 7A to the Town and Country Planning Act 1990.

Condition 18

- A) Prior to the commencement of the development hereby approved, but after the approval of the Biodiversity Net Gain Plan a 30-year Habitat Management and Monitoring Plan (HMMP) for the provision of 20% Biodiversity Net Gain (BNG) shall be submitted to and approved in writing by the Local Planning Authority. The HMMP

shall be based upon Natural England's Habitat Management and Monitoring Plan Template and shall include the HMMPT Companion Document and a list of what will form part of the Habitat Management and Monitoring Reports submitted for Part B) of this condition.

- B) From the date of last occupation, or the date that the BNG creation and enhancement works have been completed, whichever is the earliest, a BNG Habitat Management and Monitoring Report must be submitted to and approved in writing by the Local Planning Authority by years 2, 5, 10, 15, 20, 25 and 29.

The development shall proceed on the basis of all approved documents and timings as approved under A) and B) for the duration of the HMMP.

Reason: To ensure measurable net gains to biodiversity and in accordance with the Environment Act 2021 and policies ENV SP1 and ENV DM5 of the Arun Local Plan. This must be a pre-commencement condition because it relates to the creation and retention of biodiversity net gain in accordance with schedule 7A to the Town and Country Planning Act 1990.

Condition 19

Prior to the commencement of the development hereby approved, a Soil Resource Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall set out how soils on the site are to be protected during construction and then recycled/reused in the new development layout.

The soil protection/mitigation measures shall be implemented as per the document and then permanently adhered to throughout the construction and development of the site.

Reason: In accordance with policy SO DM1 of the Arun Local Plan and the NPPF. It is necessary for this to be a pre-commencement condition to protect the best and most versatile soils on the site prior to the construction commencing.

Condition 20

Prior to the commencement of the development hereby approved, the applicant shall prepare and submit for approval an Employment and Skills Plan. Following approval of the Employment and Skills Plan the developer will implement and promote the objectives of the approved plan.

Reason: In accordance with Policy SKILLS SP1 of the Arun Local Plan. This must be a pre-commencement condition as it relates to the construction phase of development and to ensure measures are in place so that local crafts people and apprentices are employed on the development.

Condition 21

Prior to the commencement of the development hereby approved, the applicant shall secure the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.

Reason: The site is of archaeological significance in accordance with policy HER DM6 of the Arun Local Plan. This is required to be a pre-commencement condition because otherwise the disturbance of earth could harm important deposits.

Condition 22

Prior to development above damp-proof course (DPC) level, details of the proposed location of the required fire hydrants must be submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Service.

Prior to the first occupation of any dwelling forming part of the development, the developer shall at their own expense install the required fire hydrants (or in a phased programme if a large development) in the approved locations to BS:750 standards or stored water supply and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of firefighting.

The fire hydrants shall thereafter be maintained as part of the development by the water undertaker at the expense of the Fire and Rescue Service if adopted as part of the public mains supply (Fire Services Act 2004) or by the owner/occupier if the installation is retained as a private network.

Reason: In the interests of amenity and in accordance with policy INF SP1 and T SP1 of the Arun Local Plan and in accordance with The Fire & Rescue Service Act 2004.

Condition 23

Prior to the first occupation of any part of the development, the vehicular access serving the development shall be constructed in accordance with the details shown on drawing ITS19620-GA-008 Rev A.

Reason: In the interests of road safety and in accordance with policy T SP1 of the Arun Local Plan.

Condition 24

Prior to the first occupation of any dwelling the car parking serving the respective dwelling shall be constructed in accordance with plans and details to be submitted to and approved by the Local Planning Authority. Once provided, the spaces shall be retained thereafter and are only to be used for the parking of vehicles.

Reason: In the interests providing adequate parking throughout the development with policy T SP1 of the Arun Local Plan.

Condition 25

Prior to the first occupation of the community building, car parking spaces, cycle parking spaces and Electric Vehicle Charging spaces shall be provided in accordance with condition 5 above and retained thereafter.

Reason: In the interests providing adequate EV parking and alternative travel options throughout the development in accordance with policy T SP1 of the Arun Local Plan.

Condition 26

Prior to the first occupation of any dwelling, the electrical vehicle charging spaces and cycle parking space serving the respective dwellings shall be provided in accordance with condition 5 above and retained thereafter.

Reason: In the interests providing adequate EV parking and alternative travel options throughout the development in accordance with policy T SP1 of the Arun Local Plan.

Condition 27

Prior to the first occupation of any part of the development (or specified phase of the development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority). The content of the LEMP shall include the following:

1. Description and evaluation of landscape and ecological features to be managed.
2. Ecological trends and constraints on site that might influence management.
3. Aims and objectives of management for both hard and soft landscape areas.
4. Appropriate management options for achieving aims and objectives.
5. Prescriptions for management actions.
6. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
7. Details of the body or organisation responsible for implementation of the plan.
8. Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed, and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: To allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended), s40 of the Natural Environment and Rural Communities Act 2006 (Priority habitats & species) and policy ENV DM5 of the Arun Local Plan and to ensure the development provides the maximum possible provision towards creation of habitats and valuable areas for biodiversity in accordance with policies ENV SP1 and ENV DM5 of the Arun Local Plan.

Condition 28

Prior to the first occupation of the first building of each drainage phase (as approved under the construction management condition), a verification report must be submitted and approved in writing by the Local Planning Authority. The verification report submitted for approval must:

1. Be written and informed by a surveyor or engineer that is independent of the contractor.
2. Demonstrate that the surface water drainage system has been constructed in accordance with the approved details.
3. Include full as-built survey drawings.
4. Include photographs of excavations, installation of any surface water structure, control mechanism or other drainage infrastructure.
5. Detail any corrective works that are necessary with a timetable for their completion.

Where corrective works are required, these must be carried out in accordance with the approved timetable. Corrective works must be subsequently resurveyed with the findings submitted to and approved in writing by the Local Planning Authority

Reason: To ensure that the development achieves a high standard of sustainability and ensure the flood risk is adequately address for each new dwelling and not increase and in accordance with NPPF and policies W DM2 and W DM3 of the Arun Local Plan.

Condition 29

Prior to the first occupation of any part of the development, the applicant or developer shall ensure that infrastructure is implemented to allow for the provision of the highest available headline speed of broadband provision to future occupants of all of the development from a site-wide network provided as part of the initial highway works and in the construction of frontage thresholds to buildings that abut the highway. Unless evidence is put forward and agreed in writing by the Local Planning Authority that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure, the development of the site will continue in accordance with the approved strategy.

Reason: To safeguard the amenities of future residents in accordance with policy TEL SP1 of the Arun Local Plan.

Condition 30

Prior to the first occupation of the Community Building, details of the hours of operation shall be submitted to and approved by the Local Planning Authority.

Reason: In the interests of the safety/amenity of nearby residents & occupiers of any nearby noise sensitive premises, the safety & general amenities of the area in accordance with policies QE SP1, QE DM1, QE DM2, QE DM3 and T SP1 of the Arun Local Plan and the NPPF.

Condition 31

No demolition/construction activities shall take place other than from 08:00 hours until 18:00 hours (Monday to Friday) and from 08:00 hours until 13:00 hours (Saturday) with no work on Sunday or Bank/Public Holidays. In addition, there shall be no external working, an hour before, during and an hour after sunset and sunrise even if those times fall within the above time periods.

Reason: In the interests of the safety/amenity of nearby residents & occupiers of any nearby noise sensitive premises, the safety & general amenities of the area, biodiversity (particularly bats) and in the interests of highway safety in accordance with policies D DM1, ENV DM5, QE SP1, QE DM1, QE DM2, QE DM3 and T SP1 of the Arun Local Plan and the NPPF.

Condition 32

No development shall take place within 3m of the edge of any watercourse without the prior written consent of the Local Planning Authority. This includes any building, structure, planting of trees, shrubs, or similar growth. All plans shall clearly show the 3m easement from all watercourses (open and culverted) and no development shall encroach within these protected areas.

Reason: To ensure that appropriate access to the watercourse is retained to facilitate maintenance ensuring that the drainage system operates satisfactorily in accordance with the NPPF and policies W DM2 and W DM3 of the Arun Local Plan.

Condition 33

At least 10% of the energy supply of the development shall be secured from on-site decentralised, renewable or low carbon energy sources (as described in the glossary at Annex 2 of the NPPF). Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to, and approved in writing by the Local Planning Authority before any development above damp-proof course (DPC) level begins. The development shall be implemented in accordance with the approved details and timetable and retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to secure the generation of on site renewable energy to meet the predicted demand in accordance with national planning policy, and with policy ECC SP2 of the Arun Local Plan.

Condition 34

If during development, any visible contaminated or odorous material, (for example, asbestos containing material, stained soil, petrol / diesel / solvent odour, underground tanks or associated pipework) not previously identified, is found to be present at the site, no further development (unless otherwise expressly agreed in writing with the Local Planning Authority) shall be carried out until it has been fully investigated using suitably qualified independent consultant(s). The Local Planning Authority must be informed immediately of the nature and degree of the contamination present and a method statement detailing how the unsuspected contamination shall be dealt with must be prepared and submitted to the Local Planning Authority for approval in writing before being implemented. If no such contaminated material is identified during the development, a statement to this effect must be submitted in writing to the Local Planning Authority.

Reason: To ensure that the development complies with approved details in the interests of protection of the environment & prevention of harm to human health in accordance with policies QE SP1 and QE DM4 of the Arun Local Plan.

End of Conditions

APPEARANCES

FOR THE APPELLANT: *John Litton* KC (Landmark Chambers) called:

- *Tim Wall*, Partner of i-Transport LLP, MCIHT & CMILT – Highway Safety*
- *Steven Lecocq*, Technical Director at Mayer Brown Ltd, CEng MICE, C.WEM MCIWEM, CSci, MCIHT – Flood Risk
- *Wendy Lancaster*, Director of Expert Witness Services at Tyler Grange Group Ltd, CMLI, FRSA – Landscape
- *Adam Ross*, Director at Nexus Planning, MRTPI – Planning*

FOR ARUN DISTRICT COUNCIL (ADC): *Ben Du Feu* (Cornerstone Barristers) called:

- *Martin Carpenter*, Director of Planning at Enplan, MRTPI – Planning*

FOR ANGMERING COMMUNITY ALLIANCE (ACA): *Ed Grant* (Cornerstone Barristers) called:

- *John Russell* of JR Transport Planning Ltd, MCIHT & CMILT – Highway Safety*
- *Clive Carpenter* of GWP Consultants, FGS, Cgeol, EurGeol, C.WEM MCIWEM, MIAH – Flood Risk
- *Peter Leaver*, Director of David Wilson Partnership, CMLI – Landscape
- *Phillip Hughes*, Principal of PHD Chartered Town Planners, MRTPI, FRGS, MCMI – Planning*

*NB Highway Safety was the subject of a Round Table Discussion (RTD) on the afternoon of Day 1 (28 October). Planning was the subject of a RTD on the morning of Day 4 (31 October). Flooding and Landscaping were both the subject of the normal formal Inquiry procedure of Eic, X-X and Re-X in the intervening days between the two RTD sessions.

INTERESTED PARTIES (who voiced objection to the proposed development at the Inquiry):

- Cllr Andy Cooper, ADC Ward Member
- Cllr Nikki Hamilton-Street, Chair of Angmering Parish Council
- Sylvia Verrinder, Chair of Angmering Parish Planning and Infrastructure Committee
- Nicola Taw, local resident
- Jenny Todd, local resident
- Lawrence Tondelier, local resident
- Sussex CPRE
- Nathaniel Fowles, local resident
- Angela Colliss, local resident and Chair of ACA
- Tom Hempenstall, local resident
- Jan Sheward, Cancer United, who also read a letter from Warren John, local resident, Cancer United member and Cllr at Yapton Parish Council
- Richard Dickinson, local resident and Headteacher at St Margaret's Primary School, Arundel Road
- Kristina Yates, local resident
- Nuala Smith, local resident
- Kathleen Palhan, local resident
- Christopher Snell, local resident
- Dr Beccy Cooper MP

LIST OF DOCUMENTS SUBMITTED AT THE INQUIRY

- ID 1 – Appellant’s Opening Statement
- ID 2 – Rule 6 Party’s Opening Statement
- ID 3 – Arun District Council’s Opening Statement
- ID 4 – Third Party Comments: Councillor Andy Cooper (Arun District Council Ward Member)
- ID 5 – Third Party Comments: Nikki Hamilton-Street (Chair of Angmering Parish Council)
- ID 6 – Third Party Comments: Sylvia Verrinder (Chair of Angmering Parish Planning and Infrastructure Committee)
- ID 7 – Third Party Comments: Nicola Taw (Local Resident)
- ID 8 – Third Party Comments: Jenny Todd (Local Resident)
- ID 9 – Third Party Comments: Lawrence Tondelier (Local Resident)
- ID 10 – Third Party Comments: CPRE Sussex
- ID 11 – Third Party Comments: Nathaniel Fowles (Local Resident)
- ID 12 – Third Party Comments: Angela Colliss (Local Resident / Chair of ACA)
- ID 13 – Third Party Comments: Tom Hempenstall (Local Resident)
- ID 14 – Third Party Comments: Jan Sheward (Cancer United) Inc Letter from Warren John (Local Resident, Cancer United Member, Member of Yapton District Council)
- ID 15 – Third Party Comments: Richard Dickinson (Local Resident / Head of St Margarets Primary School)
- ID 16 – Third Party Comments: Kristina Yates (Local Resident)
- ID 17 – Third Party Comments: Nuala Smyth (Local Resident)
- ID 18 – Third Party Comments: Kathleen Palhan (Local Resident)
- ID 19 – Natural England Advice Letter
- ID 20 – Third Party Comments: Mr Snell (Local Resident)
- ID 21 – Flood Risk Levels Plan
- ID 22 – Landscape Comparison Table
- ID 23 – Third Party Comments: Dr Beccy Cooper MP (Member of Parliament for Worthing West)
- ID24 – Planning Round Table Agenda
- ID 25 – Site Visit Walking Route
- ID 26 – Revised Draft Conditions
- ID 27 – Revised Draft Conditions Explanatory Note
- ID 28 – Rule 6 Party’s Closing Statement
- ID 29 – Arun District Council’s Closing Statement
- ID 30 – Appellant’s Closing Statement
- ID 31 – Appellant’s Cost Submissions
- ID 32 – Arun District Council’s Response to Costs Application
- ID 33 – S106 – Summary of key planning obligations
- ID34 – S106 signed & dated final agreement of 12 November 2025

NB All of the **Core Documents** (CDs) can be found on the Council’s website linked to the Inquiry, at least until the end of the High Court challenge period.

End of Documents

APPENDIX 8

Appeal Decision - Land to the Rear of
Meadow Way, Westergate



Appeal Decision

Hearing held on 8 and 9 April 2025

Site visit made on 8 April 2025

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd of May 2025

Appeal Ref: APP/C3810/W/24/3356352

**Land to the rear of Meadow Way, Westergate, Chichester, West Sussex
(Easting: 493620 Northing: 104816)**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval to details required by a condition of an outline planning permission.
 - The appeal is made by Redrow Homes against the decision of Arun District Council.
 - The application Ref AL/50/24 sought approval of details pursuant to condition No 1 of outline planning permission Ref AL/178/22/OUT, granted on 08 December 2023.
 - The application was refused by notice dated 14 August 2024.
 - The development proposed is demolition of 24 Meadow Way, for the construction of up to 89 residential dwellings, with access taken from Meadow Way, together with the provision of open space, landscaping and associated infrastructure.
 - The details for which approval is sought are: the appearance, landscaping, layout and scale (pursuant to outline permission AL/178/22/OUT) for the construction of up to 89 residential dwellings, open space, and associated works.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Redrow Homes against Arun District Council. This application is the subject of a separate decision.

Preliminary Matters

3. Prior to the Hearing, I agreed that no prejudice would be caused to any party if the appeal was considered on the basis of amended drawings. These were the drawings submitted prior to the Council's decision but which the Council had not taken into account. These drawings sought to address a number of issues raised by the Council and which were cited in the decision notice. These related to various matters including lighting, biodiversity, electric vehicle charging. The Council confirmed prior to the Hearing that it would no longer seek to pursue those matters at the appeal.
4. It was also confirmed prior to the Hearing that the electricity sub-station could not be repositioned due to the location of the existing infrastructure. As a result, subject to landscaping, the Council withdrew its objection to this aspect of the scheme.
5. At the Hearing, following the submission of two addendums to the Statement of Common Ground, the Council agreed that it no longer wished to defend reasons

for refusal 2 (highway safety) and 3 (drainage). The matter of drainage was, at the request of the Parish Council, discussed at the Hearing.

Main Issue

6. The remaining reason for refusal raised a number of concerns with the way in which the proposed scheme was laid out and the effect of its overall design on the character and appearance of the site and wider area. This was therefore the main issue in this appeal.

Reasons

7. I address below the various issues raised in the remaining reason for refusal.

Location of Affordable Housing

8. Policy H DM1 of the Arun Local Plan 2018 (ALP) and Policy H4 of the Aldingbourne Neighbourhood Plan 2021 (ANP) both require appropriate provision to be made for affordable housing on major developments. There is no dispute that the scheme addresses this matter and provides a policy compliant mix of affordable housing types and tenures.
9. Policy H4 of the ANP also requires affordable housing to be indistinguishable from market housing. Policy AH SP2 of the ALP, which is referenced in the officer report and appellant's statement but not in the Council's decision notice, requires a similar approach. Policy AH SP2 goes further, specifically noting that large groupings of single tenure dwellings or property types should be avoided. Small clusters of affordable housing units throughout development schemes shall be permitted although the policy does not define what constitutes a small cluster.
10. While there are a number of different affordable housing tenures within the scheme, they are all positioned along the southern boundary of the site and accommodated within either terraces or the flatted building. With the exception of units 68-70, no open market housing is located next to the southern boundary or provided in the form of terraced houses or flats.
11. There is no dispute between the main parties that one of the overall approaches to developing the site should be for the density to be higher in the southern part of the site. Thus, there is some logic in focussing the affordable housing in the southern parts of the site, where they comprise some of the smaller dwellings.
12. However, as was pointed out at the Hearing, some of the affordable housing units are larger than some of the open market housing. This, to my mind, suggests that some of these units could certainly have been located further away from the southern boundary without upsetting the general approach of the site density lowering from south to north.
13. There is no evidence before me to demonstrate that this would, for example, affect viability if some of the affordable units were to filter further into the site. I am also not persuaded that the layout or appearance of the scheme would be adversely affected by such a re-configuration, particularly as the Council also has no objection to the design or external appearance of the affordable houses per se.
14. The affordable housing is not accessed via a single point of entry but through separate cul-du-sacs off the main spine road, with the flats having their own

access/parking area. However, this does not disguise the fact that the affordable units would all be at the end of the cul-du-sacs and thus concentrated along the site's southern boundary.

15. Furthermore, while the design of the properties is not in dispute, it is nonetheless noticeable that the affordable houses are, with the exception of Nos 68 – 70, the only terraced houses. Whichever point of entry were used from the footpath along the site's southern boundary, the housing would be terraced and so to some extent clearly distinguishable from the housing further to the north which are all the open market houses.
16. In reality, the layout is such that the affordable housing would, with the possible exception of plots Nos 68 - 70, be easily distinguishable from the open market housing. While the site's context and affordable housing mix will inherently create some limitations as to where the affordable housing can be located, it is conspicuous in having been positioned along the site's southern boundary. As such, it could not be described as having been sufficiently dispersed through the site. The clustering of the affordable houses along the southern boundary, as opposed to a more balanced spread through other parts of the site would work against the aims of local policies and the Framework in creating mixed and balanced communities. This weighs heavily against allowing the proposal.

Flatted Development

17. Units 81 – 89 would be accommodated within a block of flats located at the site entrance from Meadow Way. The building would be two and a half storeys and have a ridge height of 10.9m. This height accords with the Parameter Plan that formed part of the outline permission.
18. As it is the first building that is seen upon entering the site and as it sits on its own separate space, it would be prominent. At the Hearing it was explained that the flats would form an arrival building that provides a focal and wayfinding point.
19. In my opinion this prominence highlights the importance of ensuring the building embodies good design and makes a positive contribution to the area around it. Unfortunately, the appeal proposal would fail to meet with these objectives.
20. It would appear as a bland and unimaginative over-sized block lacking in showing any meaningful relationship to its surrounds. I recognise that some of the materials would be used in other buildings across the site. However, even with this the elevations would look bulky with the fenestration pattern giving the front and roadside elevations a horizontal emphasis which adds to the blandness and offers little design-integrated articulation.
21. Although it was described as an arrival building, its design and main entrance fail to directly address the road, with it being angled and positioned so that it is surrounded on two sides by parking/access road with its only communal space being to the front of the building. In combination this would give it an air of the building having been squeezed onto the site, with little thought to its context.
22. While I acknowledge that a two and a half storey building could be acceptable here, the appeal scheme would look over-ordinary and appear at odds with the scale and thus character of the surrounding development. It would not be a positive focal point. This also weighs heavily against the scheme.

23. I saw on my site visit an example of a two and a half storey flatted building in Pine Close that was surrounded by two storey houses. However, it did not appear comparable in scale and massing and has not harmed the character and appearance of that site in the same way as the appeal scheme would do.
24. At the Hearing it was suggested that in order to meet the Council's requirements for communal garden space for the flats, the area of land to the front of the building could be given over for that purpose. The Council accepted this approach and confirmed that the matter could be addressed through a condition. However, while this might overcome the lack of garden space for future occupants, it would not overcome the harm caused by the building to the wider character and appearance of the site.

Open Space and Tree Planting

25. The Parameter Plan attached to the outline permission set out broadly that the residential development would occupy the western and central parts of the site. The main green infrastructure and open space areas were located to the eastern end but also extended along the northern and southern boundaries and included the western entrance to the site.
26. The scheme as amended provides a total of 7,706m² of open space, including 1,097m² of play space provision. These figures exceed the requirements of the 'Open Space, Playing Pitches, Indoor and Built Sports Facilities' Supplementary Planning Document (SPD), whose use is endorsed by Policy OSR DM1 of the ALP.
27. The appellant acknowledged that there was no separate area of amenity space provided. However, they indicated that amenity space was wrapped up with the natural space on the eastern side of the site and thus the overall amount of space exceeded the SPD requirements.
28. The Council questioned the validity of including the strips of land along the northern and southern boundaries within the calculations. However, they accord with the Parameter Plan, and I see no reason not to count them as part of the overall green infrastructure provision for the site.
29. Aside from this, the Council's main concerns in respect of the open space provision was the lack of a second play area and that the provision was concentrated in the east. At the Hearing it was agreed that an outdoor fitness trail within the proposed open space would overcome the need for a second play area and that this could be secured by condition.
30. Nevertheless, the Parameter Plan clearly sets out that the development area is to include, amongst other things, open space and landscaping. Although it was suggested at the Hearing that the grassed areas and tree planting within the development area provided the open space, these would generally comprise small strips of grass with some trees planted within them. To my mind, whilst they would offer some landscape value, they would be a feature often found and expected within housing layouts. They would not however be usable open space and in practice it would be difficult to see how they would fulfil that function. In this respect the layout would not accord with that intended by the Parameter Plan.

31. Whilst the scheme overall would provide for more than the minimum requirement for open space, play space, green infrastructure, landscaping etc. good quality design should not all be about the quantity. It is also about how and where it is provided and thus the overall quality of the environment that is created. This all adds weight to my concerns as to the overall approach to how the site has been laid out and the extent to which the development would result in a high-quality, well-designed place.
32. With regard to the tree planting specifically, there is no dispute between the main parties that across the site as a whole, the number of trees exceeds the policy requirements. It was clear from the discussions at the Hearing that there was a specific methodology to the planting scheme and why particular trees were chosen for certain locations. This would help to ensure the trees adapted to their context and required less maintenance.
33. Therefore, while the tree planting scheme in itself would provide some landscaping benefits to the site as a whole, it would not overcome the concerns identified above and the deviation from the Parameter Plan, which all add further weight against the scheme.

Interface Distances

34. The Council was concerned with the relationship between a number of proposed properties and that the distances between them contravened guidance within the District Design Guide SPD (2021). It was explained at the Hearing that this SPD's focus on distances between properties is designed to both prevent overlooking and to help create a sense of space.
35. It was acknowledged that a number of the Council's overlooking/privacy concerns could be overcome through conditions and the use of obscure glazing, without this compromising internal living environments. Therefore, the main concerns were with regard to the overall design of the site and the relationships between the flats and plot 5, and the houses opposite each other along the site's main spine road.
36. It was suggested by the appellant that the main spine road narrows once it passes the flats and the open space which helps to draw the eye and create a focal point around the flats. Given my observations on the flats, I do not consider this to necessarily be a benefit of the scheme.
37. Reference was made to the nearby Toop Gardens, where interface distances were said to be 11.3m. However, this is a relatively short road and as the Council pointed out, it pre-dates the current SPD. In contrast, the spine road along the appeal site would be longer and have more houses in close proximity to one another, thereby creating a more intensive and built-up character.
38. I acknowledge that the SPD is only guidance, but it nevertheless appears to have been a conscious attempt by the Council to try to achieve better environments for future residents. It seeks a minimum distance between the fronts of properties of 16m. Having some flexibility in applying these requirements can be of value and allows, for example, schemes to respond to existing environments or provide some variety in the street scape.
39. However, in this case the reduced interface distances along the main spine road would give the impression of an over concentration of housing along this central

core and on the southern parts of the site. This does not particularly reflect the site's edge of village location or create a seamless transition of density across the site.

40. In addition to layout, good design promotes quality of life for occupants, and this includes matters such as privacy. It would be only a relatively small number of dwellings that would not meet the separation distance of 16m and have direct window to window positioning. However, separation distances of 12 - 13m would no doubt compromise some of the privacy of future residents of these properties.
41. There is no evidence to indicate that a housing design and layout could not have achieved a well-designed street scape appropriate for the area while still maintaining acceptable distances. None of this therefore points towards the scheme functioning well and adding to the overall quality of the area for the lifetime of the development. This reinforces my concerns about the scheme.

Protected Trees

42. The western boundary of the site contains some protected trees which would overhang a number of proposed rear gardens. In particular, plots 38, 46-48 would be most affected.
43. The Council suggested that a 2m buffer zone should be applied along the site's western boundary to safeguard the overhanging protected trees. While it was not a specific requirement of the Parameter Plan it was open to the appellant to provide it as part of the overall open space provision within the development area. However, the absence of such a buffer is not an impediment to the scheme as I see no reason why a protected tree cannot overhang a garden. Therefore, the absence of such a dedicated buffer zone does not weigh against the proposal.
44. The reports submitted by the appellant indicated that the trees would not unduly restrict sunlight/daylight to the gardens of the affected properties. The Council did not challenge these reports. Furthermore, permitted development rights can be restricted in any affected plots to prevent building works impacting root protection areas. Therefore, the main concern would be leaf, twig and other detritus dropping from the trees and whether this would lead to pressure for pruning or removal.
45. In the case of plot 38, a large protected oak would overhang the northwestern corner of the rear garden. However, the property would benefit from a large garden and being adjacent to the open countryside, future occupiers could reasonably expect some natural debris in a small part of their garden.
46. For plots 46-48 their context would be slightly different, being a terrace of three properties in the southwestern corner of the site. Plot 48 is unlikely to be particularly affected given the size and position of its garden. However, Plot 46 has one of the shortest lengths of rear gardens within the scheme yet some of it would be affected by the trees on the western boundary. Plot 47 would have a significant portion of its rear garden being overhung by the trees. The situation is likely to cause some inconvenience to the occupiers of these two properties and thus some pressure for pruning or removal of the trees in question. This attracts a small amount of adverse weight.
47. I have had regard to the appeal decisions presented to me on this matter. However, the nature of the issue is heavily dependent upon the particular

circumstances of the case and such matters as the relationship between the property and the tree, the size of the garden and how much of the garden might be affected. Therefore, these other decisions are not directly applicable.

48. It was also suggested that having houses generally located along the western boundary in close proximity to the protected trees would prejudice the trees' public amenity value. Given that the site has planning permission for up to 89 houses, views of the trees would inevitably be interrupted by new houses, regardless of the precise layout or exact number of dwellings. There was no information to demonstrate that the appeal scheme would be any more impactful than any other layout when considering the wider public amenity benefit of the protected trees.

Garden Depths

49. The rear gardens of four plots were highlighted as being below the 10.5m in length, as required by the Council's SPD. The Council explained at the Hearing that this requirement is partly to ensure sufficient distances between occupiers but also to ensure there was sufficient garden space for residents to enjoy.
50. Two of the plots in question do not back onto other dwellings and the two that do, maintain a minimum of at least 21m between habitable room windows. As such, these shorter gardens would have no impact on the privacy of future occupiers.
51. With regard to the amount of space the gardens provided, it was noted that in the case of plot 77, which at 8.6m would be the shortest garden within the scheme, provided some 52m² in area. In contrast, there were said to be at least three other nearby properties that would have gardens of at least 10.5m in length but provided less overall outside area. Two of the examples quoted were smaller houses with fewer likely occupants and so the use of the outside space would be less compromised than plot 77. However, the Council acknowledged that for the purposes of this appeal, it could be considered that this represented a reasonable justification to accept the length of the proposed gardens.

Accessible Parking

52. It was indicated at the Hearing that focussing the majority of the accessible car parking spaces at the eastern end of the site was in part a response to the open space and flats being in this area. However, even accepting that, there was no particular logic for two accessible spaces to be positioned alongside plot 10. While it was also noted by the appellant that properties on the western end of the site would all have driveways, this would be equally applicable to houses on the eastern side of the site.
53. A stretch of the main spine road alongside Plots 32 and 33 would potentially allow for some on street parking, something which given the positioning of driveways might be less easy to achieve elsewhere on the site. However, this would not be limited just to those needing accessible parking.
54. The scheme clearly does not provide an even spread of accessible parking spaces across the site, with seemingly little rationale for where many of the spaces are positioned. In itself this is not a factor which weighs heavily against the scheme, but equally does not suggest a particularly clear design vision for the site.

Character Areas

55. The overall density of the site is considered acceptable. The layout proposes a north/south split with the northern edge being looser in the placement of houses, which have more space around them than the more structured and denser layout of the houses to the south.
56. In itself, there is nothing objectionable in seeking to achieve a more spacious layout at the northern edge of the site as it is adjacent to open countryside. However, as a whole the spacious layout on the northern parts of the site would be achieved to the detriment of other parts of the site.
57. The play area, open space and tree planting would provide a green and spacious eastern entrance into the site. However, the absence of open space elsewhere on the site and the narrow spine road creates a noticeable concentration of built form, particularly on the southern half of the site.
58. Added to this, there are no memorable features or groupings of buildings which create a sense of cohesion or give the development any clear legibility. Indeed, aside from the flatted building, the most obvious differentiation are the terraced houses, which are all located along the southern boundary of the site and so likely to be identified as being the affordable housing.
59. The lack of any coherent approach to the provision of accessible parking, together with the need to have some short rear gardens and two gardens which are significantly overhung by protected trees are, to my mind, a further indication of the layout not having had sufficient regard to its context and therefore, requiring these compromises to be made. I acknowledge that they could be seen individually as small transgressions but they only serve to re-emphasise the concerns as to the overall approach to how the site has been laid out.
60. The underlying design objectives in the Framework, and which are broadly reflected in the local policies, are for new development to create well-designed and well-built places that benefit people and communities. There is not a sufficiently strong basis to conclude that the scheme meets these objectives.

Conclusion

61. The outline permission allows the site to be developed for up to 89 houses. This can also include buildings up to 2.5 storeys in height. However, the outline permission does not specify exactly how this is to be realised or even that this number and height must be achieved. They are merely limits to the permission.
62. Thus, the reserved matters process is required to examine the specific details of a scheme and ensure that the selected approach whilst not breaching the terms of the outline permission does not, amongst other things, cause harm to the character and appearance of the area.
63. In this particular case, I have found that although the scheme does not breach the limits of the number of units nor the maximum heights allowed, it does not achieve a sufficiently high standard of design and layout and so causes harm to the character and appearance of the site and wider area.
64. In view of the above, the proposal would conflict with Arun Local Plan policies OSR DM1, D SP1, D DM1, ENV DM4, QE SP1 and AH SP1; and Aldingbourne

Neighbourhood Development Plan policies H3, H4, H8, EH6 and GA3. These policies require, amongst other things, developments to generally contribute positively to the quality of the environment and have regard to local character and context, but also ensure affordable housing is indistinguishable from open market housing, appropriate open space is provided, protected trees are safeguarded, individual gardens are not prejudiced and that there is convenient car parking.

65. In addition to the conflict with the SPDs, the proposal would not accord with the Framework's objectives of developments being well designed and which establish a strong sense of place and do not undermine the quality of life or community cohesion.
66. In reaching the above conclusions I am mindful that this does not mean that a different scheme for 89 houses that includes buildings of 2.5 storeys would necessarily be unacceptable.

Other Matters

67. The Council acknowledges that it is unable to provide a five-year supply of deliverable housing land. At the Hearing the parties agreed that the current figure should be taken as 3.41 years, which would weigh significantly in favour of the proposal.
68. The Council did not seek to defend reason for refusal 3 (drainage). Nevertheless, at the Hearing the Parish Council highlighted a number of concerns it still had around this issue. These included the provision of infrastructure and capacity in the area to support the development generally. Concerns from flooding, which could occur from surface water run-off into local drainage ditches were also identified. These fears were further underpinned by an unease as to the rainfall data that was used which was said to include some years which had abnormal rainfall figures.
69. The substantive technical information before me indicates that the development could be undertaken without there being a flood risk. The issues raised by the Parish Council, and some local residents too, are legitimate concerns but there is not the information before me to indicate that these issues will arise or that the scheme would not be capable of addressing them if they did.
70. Furthermore, while drainage can have implications such as how a site would be laid out or where landscaping/planting can be located I am mindful that drainage is not a reserved matter. Moreover, given that drainage is addressed through the comprehensive conditions 10, 11 and 12 attached to the outline permission, a more detailed and technical discussion would seemingly be appropriate as and when applications are made pursuant to those conditions. It is therefore a neutral issue in this appeal.
71. More generally, the appellant notes that there are now no objections from statutory consultees to the scheme. However, this does not mean that no other harms will arise as a result of this proposal. The absence of objections may have reduced the potential obstacles to the site's development but does not, of itself, weigh in favour of the scheme.

Planning Balance

72. The Council cannot demonstrate a five-year supply of deliverable housing sites. The evidence indicates that the figure has risen since the outline planning permission was granted but nonetheless is still short of what is expected by national policy.
73. The balance required by paragraph 11 d) of the Framework was undertaken at the outline application stage. Nevertheless, a planning balance still needs to be undertaken of the proposal, and there are matters which weigh in its favour.
74. The proposal would support the Government's objective of significantly boosting the supply of homes, including the affordable housing although this provision was established at the outline stage. The dwellings would include solar and air source heat pumps for future residents and as a whole the scheme would be a low carbon development. The site would be in a sustainable location but this was a consideration at the outline stage and does not specifically relate to the reserved matters.
75. There would be a biodiversity net gain evaluated at around 10.1%. However, I am mindful that a biodiversity net gain of at least 10% was taken into account at the outline stage. Thus, the requirement to provide open space and trees/landscaping would be likely to generate such net gains regardless of the layout.
76. There would also be economic benefits arising from the construction process and from ongoing expenditure into the local economy by future occupants and their families. There would also be some social benefit arising from the scheme albeit these do not directly relate to the reserved matters.
77. Conversely, there are clear disadvantages in the proposed appearance, landscape, layout and scale of the development. Individually, some of the concerns raised may not result in an unacceptable development. However, when taken together with the other substantive concerns, they indicate that the scheme falls short of the expectations set out in policy to achieve amongst other things well designed places and mixed and balanced communities.
78. The harmful effects of this scheme would persist for the long term. In my judgement the identified benefits of the scheme would not outweigh the harm. For the avoidance of doubt, I make it clear that this is my position whether or not paragraph 11 d) of the Framework had been triggered.

Conclusion

79. I therefore conclude that the proposed details of layout, scale, landscaping and appearance would not represent an appropriate response to developing the site. Consequently, the proposal would conflict with the development plan taken as a whole, as well as the objectives of the Framework for achieving well-designed and beautiful places and mixed and balanced communities.
80. Accordingly, for the reasons given, the appeal should be dismissed.

Stewart Glassar

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Christopher Boyle	Barrister, KC
Peter Cleveland	Partner – Head of Planning at Henry Adams LLP
Dawn Appleton	Senior Planner at Henry Adams LLP
Tilly Whishaw	Head of Planning at Redrow Homes Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Daniel Vick	Area Team Leader, Arun District Council
Sue Howell	Leisure and Landscape Officer, Arun District Council

INTERESTED PERSONS:

Cllr Wallsgrave	Local Councillor
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S Foott	Parish Council
C Brown	Parish Council
K Jarman	Parish Council
R Rickard	Parish Council

W Corney	Local Resident
L French	Local Resident
S French	Local Resident
M Gregory	Local Resident
M Runnals	Local Resident
M Turner	Local Resident

DOCUMENTS SUBMITTED AFTER THE HEARING

Suggested conditions for maintenance of roads and communal space for flats