



RIDGE

PLANNING STATEMENT: FOR
RESIDENTIAL DEVELOPMENT OF UP TO
110 DWELLINGS AT LAND SOUTH OF
SUMMER LANE, PAGHAM

FOR NORTHGATE PROPERTIES LTD
April 2024

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APRIL 2024

Prepared for

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1. INTRODUCTION

1.1 This Planning Statement has been prepared by Ridge and Partners LLP on behalf of Northgate Properties Ltd in support of the outline planning application for residential development at Land South of Summer Lane, Pagham.

1.2 The application seeks:

‘Residential development of up to 110 dwellings including means of access into the site (not internal roads), with all other matters (relating to appearance, landscaping, scale and layout) reserved.’

1.3 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, this Statement will appraise the policies contained within the Development Plan for the area and will address all other material considerations relevant to the development proposed, including the National Planning Policy Framework (NPPF).

1.4 The application has been submitted at a time when Arun District Council cannot demonstrate a 5-year supply of housing. The proposed development represents a suitable and sustainable location for growth, adjacent to the recently approved Pagham South development. The proposed development would be a logical extension to this approved development, benefiting from the day-to-day services and facilities being delivered as part of its local centre.

1.5 In the context of the tilted planning balance at Paragraph 11d) of the NPPF, it is concluded within this Statement that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposals and therefore the application should be approved.

Statement Structure

1.6 This statement firstly provides a description of the application site and surrounding area in **section 2**, with details of the proposed development then provided in **section 3**. The relevant local and national planning policy is presented within **section 4**. An assessment of the material considerations pertinent to this proposal is given within **section 5**. An assessment of the proposals in the ‘tilted planning balance’ are then made within **section 6**, with a summary and conclusions provided in **section 7**.

1.7 This Statement should be read in conjunction with the plans prepared by Roberts Limbrick Architects and the following documents that accompany the application:

- Arboricultural Impact Assessment, prepared by Mark Welby Consulting Arborists;

- Affordable Housing Statement, prepared by Ridge and Partners LLP;
- Agricultural Land Classification prepared by Reading Agricultural Consultants;
- Air Quality Assessment, prepared by M-EC;
- Archaeological Desk-Based Assessment, prepared by DAS Archaeological Services;
- Desktop Study, prepared by Ridge and Partners;
- Design and Access Statement, prepared by Roberts Limbrick;
- Drainage Strategy, prepared by Ridge and Partners;
- Ecological Assessment, prepared by Ecology Solutions;
- Flood Risk Assessment (FRA), prepared by Ridge and Partners;
- Heritage Impact Assessment, prepared by Richard K Morris and Associates;
- Landscape and Visual Appraisal (LVA), prepared by Davies Landscape Architects;
- Noise Assessment, prepared by M-EC;
- Odour Report, prepared by Phlorum;
- Shadow Habitats Regulation Assessment, prepared by Ecology Solutions;
- Topographical Survey, prepared by Siteline;
- Transport Assessment, prepared by Highgate Transportation; and
- Travel Plan, prepared by Highgate Transportation.

2. SITE AND SURROUNDING AREA

Site and Surrounding Area

- 2.1 The Site is a roughly square shaped agricultural field, located to the south of Summer Lane in the south-western area of Pagham. The red line boundary includes a section of Summer Lane to the north.
- 2.2 The site is immediately bounded to the north by an established strip of hedgerow and trees and beyond that Summer Lane. To the east and south the boundaries are marked by hedgerow with an unnamed track beyond. The western boundary is open agricultural land.
- 2.3 Beyond the immediate boundaries the site is bordered to the north, east and west by agricultural land, and to the south currently by Church Barton House, although this context will change significantly as the adjoining land is allocated for development and has planning permission for residential and commercial development. This is set out in more detail within the planning history section below.
- 2.4 There are a range of services and facilities within close proximity of the site, including Rose Green Infant and Junior Schools, a Village Hall, GP surgery, churches, a number of small convenience stores, a Post Office, a public house, and sports and recreation clubs. This is set to be increased with the inclusion of the local centre and school permitted under application P/140/16/OUT.
- 2.5 The site lies on the western fringes of the coastal village of Pagham. Bognor Regis High Street is located approximately 4.5km south-east, whilst Chichester is approximately 7km north.
- 2.6 Bognor Regis and Chichester offer a wider range of services and facilities, including supermarkets, hospitals, leisure centres and schools, as well as employment opportunities.

Site Designations

- 2.7 The following designations apply to the site:
- The main part of the site is situated immediately west of the Built-up Area Boundary, and the Pagham South SD1 Strategic Housing Allocation
 - The site is located with a designated Gap Between Settlements
 - A small section of the site is located within a Biodiversity Opportunity Area
 - The site is located within the Pagham Harbour Buffer Zone B (5km buffer)
 - The site is located within Flood Zone 1
 - A Public Right of Way (PROW) PAG 100/3 runs along the northern boundary of the site (along Summer Lane).

Planning History

2.8 There is no relevant planning history for the application site.

2.9 However, the character of the area is changing in light of recent planning permissions:

- To the north-east of the site is Land to the North of Summer Lane which has planning permission for 90 dwellings (P/58/15/OUT and P/70/19/RES) and is now built out by Drew Smith Homes¹.
- To the east of the site is Land South of Summer Lane and West of Pagham Road (also known as Pagham South) which is subject to the following planning history:
 - Outline planning permission for *'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'* (P/140/16/OUT)
 - An application for the approval of reserved matters (layout, scale, appearance and landscaping) were approved in May 2022 for the 'local centre' parcel which comprises of retail, community and commercial uses, 20 No residential apartments and a 70 bed care home (P/155/21/RES).
 - An application for the *'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'*, submitted by Pagham Homes (C/O Foreman Homes), was approved in January 2024 (P/153/21/RES).
 - A number of applications to discharge conditions has been submitted and others are in the process of being prepared.
- To the south of the site is Church Barton House. Outline permission was granted in September 2017 for the *'erection of up to 65 No. dwellings, access roads, landscaping, open space & associated works'* (P/25/17/OUT). The Design Code Masterplan was approved in August 2022 (P/81/22/DOC), and an application for reserved matters was approved in January 2024 (P/139/22/RES).

2.10 The above sites make up the Pagham South Strategic Allocation SD1 under policy H SP1 of the Arun Local Plan 2018.

¹ <https://www.drewsmithhomes.co.uk/developments/summer-fields/>

2.11 In addition to the above, planning applications have been submitted to the north of Pagham. These sites make up the Pagham North Strategic Allocation SD2 under Policy H SP1 of the Arun Local Plan 2018, as follows:

- Land to the north of Hook Lane, Pagham has outline planning permission for *'the construction of up to 300 No. new homes, a care home of up to 80 beds, D1 uses of up to 4,000 sqm including a 2 form entry primary school, the formation of new means of access onto Hook Lane and Pagham Road, new pedestrian and cycle links, laying out of open space, new strategic landscaping, habitat creation, drainage features and associated ground works and infrastructure'* (P/6/17/OUT). Since the approval of outline planning permission, the Design Code condition has subsequently been discharged (P/57/20/DOC), an application for reserved matters has been approved (P/132/20/RES), as well as a number of applications to discharge conditions.
- Land north of Sefter Road and 80 Rose Green Road has outline planning permission for *'the development of up to 280 dwellings (including affordable homes), land for a replacement scout hut, land for an Ambulance Community Response Post Facility and land for either a 1FE primary school or care home. Provision of a primary vehicular access from Sefter Road and demolition of No. 80 Rose Green Road and creation of a pedestrian and emergency only access. Provision of Public Open Spaces including associated children's play areas, landscaping, drainage and earthworks'* (P/134/16/OUT). An application for the approval of reserved matters was refused (P/24/20/RES), but a subsequent application for reserved matters has been approved for 250 dwellings (P/49/21/RES). Applications for discharge of conditions have been submitted and approved.

2.12 In addition to the above, an outline planning application was submitted to the west of Pagham Road 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'* (Reference: P/178/21/OUT). This was refused by Arun District Council in May 2022, for the following reasons:

1. *The proposed development would have an unacceptable impact on the character and appearance of this countryside site, serve to unacceptably harm the integrity of the strategic gap by urbanising a presently semi-rural edge of settlement location and result in a net loss of high value agricultural land contrary to policies C SP1, SD SP3, D DM1, LAN DM1 and SO DM1 of the Arun Local Plan. The harm identified clearly and demonstrably outweighs the benefits of the application including its contribution to the Councils Housing Land Supply shortfall.*
2. *The proposal conflicts with policies WDM2 and ECC SP1 of the Arun Local Plan and paras 30-32 of the NPPF in that the submitted Flood Risk Assessment does not correctly*

identify sources of flood risk and does not take into account the impacts of climate change.

3. *In the absence of a signed Section 106 agreement, the development fails to make any affordable housing provision contrary to the aims and objectives of the NPPF (in particular paragraphs 63- 65) and policy AH SP2 of the Arun Local Plan.*
4. *In the absence of a signed Section 106 agreement, the development makes no provision for either the mitigation of the strategic highway network or for the future monitoring of a Travel Plan contrary to the requirements of policies T DM1 and T SP1 of the Arun Local Plan and para 110 of the NPPF.*
5. *In the absence of a signed Section 106 agreement, the application fails to make a financial contribution towards the cost of providing accessible natural open green spaces to serve the Pagham area to offset the impacts of recreational disturbance on the Pagham Harbour SPA and the proposal is therefore not in accordance with Arun Local Plan policies ENV DM1 and ENV DM2.*

2.13 This application was appealed by the applicant, which was heard by Informal Hearing on November 2022 (APP/C3810/W/22/3302023). In December 2022, the Inspector allowed the appeal and concluded that there were significant benefits of the proposed development that justified the approval of planning permission. The appeal decision is included at **Appendix 1**, but Paragraph 64 of the Appeal Decision stated:

'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.'

2.14 This appeal decision is discussed in more detail in the Planning Considerations section below.

3. THE DEVELOPMENT PROPOSALS

3.1 This outline planning application seeks permission for the following proposed development:

‘Residential development of up to 110 dwellings including means of access into the site (not internal roads), with all other matters (relating to appearance, landscaping, scale and layout) reserved’.

3.2 The application has been submitted in outline and therefore matters relating to layout, scale, appearance and landscaping of the proposal are subject to future consideration. However, the accompanying Design and Access Statement sets out the context within which design details would come forward as part of any reserved matters applications to the Local Planning Authority.

3.3 As explained in the accompanying Design and Access Statement, the proposed development has been informed by the following objectives:

- Objective 1 – Deliver a landscape led scheme that responds positively to local distinctiveness, location and character.
- Objective 2 - Protect and enhance biodiversity within the development site and the wider area.
- Objective 3 – Deliver a high-quality scheme that promotes well-being and is future proof.

3.4 The Development Concept and Masterplan has been worked up into an Illustrative Masterplan to demonstrate that 110 dwellings can be achieved on site at a mix, density and scale that satisfies the requirements of the Arun District Design Guide.

3.5 The scheme can accommodate 110 dwellings at a mix of 1, 2, 4 and 4 bed properties, making the scheme suitable for families, younger and older residents.

3.6 All properties will be 2 storey in height to be consistent with the surrounding local context.

3.7 The development also provides in excess of the required amount of open space, and includes a new LEAP and 4 LAP play spaces. The existing trees along Summer Lane and the southern boundary have been retained where possible and incorporated into the scheme. The open space will be complimented by attenuation ponds, helping to increase the environmental diversity on the site.

3.8 The application proposals will be accessed from the Pagham South development to the south. This access will be the sole point of access for motor vehicles, whilst foot and cycle movements will be facilitated at this location and also at Summer Lane to the north.

- 3.9 The block structure of the scheme has been designed to be permeable and small enough to encourage pedestrian movement around the scheme. The street network incorporates 2m footpaths throughout to provide a comfortable and inclusive pedestrian experience. Off road cycle and pedestrian routes run through the greenspaces around the edge of the site. This helps provide safe and attractive paths through the scheme onto the Summer Lane PROW, towards the proposed local centre to the south-east of the site and south into the proposed residential development.
- 3.10 The adjacent development includes a Local Centre with a primary school and convenience store which will mean that residents will not need to rely on travelling outside of the development for the use of day to day facilities, therefore reducing the number of daily vehicular movements to and from the site.
- 3.11 Car parking will be provided in accordance with ADC's Parking Standards and all parking spaces will be provided with an EV charging point. Cycle parking will be secure, suitably located and undercover and provided in accordance with the parking guidance.

4. PLANNING POLICY CONTEXT

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. This section provides an overview of relevant planning policy and guidance to the proposed development.
- 4.2 The Development Plan for the site comprises:
- Arun Local Plan 2011 – 2031
- 4.3 There is no ‘made’ Neighbourhood Plan for Pagham. Pagham Parish Council previously were preparing a neighbourhood plan; however, Arun District Council received instruction from Pagham Parish Council on 25 February 2021 to withdraw the Pagham Neighbourhood Plan. Thus, no weight should be given to previous versions of the Neighbourhood Plan and it is not considered further.
- 4.4 The Material Considerations relevant to the proposed development comprise:
- The National Planning Policy Framework
 - The Council’s Five-Year Housing Land Supply Position
 - The Council’s Housing Delivery Test Measurement
 - Local Plan Update
 - Arun District Council Interim Housing Statement

The Development Plan

Arun Local Plan 2011 – 2031

- 4.5 The Arun Local Plan covers the period 2011-2031 for the area of Arun District (excluding the area covered by the South Downs National Park Authority) and was adopted on the 18th of July 2018.
- 4.6 **Policy SD SP1** sets out that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will work pro-actively with applicants to jointly find solutions which mean that proposals can be approved wherever possible and to secure development that will contribute to the social, economic and environmental conditions south of the National Park through to the coast and throughout its settlements.
- 4.7 Policy **SD SP1a** sets out the strategic approach which aims to maintain the District’s unique character as a coastal location set against the South Downs whilst ensuring that the needs of the community are met through sustainable growth and the provision of suitable services, the spatial strategy includes, inter alia:

- Promote and enable development which supports the main coastal towns of Bognor Regis and Littlehampton role as the main service, employment, retail and social centres
- Provide for growth of the sustainable villages whilst maintaining their setting within the open countryside.
- Provide for the housing needs of the community by delivering 20,000 homes of an appropriate scale and tenure
- Provide for development in the countryside area which reflects its character and role as the coastal plain, with green wedges separating urban areas, high quality agricultural land and environmental assets.
- Support development which protects, conserves and enhances built heritage.
- Retain and enhance natural environment resources, including biodiversity.

4.8 **Policy SD SP2** concerns the Built-up Area Boundaries and states that development should be focused within the Built-Up Area Boundaries and will be permitted, subject to consideration against other policies of this Local Plan.

4.9 **Policy C SP1** follows by stating that outside the Built-Up Area Boundaries (as identified on the Policies Maps) land will be defined as countryside and will be recognised for its intrinsic character and beauty. Development will be permitted in the countryside where it is:

- a. for the operational needs of agriculture, horticulture, forestry, the extraction of minerals or the management of waste as part of a waste site allocation within the West Sussex Waste Local Plan; or
- b. for quiet, informal recreation; or
- c. for green infrastructure; or
- d. for the diversification of the rural economy; or
- e. for road and/or cycle schemes; or
- f. in accordance with other policies in the Plan which refer to a specific use or type of development

4.10 The policy also adds that the Council will take into account cumulative impact of development in the consideration of planning applications and that to ensure better management of the rural-urban fringe in those areas where significant new development is proposed, early consideration will need to be given to landscape and biodiversity enhancement, woodland management, recreation provision and access routes.

4.11 **Policy SD SP3** concerns the gaps between settlements, it sets out that the generally open and undeveloped nature of the gaps between settlements, as identified on the Policies Maps will be protected to prevent coalescence and retain their separate identity. The policy adds that development will only be permitted within the gaps if:

- a. It would not undermine the physical and/or visual separation of settlements;

- b. It would not compromise the integrity of the gap, either individually or cumulatively with other existing or proposed development;
- c. It cannot be located elsewhere; and
- d. It maintains the character of the undeveloped coast;
- e. or, if a subsequent DPD or Neighbourhood Plan deems it appropriate through an allocation.

4.12 **Policy LAN DM1** concerns the protection of landscape character and is clear that 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.

4.13 **Policy SO DM1** concerns soils, it states that unless designated by this Plan or a Neighbourhood Development Plan, the use of Grades 1, 2 and 3a 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. The policy adds that:

'The requirement to protect the best and most versatile land can be outweighed if it is demonstrated through sustainability and options appraisals that:

- a. Preservation of land of lower agricultural quality has greater benefits in terms of ecosystem services (for example carbon storage, flood water retention, support of biodiversity);*
- b. 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; and*
- c. The proposed development meets the requirements of the countryside policy and/or equine development policy.*

Where development is permitted it should, as far as possible, use the lowest grade of land suitable for that development. Development will not be permitted unless:

- d. The applicant has submitted sustainability and options appraisals, mitigation measures, and a soil resources plan for the development site;*
- e. Site appraisal documents submitted by the applicant must demonstrate that consideration has been given to DEFRA's Soil Strategy for England;*
- f. The productivity of the land is demonstrated using a methodology for assessing gross margins as contained in the Arun Soils and Agricultural Land Assessment Report; and*
- g. The applicant has submitted a comprehensive soil resources plan for the development site which demonstrates that care will be taken to preserve the soil resource, such that it can be incorporated into a Productive Green Environment following development.'*

- 4.14 **Policy H SP1** sets out the council's housing requirements with at least 20,000 new homes to be accommodated in the district over the plan period.
- 4.15 **Policy H SP2** relates to the Strategic Site Allocations, and **Policy H SP2a** identifies that to support the sustainable growth of Bognor Regis, growth will take place at SD1 Pagham South and SD2 Pagham North allocations. This policy notes that these allocations will collectively provide at least 1,200 dwellings over the plan period.
- 4.16 **Policy H DM1** sets out the council's housing mix policy where the council will seek a mix of dwelling types and sizes.
- 4.17 **Policy AH SP2** sets out the council's affordable housing policy, it states that for all developments of 11 residential units or more the Council will require a minimum 30% of the total number of units proposed on site to be provided as affordable housing on the same site in the first instance. The policy also includes the council's initial positions on tenure and dwelling mixes.
- 4.18 **Policy D SP1** concerns design and sets out that all development proposals should seek to make efficient use of land but reflect the characteristics of the site and local area in their layout, landscaping, density, mix, scale, massing, character, materials, finish and architectural details. **Policy D DM1** follows by adding the aspects of form and design quality that the council will have regard to when considering applications.
- 4.19 **Policy ECC SP1** concerns adapting to climate change, it states that the Council will support development which is located and appropriately designed to adapt to impacts arising from climate change such as the increased probability of tidal and fluvial flooding; water stress; health impacts as a result of extreme temperatures and a decline in the quality of habitats and richness of biodiversity.
- 4.20 **Policy ECC SP2** concerns energy and climate change mitigation and sets out that all new residential development will be expected to be energy efficient and to demonstrate how they will
- a. Achieve energy efficiency measures that reflect the current standards applicable at the time of submission;*
 - b. Use design and layout to promote energy efficiency; and*
 - c. Incorporate decentralised, renewable and low carbon energy supply systems, for example small scale renewable energy systems such as solar panels.*
- 4.21 The policy adds that all major developments must produce 10% of the total predicted energy requirements from renewable or low carbon energy generation on site, unless it can be demonstrated that this is unviable.

4.22 **Policy OSR DM1** concerns open space, sport and recreation and states that housing development will be required to contribute towards:

- a. Open space provision in accordance with guidance set out in the current Open Space Study In some parts of the District open space provision is identified as being sufficient in terms of quantity. Therefore, provision of new open space is not deemed necessary but what is needed is to seek contributions for quality improvements and/or new offsite provision in order to address any future demand. For larger scale developments, the quantity standards should be used to help determine the requirements for open space provision as part of that development.*
- b. Playing pitch provision in accordance with guidance set out in the Playing Pitch Strategy. This will include improvements to existing provision to increase playing capacity and providing hubs of new pitches.*
- c. Indoor sport and leisure facilities through financial contributions in accordance with guidance set out in the Indoor Sport and Leisure Facilities Strategy which identifies a need for a new leisure centre in the West of the District.*
- d. Strategic projects identified in the Leisure and Cultural Strategy*

4.23 **Policy T SP1** concerns transport and development and sets out that the Council will ensure that development: provides safe access on to the highway network; contributes to highway improvements and promotes sustainable transport, including the use of low emission fuels, public transport improvements and the cycle, pedestrian and bridleway network. The policy adds that the council will support development which:

- a. Is designed to reduce the need to travel by car by identifying opportunities to improve access to public transport services and passenger transport services whilst making provision for safe access to the highway network through improvements to the existing road network and the promotion of vehicles which use low-carbon energy;*
- b. Is incorporated into the District's green infrastructure network and gives priority to pedestrian and cycle movements;*
- c. Protects committed and indicative lines of major road schemes from development and, where applicable, contributes towards new road schemes which improve north-south links between Bognor Regis and Littlehampton and the A27, to ensure that they are delivered in line with strategic growth in the District;*
- d. Incorporates appropriate levels of parking in line with West Sussex County Council guidance on parking provision and the forthcoming Arun Design Guide taking into consideration the impact of development upon on-street parking and;*
- e. Is supported by an effective and deliverable Transport Assessment which demonstrates that the transport effects of development on the local and strategic road network can be satisfactorily mitigated and a Travel Plan, which is effective and deliverable, and;*
- f. Explains how the development has been designed to:*
 - i. accommodate the efficient delivery of goods and supplies;*

- ii. *give priority to pedestrian and cycle movements and have access to high quality public transport facilities;*
- iii. *create safe and secure layouts for traffic, cyclists and pedestrians whilst avoiding street clutter;*
- iv. *incorporate facilities for charging electric and plug-in hybrid vehicles (where charging facilities are to be omitted from the development, evidence of market demand and viability must be provided); and*
- v. *consider the needs of people with disabilities by all modes of transport.*
- vi. *Provides improved crossing points over the railway line to improve transport links between the coast and the A27, in particular at Ford.*

4.24 **Policy TDM1** adds that new development must ensure ease of movement, prioritising safe pedestrian and cycle access to the green infrastructure network and access to public transport and community transport services where a need has been identified. Access to alternative modes of transport including public transport services, the public right of way and cycle networks, must be available and accessible to all members of the community. The policy also states that proposals for new development must:

- a. *Be located within easy access of established public transport service(s), existing pedestrian and cycle networks, the committed and aspirational cycle networks and the green infrastructure network which links the development with key destinations including places of work, education, leisure and town centres;*
- b. *Where applicable, contribute to the extension of public transport services to serve the development and community transport services to ensure that a wide range of transport services are available to all residents;*
- c. *Make provision for cycling and pedestrian facilities to meet the County Council Parking Standards, including cycle storage, convenient and secure cycle parking in association with retail and educational uses and sufficient secure parking and changing/showering facilities at places of work;*
- d. *Contribute towards the provision of a joined up cycle network and Public Rights of Way network, taking into account the aspirational cycle network, which provides convenient, accessible, safe, comfortable and attractive routes for pedestrians and cyclists and; where appropriate, horse riders, both within the development and in the form of links between the development and;*
 - i. *places of work, education, leisure and food retail;*
 - ii. *the South Downs National Park,*
 - iii. *along the coast particularly between Bognor Regis and Littlehampton,*
 - iv. *along the coast to Chichester,*
 - v. *Bognor Regis to Arundel, and*
 - vi. *Littlehampton to Goring.*

4.25 **Policy HER SP1** concerns the historic environment and states that designated heritage assets including listed buildings, structures and their settings; and Conservation Areas will be given the highest level of protection and should be conserved and enhanced in a manner appropriate to their significance.

4.26 **Policy ENV1** concerns the natural environment, it sets out that the council will encourage and promote the preservation, restoration and enhancement of biodiversity and the natural environment through the development process and particularly through policies for the protection of both designated and non-designated sites.

4.27 **Policy ENV DM1** concerns designated sites of biodiversity or geological importance, it sets out that proposed development likely to have an adverse effect on land with the designated features of any Site of Biodiversity or Geological Importance (either individually or in combination with other developments), will not normally be permitted. Consideration will be given to the exact designated features present on the site, their scarcity/rarity and recognition of the protection offered by their existing status. It is also stated within the policy that:

‘Notwithstanding the above however, the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.

b. In determining any planning application affecting Sites of Biodiversity or Geological Importance the Council will ensure that the intrinsic natural features of particular interest are safeguarded or enhanced having regard to;

- i. The European, National or Local status and designation of the site;*
- ii. The nature and quality of the site’s features, including its rarity value;*
- iii. The extent of any adverse impacts on the notified features of interest;*
- iv. The need for compensatory measures in order to re-create remaining features of habitats on or off the site.*

4.28 **Policy ENV DM2** concerns Pagham Harbour, it states the following;

Within Zone B (0-5km) for all new residential development and development which is likely to have an impact on Pagham Harbour will be required to:

- i. Make developer contributions towards the agreed strategic approach to access management at Pagham Harbour.*
- ii. create easily accessible new green spaces for recreation within or adjacent to the development site. These shall be capable of accommodating the predicted increases in demand for local walking, including dog walking. Good pedestrian links shall be provided between housing areas and new and existing green space in order to discourage car use.*

4.29 **Policy ENV DM3** concerns biodiversity opportunity areas and sets out that development shall retain and sympathetically incorporate locally valued and important habitats, including wildlife corridors and steppingstones and be designed in order to minimise disturbance to habitats. The policy also states that:

‘Development proposals that do not reasonably address opportunities for enhancing these through their design, layout and landscaping or access/management shall not be permitted. Where a development scheme would result in a habitat loss, mitigation measures will be proposed as part of the proposed scheme and such measures agreed with the Local Planning Authority prior to the determination of any planning application. Within Biodiversity Opportunity Areas (BOAs) identified on the Policies Maps or where likely to have an impact on species or habitats within the BOAs, any application for planning permission shall include a properly conducted survey of the presence of that species and habitat and impact(s) that development may have on the BOA.’

4.30 **Policy ENV DM4** concerns the protection of trees, it sets out that Proper provision must be made for the protection and management of trees or areas of woodland on-site when undertaking development. A management plan shall be provided as part of a planning application in accordance with BS 5837 (2012) in order to ensure that trees are adequately protected during development and appropriately maintained in the future. The policy adds that where there are existing trees on or adjacent to a development site, developers shall be required to provide:

- d. Land and tree surveys*
- e. A tree constraints plan*
- f. An arboricultural impact assessment to include a tree protection plan and arboricultural method statement*

4.31 **Policy ENV DM5** concerns development and biodiversity, it states that:

‘Development schemes shall, in the first instance, seek to achieve a net gain in biodiversity and protect existing habitats on site. They shall also however incorporate elements of biodiversity including green walls, roofs, bat and bird boxes as well as landscape features minimising adverse impacts on existing habitats (whether designated or not). Development schemes shall also be appropriately designed to facilitate the emergence of new habitats through the creation of links between habitat areas and open spaces. Together, these provide a network of green spaces which serve to reconnect isolated sites and facilitate species movement.

Where there is evidence of a protected species on a proposed development site, planning applications shall include a detailed survey of the subject species, with details of measures

to be incorporated into the development scheme to avoid loss of the species. This involves consideration of any impacts that will affect the species directly or indirectly, whether within the application site or in an area outside of the site, which may be indirectly affected by the proposals. All surveys shall be carried out at an appropriate time of year and shall be undertaken by a qualified and, where appropriate, suitably licensed person.

All developments shall have regard to Natural England's standing advice for protected species.'

4.32 **Policy W DM3** sets out the council's policy on sustainable urban drainage system it sets out that proposals for major development must incorporate SUDS within the private areas of the development in order to provide source control features to the overall SUDS design. As well as integrate SUDS within public open spaces and roads, reflecting discussion with the appropriate bodies. SUDS must therefore be integrated into the overall design of a development and must:

- a. Contribute positively to the appearance of the area, integrating access to allow maintenance of existing watercourses and the system.*
- b. Effectively manage water (including its quality)*
- c. Accommodate and enhance biodiversity by making connections to existing Green Infrastructure assets and*
- d. Provide amenity for local residents (ensuring a safe environment)*
- e. Retain the existing drainage network of the site and the wider area,*
- f. Be maintained in perpetuity, supported through a Maintenance and Management Plan/Regime, including its financing, agreed with the Local Planning Authority.*

4.33 The policy adds that in order to ensure that SUDS discharge water from the development at the same or lesser rate, as prior to construction, developers must:

- f. 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 SUDS manual produced by CIRIA.*
- g. Undertake up to six months groundwater monitoring within the winter period.*
- h. Undertake winter percolation testing in accordance with BRE365.*
- i. The proposed drainage system must be designed to ensure that there is no flooding on a 1 in 30 year storm event.*
- j. The design must also take account of the 1 in 100 year storm event plus 30% allowance for climate change, on stored volumes, to ensure that there is no flooding of properties or the public highway or inundation of the foul sewerage system. Any excess flows must be contained within the site boundary, and within designated storage areas.*

- 4.34 **Policy QE DM3** concerns air pollution and states that all major development proposals will be required to assess the likely impacts of the development on air quality and mitigate any negative impacts by:
- a. Ensuring the development is located within easy reach of established public transport services;*
 - b. Maximising provision for cycling and pedestrian facilities;*
 - c. Encouraging the use of cleaner transport fuels on site, through the inclusion of electric car charging points; and*
 - d. Contributing towards the improvement of the highway network where the development is predicted to result in increased congestion on the highway network.*
- 4.35 **Policy QE DM4** concerns contaminated land and states that prior to any development, the Council will require evidence to show that unacceptable risk from contamination will be successfully addressed through remediation without undue environmental impact during and following the development.

Material Considerations

The National Planning Policy Framework

- 4.36 The National Planning Policy Framework was revised and updated in December 2023 and sets out the government's planning policies for England and how these are expected to be applied.
- 4.37 **Paragraph 7** is clear that the purpose of the planning system is to contribute to the achievement of sustainable development. **Paragraph 8** sets out that the planning system has three overarching interrelated sustainable objectives, which are economic, social and environmental.
- 4.38 **Paragraph 9** adds that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.
- 4.39 As set out in **paragraph 10**, so that sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development.
- 4.40 **Paragraph 11** sets out that for decision-taking this means:
- c) approving development proposals that accord with an up-to-date development plan without delay; or*
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

- 4.41 Footnote 7 is clear that for limb i, this includes: policies within the NPPF (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 187) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 72); and areas at risk of flooding or coastal change.
- 4.42 Footnote 8 is clear that for limb ii, this includes, for applications involving the provision of housing, situations where: (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 77) and does not benefit from the provisions of paragraph 76; or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years.
- 4.43 **Paragraph 38** adds that Local planning authorities should approach decisions on proposed development in a positive and creative way and that decision-makers at every level should seek to approve applications for sustainable development where possible.
- 4.44 **Paragraph 60** sets out that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- 4.45 Within this context **paragraph 63** adds that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies.
- 4.46 **Paragraph 70** adds that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly.
- 4.47 **Paragraph 76** highlights that local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:
- a) their adopted plan is less than five years old; and*
 - b) that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded.*

- 4.48 **Paragraph 77** confirms that in all other circumstances, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 apply. The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old. Where there has been significant under delivery of housing over the previous three years, the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the plan period).
- 4.49 **Paragraph 79** highlights that to maintain the supply of housing, local planning authorities should monitor progress in building out sites which have permission. Where the Housing Delivery Test indicates that delivery has fallen below the local planning authority's housing requirement over the previous three years, the following policy consequences should apply:
- a) where delivery falls below 95% of the requirement over the previous three years, the authority should prepare an action plan to assess the causes of under-delivery and identify actions to increase delivery in future years;*
 - b) where delivery falls below 85% of the requirement over the previous three years, the authority should include a buffer of 20% to their identified supply of specific deliverable sites as set out in paragraph 77.*
 - c) where delivery falls below 75% of the requirement over the previous three years, the presumption in favour of sustainable development applies, as set out in footnote 8, in addition to the requirements for an action plan and 20% buffer.*
- 4.50 **Paragraph 92** states that planning decisions should aim to achieve healthy inclusive and safe places and beautiful buildings which promote social interaction, are safe and accessible and enable and support healthy lifestyles.
- 4.51 **Paragraph 108** states that transport issues should be considered from the earliest stages of plan-making and development proposals.
- 4.52 **Paragraph 114** sets out that when assessing specific applications for development, it should be ensured that:
- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
 - b) safe and suitable access to the site can be achieved for all users;*
 - c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and*

d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

4.53 **Paragraph 115** adds that 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.

4.54 **Paragraph 116** states that within this context, applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;*
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and*
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.*

4.55 **Paragraph 117** states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

4.56 **Paragraph 123** states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

4.57 **Paragraph 128** states that planning decisions should support development that makes efficient use of land, taking into account:

- a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;*
- b) local market conditions and viability;*
- c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;*

- d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and*
- e) the importance of securing well-designed and beautiful, attractive and healthy places.*

4.58 **Chapter 12** concerns achieving well-designed places, with **paragraph 131** being clear that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.

4.59 **Paragraph 135** adds that planning decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

4.60 **Paragraph 173** states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
- b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;*

- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
- d) any residual risk can be safely managed; and*
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.*

4.61 **Paragraph 175** adds that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:

- a) take account of advice from the lead local flood authority;*
- b) have appropriate proposed minimum operational standards;*
- c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*
- d) where possible, provide multifunctional benefits.*

4.62 **Paragraph 180** sets out that planning decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*

4.63 **Paragraph 186** states that when determining planning applications, local planning authorities should apply the following principles:

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*

b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and

d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

4.64 **Paragraph 187** states that Special Protection Areas should be given the same protection as habitat sites. **Paragraph 188** notes that *‘the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site’.*

4.65 **Chapter 16** concerns conserving and enhancing the historic environment, **paragraph 200** requires that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

4.66 When considering potential impacts, **paragraph 205** states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Authority Monitoring Report – Housing Land Supply

- 4.67 The Authority Monitoring report (AMR) is published to provide information about a range of matters such as the number of new dwellings built, commercial development, housing land supply and environmental issues. It is a key document for assessing the delivery of the local plan.
- 4.68 The latest housing land supply position is set out in 2022-2023 AMR. This indicates that the Council can demonstrate a 4.17-year land supply, which includes and includes a Housing Delivery Test buffer of 20%.

Housing Delivery Test

- 4.69 The Housing Delivery Test is an annual measurement of housing delivery in the area of relevant plan-making authorities. It provides an annual measurement of housing delivery in the area. The Housing Delivery Test demonstrates whether the council have been successful at delivering housing for the preceding 3-year period when measured against the housing requirement for that same period.
- 4.70 The table below shows the latest 2022 statistics for Arun District Council and shows by this measure the presumption or “tilted planning balance” set out by NPPF paragraph 11d is applicable.

ONS Code	Area Name	Number of homes required			Total number of homes required	Number of homes delivered			Total number of homes delivered	Housing Delivery Test: 2022 measurement	Housing Delivery Test: 2022 consequence
		2019-20	2020-21	2021-22		2019-20	2020-21	2021-22			
E07000224	Arun	1025	746	1310	3081	515	697	662	1874	61%	Presumption

- 4.71 The AMR highlights that the results of the Housing Delivery Test for 2018, 2019, 2020, 2021 and 2022. (published by the government the following year) are: -
- 91% November 2018
 - 68% November 2019
 - 61% November 2020 (Published 19 Jan 2021)
 - 65% November 2021 (Published 14 Jan 2022)
 - 61% November 2022 (Published 19 December 2023)

Local Plan 2023-2041

- 4.72 The LPA are required to update their Local Plan every five years. In July 2020, Arun District Council adopted a Local Development Scheme which set out this plan making timetable. It anticipated that the Local Plan Review would be adopted at the end of 2023.

- 4.73 In September 2021, a Report to Planning Policy Committee identified that that published timetable was already subject to 12-month slippage, and in November 2021, Members recommended that the plan-making progress be "paused" by six months in order to consider the implications of Government policy and an emerging Planning Bill at the time on housing land supply and plan making.
- 4.74 After the 6 month period (June 2022), the Planning Policy Committee reconsidered "pausing" work on the Local Plan Review and it recommended to Full Council that the it should be resumed due to the change in emphasis away from the planning bill, and towards '*making the best of the current system*'.
- 4.75 At a Full Council meeting on 13th July 2022, Members voted against the recommendation to resume the Local Plan Review.
- 4.76 On 19 July 2023 Full Council agreed to resume the Local Plan Review, as recommended by Planning Policy Committee (6 June 2023).
- 4.77 Arun District Council has prepared a Direction of Travel Document (DoT) which is currently being consulted on as part of a Regulation 18 Issues and Options Consultation until May 2024. This is the earliest stage of plan making and seeks to scope what the Local Plan update should contain through inviting comment on Issues and Options set out within the document.
- 4.78 The Document sets out a number of objectives including, amongst others, '*ensuring people, especially those with an existing connection to Arun, can access quality housing that they can afford which meets their needs flexibly throughout their lifetime*'. At this stage, the Council is proposing a number of policy options to deliver housing.
- 4.79 Given the early stage of the preparation of the Local Plan 2023-2041, very limited weight can be given to the Direction of Travel documents. The Applicant reserves the right to provide further updates as and when further information and evidence is available.

Arun District Council Interim Housing Statement

- 4.80 On the 24 March 2021, the Council approved an Interim Housing Statement. The Interim Housing Statement does not introduce new policy but aims to speed up decision making and invite suitable sized housing and placemaking applications on 'deliverable' sites in the right locations in Arun.
- 4.81 The Statement provides a 'Red, Amber, Green' tick-list tool looking at national and local policies to help applicants to identify and address some of the key matters which once addressed, may speed up the decision-making process.

- 4.82 This statement is referred to where relevant in the assessment chapters of this statement, with the Tick List RAG Rating Tool undertaken and attached in **Appendix 2**.

5. PLANNING CONSIDERATIONS

Principle of Development

- 5.1 The starting point for determining the principle of development in this location is to consider the conformity of the proposed development with the development plan when taken as a whole. The development plan in this case is the Arun Local Plan 2011-2031.
- 5.2 It is recognised that the site is not allocated for new development within the development and is located outside of, but adjacent to, the built-up area boundary (BUAB) as defined by policy SD SP2, as well as the Pagham South allocation SD1. Policy C SP1 sets out the type of development that is acceptable outside of the built-up area boundary, and it is acknowledged that the proposals do not meet any of these criteria. Therefore, in policy terms, the site is located within the countryside where policies seek to restrict development. As a result, the proposals conflict with policies SD SP2 and C SP1.
- 5.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 are clear that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 5.4 Whilst, as per paragraph 12, the NPPF does not affect the primacy of the development plan, Paragraph 2 is clear that it is a material consideration in the determination of the applications. Paragraph 11d) of the NPPF highlights that *'where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:*
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or*
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole'*
- 5.5 Footnote 8 clarifies that policies may be considered out of date in instances where:
- 'For applications involving the provision of housing, situations where:*
- (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 77) and does not benefit from the provisions of paragraph 76; or*
 - (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years.'*
- 5.6 As demonstrated above, the Councils considers its latest housing land supply figure to be 4.17 years, and the delivery of housing has been less than 75% of the required housing for over 3 years. The

adopted Local Plan is also more than 5 years old and therefore does not benefit from the provisions at Paragraph 76. In this instance, it is clear that the policies relating to the supply of housing are not up to date. Whilst the proposals would be contrary to development plan policies SD SP2 and C SP1, these policies are out of date and do not carry full weight in accordance with paragraph 11 d) of the NPPF.

- 5.7 In relation to footnote 7, there are no areas or assets which would prevent the granting of planning permission, as demonstrated further below.
- 5.8 Therefore the '*tilted planning balance*' therefore applies whereby 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 Framework taken as a whole. The following sections will therefore consider key planning considerations against relevant policies before a balancing exercise is undertaken in the following section.

Delivery of Housing

- 5.9 As set out above, the Council has consistently underdelivered against its housing requirement. The current housing land supply position is 4.37 years supply, and the number of dwellings delivered over the last 3 years at 61% of the target is substantially below the housing delivery requirement set out in the NPPF.
- 5.10 Whilst it is noted that the housing policies within the Arun Local Plan are out-of-date as above, it is important to note that the Policy H SP2 and H SP2a expects that the Pagham South and Pagham North allocations will collectively provide at least 1,200 dwellings over the plan period.
- 5.11 The planning history section of Chapter 2 above highlights the status of these allocated sites. Planning applications have been approved on the majority of the sites, but collectively, these do not deliver the minimum 1,200 dwellings envisaged by policy. To summarise the status:
- The Pagham North allocation is made up of 3 sites: Land north of Hook Lane, Land north of Sefter Road and Land to the west of Osborne Refrigeration. Land north of Hook Lane has outline planning permission and the approval of reserved matters for 300 dwellings². Land north of Sefter Road has outline planning permission for 280 dwellings³, but an application for reserved matters has been approved for 250 dwellings⁴. An application has been submitted at land to the west of Osborne Refrigeration for the erection of 44 dwellings which is undecided⁵.

² P/6/17/OUT and P/132/20/RES

³ P/134/16/OUT

⁴ P/49/21/RES

⁵ P/115/23/PL

- The Pagham South allocation is made up of 2 sites: Land South of Summer Lane and West of Pagham Road and Church Barton House. Land South of Summer Lane and West of Pagham Road has outline planning permission for 400 dwellings⁶, but 2 separate reserved matters applications have been approved for 350⁷ and 20⁸ dwellings respectively. Church Barton House has outline planning permission⁹ and reserved matters approval¹⁰ for 65 dwellings.

5.12 In line with the above, approval has been given for 985 dwellings. Adding the potential 44 dwellings at Land to the west of Osborne Refrigeration which is pending consideration results in a total delivery of 1,029 dwellings within the allocated sites. This is significantly below what was envisaged, and certainly not the 'at least 1,200' as set out in policy.

5.13 It is noted that permission has been given for 106 dwellings to the west of Pagham Road; however, even when adding these dwellings would result in total of 1,135 dwellings being delivered in Pagham, which is still below the 'at least 1,200 dwellings' allocated within the adopted Local Plan.

5.14 As part of that appeal at Land west of Pagham Road (APP/C3810/W/22/3302023 – **Appendix 1**) the Inspector commented further on the current housing targets in the Local Plan for Pagham:

'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.'

5.15 Despite the appeal being allowed, there is still a significant shortfall against the Local Plan requirement, both within the Pagham allocations and within the District as a whole. This is confirmed by the inspector in Paragraph 57 above.

5.16 This is also important in the context that the preparation of the emerging Local Plan Review has been stalled. Whilst work on this has recommenced, there is currently no plan in place to deliver the needs of the District and therefore the housing needs of the District will only become more pronounced, unless suitable and sustainable sites are approved for development. This has been

⁶ P/140/16/OUT

⁷ P/153/21/RES

⁸ P/155/21/RES

⁹ P/25/17/OUT

¹⁰ P/139/22/RES

acknowledged by the Council, given the production of the Interim Housing Statement, which was introduced to remedy the shortfall. This is considered further below.

- 5.17 The weight given to the provision of housing has been considered in a number of recent appeals in the District. In the appeal for 76 dwellings at Land south of Littlehampton Road and east of Worthing Road, Angmering (APP/C3810/W/22/3295115 – **Appendix 3**) from July 2022, the Inspector notes in Paragraph 77:

'It is evident by the Council's low 5-year housing land supply that there is a serious and persistent housing crisis locally. The Council has acknowledged that currently the only way to solve the problem locally is to grant permissions on greenfield sites not originally envisaged for housing in the adopted Arun Local Plan, as residential development on the allocated large strategic sites is not coming forward early enough to make a significant contribution to the 5-year housing land supply.'

- 5.18 As part of the appeal at Land west of Pagham Road (APP/C3810/W/22/3302023 – **Appendix 1**) from December 2022, the Inspector notes:

'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.;

- 5.19 Moreover, an Inspector discussed the Councils strategies to rectify the situation, and how these have not been followed through, as part an appeal at Land West of Yapton Lane, Walberton for 48 dwellings (APP/C3810/W/22/3309365 – **Appendix 4**). In the appeal decision, dated April 2023, it states:

'48. The Statement of Common Ground sets out that the Council has 2.4 years supply of housing land. The most up to date assessment is set out in the Draft Annual Monitoring Report published in January 2023. This concludes that the supply level is 2.36 years, equating to a shortfall of over 6,000 homes over the next 5 years. This situation has worsened from the 3.3 years supply identified in 2021. The housing delivery test for the District has also been below 70% since the Local Plan was adopted in 2018. This is evidence of a significant and persistent housing crisis in the District. In these circumstances the presumption in favour of

sustainable development set out at paragraph 11 d) of the Framework must apply. In considering the significance of this situation it is also relevant to review the measures in place to address housing delivery.

49. The Local Plan refers to the intention to ‘immediately’ commence production of a non-strategic site allocations DPD for those parts of the District not covered by, or committed to, the preparation of an up-to-date Neighbourhood Plan. The DPD has not been progressed. I understand that the reviewed Walberton NP was made in 2021, however there is no evidence before me to suggest that the housing numbers included within this Plan were subject to significant examination as part of this process.

50. The Local Plan also sets out that if annual housing delivery is less than the annualised requirement in two consecutive years a partial review would be undertaken. This has not been progressed...

56. Summing up, whilst the Council has sought to identify a ‘roadmap of steps’ to address the housing crisis, at this point in time there is no evidence to suggest that these provisions are generating the step change required to improve housing delivery. The assessment of the appeal site using the approaches identified reflects the difficulty of identifying suitably unconstrained sites based on existing policy measures. Furthermore, there is no prospect of a plan-led solution to this matter being in place in the short or medium term.’

5.20 More recently, at the appeal for 89 dwellings at Land to the rear of Meadow Way, Westergate (APP/C3810/W/23/3323858 – **Appendix 5**) dated December 2023, the Inspector notes the following in terms of housing delivery and potential future improvements:

‘59. The Council’s latest Annual Monitoring Report (January 2023) states there is a housing land supply of 2.36 years. The latest Housing Delivery Test results (2021) show the Council delivered only 65% of its housing requirement in the previous 3 years. Evidently, there are severe and chronic shortages of housing land supply and housing delivery within the district. Recent planning applications and permissions for other housing developments suggest there may be some improvement in these regards in future years. On the evidence presented, I am unconvinced that there has been a significant improvement in housing land supply or housing delivery within the district since the last Annual Monitoring Report and Housing Delivery Test results, or that there will likely be significant improvements in the near-future.

61. I have found that the proposal would be contrary to Policies C SP1 and SO DM1 of the ALP and Policy EH1 of the ANDP. The Council accepts, on account of its housing land supply position, that it will grant planning permission for housing in the countryside adjacent to the Built-Up Area Boundaries contrary to Policy C SP1.

68. The provision of up to 89 dwellings in what the Council has referred to as a sustainable location would have a moderate impact on the Council's 5-year housing land supply position. The Council has suggested it would be appropriate in this case to allocate 'substantial/significant weight to the contribution to the housing shortfall'. In my view, the supply of market and affordable housing within the district is such that I assign substantial weight to the benefits associated with the provision of up to 89 dwellings, 30% of which would be affordable, in this particular location.

69. Paragraph 15 of the Framework states that the planning system should be genuinely plan-led, but I have found that the Council's plan-led approach for the strategic distribution of housing is failing. I have not been provided with convincing evidence that housing land supply or housing delivery will greatly improve in the district in the short or medium terms.'

- 5.21 Accordingly, whilst it is noted that the Local Plan Review is now progressing, in the context of the Council's persistent under delivery of homes, and the lack of progress to date on the Local Plan Review, it is considered that substantial weight should be afforded to the provision up to 110 dwellings in this case. This is considered further in the planning balance section below.
- 5.22 Regarding the provision of affordable housing specifically, the proposals will provide a policy compliant level of 30% affordable housing provision on site, in line with Policy AH SP2, and this will be secured by a Section 106 Agreement.
- 5.23 This provision must also be considered within the context of the council's significant undersupply of affordable dwellings. The appeal decision at Land West of Yapton Lane, Walberton (APP/C3810/W/22/3309365 – **Appendix 3**) from April 2023 highlights that there are over 1,000 households on the housing register. Whilst dated 2016, the latest Housing Needs Evidence Report for the District highlights that there is a net need for 480 affordable dwellings per annum. The Council's Annual Monitoring Report (AMR), however, highlights the delivery of affordable dwellings per annum, as below:

The table below shows Affordable Dwellings Delivered and Total Dwellings delivered:

Year Ended	Affordable dwellings (net)	Total dwellings (net)	% of Total Dwellings
31 March 2012	280	722	39%
31 March 2013	164	475	35%
31 March 2014	30	359	8%
31 March 2015	128	601	21%
31 March 2016	166	890	19%
31 March 2017	102	616	17%
31 March 2018	104	704	15%
31 March 2019	111	603	18%
31 March 2020	65	515	13%
31 March 2021	181	673	27%
31 March 2022	99	653	15%
31 March 2023	263	931	28%

- 5.24 It is clear that there has also been a persistent under delivery of affordable housing against the requirement, and there is currently a clear and pressing need for affordable housing across the District. As such, the provision of 30% affordable housing is a benefit to which substantial should be given. This in line with the conclusions made by the above Inspectors.¹¹

Sustainable Location

- 5.25 Within the context of the application having to be determined under the provisions of paragraph 11d) of the NPPF, it is considered that the site represents a sustainable location for residential development.
- 5.26 The Interim Housing Statement applies to greenfield and brownfield sites outside but adjacent to settlement boundaries and sets out the national and local policy context for inviting applications to come forward on suitable sites that are deliverable in order to re-establish the authority's 5-year housing land supply in an expedited manor. In this context, the statement identifies that development on land not allocated for housing will be necessary in order to reduce the shortfall.
- 5.27 It notes that the intention is for the Council to be able to steer development towards appropriate and sustainable locations by providing a tick list of criteria in a consistent manner against national and local planning policies, with the aim of ensuring that the most appropriate development comes forward in the most suitable locations. It does this through a tick list RAG rating which has been undertaken and is included at **Appendix 2**.
- 5.28 The Housing Statement identifies that the Council will invite applications from 'deliverable' housing sites within the HELAA. In terms of the HELAA, the site forms part of the wider site referenced

¹¹ With the Inspector Land south of Littlehampton Road and east of Worthing Road, Angmering (APP/C3810/W/22/3295115) highlighting at Paragraph 79 that *'although the proposal would provide no more affordable homes than that required by policy, such a provision carries substantial weight, based on the Council's continued failure to deliver sufficient affordable housing.'*

20P1, which in total encompasses nearly 19ha of land and includes significant land to the north-west and north-east. Overall, the site is not deemed to be suitable; however, it states:

'The southern portion of the site is located adjacent to Built Up Area (SD1) but the northern boundary immediately abuts the sewage treatment works. The site has significant flood risk when climate change impacts are accounted for, which need to be overcome and it is also partly within a settlement gap. Development of this site is dependent upon overcoming these constraints and the progress of the neighbouring strategic allocation, plus any intentions related to the neighbouring treatment works.'

5.29 There is clearly the recognition that the southern parcel of the site is adjacent to the built-up area. It refers to flood risk and the sewage treatment works, both of which are not applicable to this site. It acknowledges that *'development of the site is dependent on overcoming these constraints and the progress of the neighbouring strategic allocation'*. Given that these constraints are not applicable, and that the neighbouring strategic allocation is progressing, it is considered that this smaller site should be deemed to be suitable under the HELAA methodology.

5.30 Regarding locational sustainability, the Interim Housing Statement states that:

'Sites should be sustainably related in relationship to existing settlements with access to facilities and services that are generally likely to be required by new residents. Policy SD SP1a strategic approach and policies within chapter 7 settlement structure and green infrastructure, of the ALP2018, set out the strategic approach and settlement structure which will inform consideration of any proposed site'

5.31 Also, within the statement when discussing development proposals outside but physically adjacent to the built-up area boundary it is stated 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.'

5.32 In this respect firstly the site is sustainably related in relation to the existing settlement, located directly adjacent to the built-up area boundary, with committed development to the north-east, east and southern boundaries (see planning history section for full details).

5.33 Secondly the site is within walking distance to a range of services and facilities including, Rose Green infants and junior school, a village hall, GP surgery, churches, a small number of convenience stores, a post office, public house and sports and recreation grounds. This range of facilities is also

set to be increased with the inclusion of the local centre and school permitted under P/140/16/OUT and P/155/21/RES.

- 5.34 The Transport Assessment highlights that 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. There is also an extensive network of public footpaths in the local area as shown on the Definitive Map.
- 5.35 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 route is currently on-road and generally unlit between the Hook Road junction with Pagham Road and the A27(T) with various speed limits. 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.
- 5.36 Based on the above, the Transport Assessment concludes that the site is suitably located to accommodate trips by foot and cycle.
- 5.37 Furthermore, 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, which runs between Chichester and Bognor Regis from early morning into the evening at 30 minute intervals Monday to Saturday, with an hourly service after 18:00 hours on weekdays and 17:30 on Saturdays. It also operates as an hourly service on Sundays. As such, the site is suitably located in terms of public transport.
- 5.38 The site is therefore considered to be a sustainable location for residential development.

Pagham to Selsey Gap Between Settlements

- 5.39 The site is not subject to any designation that would ascribe a particular landscape or visual value to it; however, it is located within the Pagham and Selsey 'gap between settlements' policy area and therefore subject to policy SD SP3.
- 5.40 Policy SD SP3 recognises the generally open and undeveloped nature of the gaps between settlements, and highlights that these will be protected to prevent coalescence and retain their separate identity. In respect of Pagham and Selsey, it is accepted that Pagham and Selsey have separate identities; Selsey is situated to the south-west of Pagham, and the site is approximately 4.6 km from the edge of Selsey (roundabout at Chichester Road and Manor Road). The site sits on the north-west side of Pagham and therefore development would not encroach towards Selsey. Furthermore, the site is physically and functionally separated from Selsey due to the intervening

development at Church Farm and the lack of connections between the two settlements. As such, it is not considered that the development of the site would impact on the separate identity of the settlements.

- 5.41 However, Policy SD SP3 states that development will only be permitted within the gaps if a number of criteria are achieved. Criterion a) highlights that it must not undermine the physical and/or visual separation of settlements. In this regard, reference can be made to the 2006 Arun Landscape Study (produced for Arun District Council by Hankinson Duckett Associates) to assist in the preparation of the adopted Local Plan. This notes at Paragraph 6.4.4.5 that:

‘To the north of Church Lane [in which the site is located] the Coastal Plain and Pagham Rife form separate and distinct character areas which have little or no intervisibility with the Harbour, the adjacent fields in pasture or the holiday park. They do not contribute to the physical or visual separation between the principal settlements or contribute substantially to the setting of Pagham in relation to the Harbour or the gap designation.’

- 5.42 The Landscape Study went on to recommend that *‘since these areas do not contribute to the physical or visual separation between settlements it is proposed to omit land to the north of Church Lane from the Gap.’* This omission was not made and the area north of Church Lane in which the site is located was designated within the gap between settlements in the adopted Local Plan. Nevertheless, it is considered that it cannot reasonably be concluded that the physical and/or visual separation will be compromised in any way, thereby meeting criterion a).

- 5.43 Criterion b) looks to ensure that it would not compromise the integrity of the gap, either individually or cumulatively with other existing or proposed development. In the context of the above, the integrity of the gap will not be compromised. The separation between the settlements will be retained as open fields and the distance between the edge of the settlements will not be reduced. The development of the site will not extend the built form of the village any further westwards given the proposed development to the south at Church Barton House. Given the location of Selsey to the south-west, and the fact that there is intervening existing and proposed development between the site and Selsey, the integrity will not be affected. At the time of writing, the applicant is not aware of any other proposals for development within the gap.

- 5.44 Criterion c) requires the development to not be able to be located elsewhere. It does not, however, identify the evidence required to demonstrate that this is the case.

- 5.45 As set out above, it is considered that the site is located in a sustainable location, particularly in the context where the council cannot demonstrate a five-year housing land supply and an Interim Housing Statement has been introduced to speed up decision making and invite suitable sized housing and placemaking applications on ‘deliverable’ sites in the right locations in Arun. As above,

the site is considered to be a suitable and sustainable location for development, adjacent to the built-up area boundary.

- 5.46 The assessment of this criterion was undertaken by the Inspector when assessing the appeal at Land south of Littlehampton Road and east of Worthing Road, Angmering (APP/C3810/W/22/3295115 – **Appendix 3**). Paragraph 35 states:

‘Criterion c requires the development to not be able to be located elsewhere. It does not identify the evidence required to demonstrate that this is the case. The council has been unable to demonstrate a 5-year HLS and it is significantly below the required level, even allowing for the implementation of its Interim Housing Statement in the last 18 months, which is intended to boost the supply of housing. Given the existing constraints on development in the district due to the SDNP, the amount of high-grade agricultural land, and water neutrality issues, there is nothing before me that demonstrates the proposed development, which would assist in boosting the supply of housing to the required level could be located elsewhere.’

- 5.47 This is also considered as part of the appeal at Land west of Pagham Road (APP/C3810/W/22/3302023 – **Appendix 1**), where the Inspector notes at Paragraph 50 that *‘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.’*

- 5.48 Whilst it is noted that the above development is located in a different gap to the above appeals, the above conclusions are still considered to be applicable to this site.

- 5.49 Criterion d) requires the development to maintain the character of the undeveloped coast. The Inspector for the above appeal notes the guidance within the supporting test and recognises that Paragraph 7.4.4 of the supporting text notes that the policy is not intended to protect the countryside or landscape as such, and it allows for appropriate development that is in keeping with the nature of the gaps. The council’s own landscape assessment as above demonstrates no intervisibility between the site and the harbour or any area of undeveloped coast and therefore it is considered that this criterion is also achieved.

- 5.50 Furthermore, the Landscape and Visual Appraisal concludes that the effects to both the Landscape Character and visual amenity are restricted to very localised receptors and do not impact upon any protected or designated landscape, cultural or ecological assets.

- 5.51 Criterion e) highlights that it would be acceptable *‘if a subsequent DPD or neighbourhood plan deems it appropriate through allocation’*, though these scenarios do not apply to the proposed site.

- 5.52 For the reasons given above, it is concluded that the proposals would accord with Local Plan Policy SD SP3.

Landscape Impact

- 5.53 The application is accompanied by a Landscape and Visual Impact Assessment (LVIA) which assesses the landscape and visual impacts of the proposal.
- 5.54 The assessment of the effects and subsequent landscape sensitivity has concluded that the Site, as an extension to the allocated site to the east, has capacity to accept residential development that is reflective in scale and density to the adjacent settlement proposals. It notes that clear and well-defined transitional buffer will be key in extending the western settlement boundary, reflecting the proposed boundaries to the proposed developments to the south and east.
- 5.55 In terms of the landscape proposals, the Site will retain all key vegetation features including the poplars to the north and south which are key in providing scale and setting to the proposed development. These boundaries will be enhanced to strengthen connectivity, biodiversity and longevity as well as filtering views. The existing ditch to the west will be realigned and form part of a new transitional setting to the western approach of the site and the residential development of Pagham. The corridor will be further enhanced with native tree and scrub planting and species rich/wetland grassland. The eastern boundary will form part of the Horns Lane character, reflecting a high quality green lane through the Site and adjacent development. Tree planting and crenelated rooflines within the Site will further break up potential massing.
- 5.56 The effects of the proposed development have been considered in combination with the adjacent developments to the east and south.
- 5.57 In terms of landscape character, the changes from rural to settlement are primarily limited to approaches from the west, FP100 Summer Lane and Furze field Barn. Experiences from other approaches and receptors will be significantly altered by the proposed development materially changing the rural outlook and experiences. From these receptors the proposed development will become an extension and not perceived as a standalone change to the character.
- 5.58 In terms of visual amenity, with the exception of the views from the north and approaches from the west (FP100/Summer Lane, Furze field Barn, FP108, southwest edge of Millfarm Park Homes) the site is predominantly screened by the development to the south-east. Horns Lane will run adjacent to the strategic site affording open views west. These will become screened by the Site. There are limited views from FP101 and Church Lane to the south (including Grey Barn).

- 5.59 The proposed new landscape buffer along both the western boundary of the site and wider allocation will filter views towards the development, softening the built edge. The site will not notably increase the adverse changes that will occur and will be assimilated into the new strategic boundary.
- 5.60 Within views from the north, the proposals will form a new urban element; however this will replace the views towards the proposed development of the Church Barton Farm scheme. Similarly views from the housing north of Summer Lane are experienced in context with the development directly south.
- 5.61 The LVA concludes that the effects to both the Landscape Character and visual amenity are restricted to very localised receptors and do not impact upon any protected or designated landscape, cultural or ecological assets. As such, the proposals accord with Policy LAN DM1 which requires proposals to respect landscape character, as well as Paragraph 135 and 180 of NPPF.

Biodiversity

- 5.62 The application is accompanied by an Ecological Assessment which includes specific surveys for bats, Badgers, reptiles, and Great Crested Newts. Detailed survey work was undertaken by Ecology Solutions.
- 5.63 In relation to habitats, the Ecological Assessment highlights that the site is of limited intrinsic ecological value, largely comprising arable land. Those features of greater value in the context of the site are the ditches and tree lines, although these are not considered to be of high ecological value. Whilst noting some losses to ditches, and trees for access purposes, such features are to be retained and enhanced wherever possible. Significant enhancements would be realised through the creation of extensive areas of species rich grassland, new wetland features and new tree/shrub/hedgerow planting, using native species wherever possible. These measures, in tandem with appropriate future management, will result in a significant net gain for biodiversity at the site. The BNG Metric which has been submitted with the application shows a net gain of nearly 40% for both habitat and hedgerow units, and almost 80% in terms of watercourse units. This is well in excess of the mandatory 10%.
- 5.64 A suite of protected species surveys and assessments are currently being undertaken. The site offers areas of habitat which support foraging and nesting opportunities for birds. Boundary features (trees in particular) offer foraging and navigational resources for bats although activity is considered to be largely limited to relatively common species.
- 5.65 The presence of Barbastelle bats has been recorded during the survey effort. However, this species has appeared in very low numbers relative to common species recorded. Regardless, the site is not considered to be of high intrinsic value to bats. The incorporation of green corridors and the retention

of existing tree lines will facilitate the species' ability to commute through the landscape. The inclusion of bat boxes will also further enhance the sites' potential to support roosting bats.

- 5.66 Appropriate mitigation and enhancement measures have been proposed in order to avoid any adverse impacts on any protected species and moreover, deliver enhancements over the current situation.
- 5.67 In terms of the impact of the development on Pagham Harbour Special Protection Area (SPA), a Shadow 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. Policy ENV DM2 highlights that all new residential development and development which is likely to have an impact on Pagham Harbour will be required to meet certain criteria. The proposed development will meet these requirements in the following way:
- i. Contributions (of £871 per dwelling) will be made towards the agreed strategic approach to access management at Pagham Harbour.
 - ii. The proposed development creates easily accessible new green spaces for recreation within the development site. These are capable of accommodating the predicted increases in demand for local walking, including dog walking. Good pedestrian links have also been provided between the proposed development, neighbouring developments and nearby PRow and public open space in order to discourage car use.
- 5.68 As such, the proposed development complies with policy ENV DM2. It is noted that Paragraph 188 highlights that *'the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site'*. As above, the proposed development will not adversely affect the integrity of the SPA and therefore the presumption in favour of sustainable development applies.
- 5.69 In conclusion, on the evidence of the ecological surveys undertaken, with the use of appropriate safeguards and the recommendations set out in this report, the proposed development protect and enhance biodiversity, providing a significant net gain, in line with policies ENV DM3, ENV DM5, and paragraph 186 of the NPPF. The proposed development also accords with policy ENV DM2 in respect of Pagham Harbour.

Best and Most Versatile Agricultural Land

- 5.70 This application is accompanied by an Agricultural Land Classification and Soil Resources Report prepared by Reading Agricultural Consultants, which identifies the majority of the site falling within subgrade 3a (66%), with a proportion of the site falling within Grade 2 agricultural land (34%). The site therefore comprises best and most versatile (BMV) agricultural land.
- 5.71 Policy SO DM1 states that *'the use of Grades 1, 2 and 3a 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.'*
- 5.72 The requirement to protect the best and most versatile land can be outweighed if it is demonstrated through sustainability and options appraisals that meet a number of criteria, as set out in full in the previous section. It then goes on to state that where development is permitted it should, as far as possible, use the lowest grade of land suitable for that development. It also requires the submission of a soil resources plan.
- 5.73 As part of the appeal at Land south of Littlehampton Road and east of Worthing Road, Angmering (APP/C3810/W/22/3295115 – **Appendix 3**), Land West of Yapton Lane, Walberton (APP/C3810/W/22/3309365 – **Appendix 4**) Land to the rear of Meadow Way, Westergate (APP/C3810/W/23/3323858 – **Appendix 5**), the Inspectors note that this policy is more restrictive than Paragraph 174(b) (now 180(b)) of the Framework, which requires the economic and other benefits of BMV agricultural land to be recognised.
- 5.74 In terms of the impact of the proposed development, it is noted that there would be a loss of BMV land. However, it is clear from the Natural England Map which shows that the majority of land around Pagham and the settlements in the District is either Grade 1 or 2 agricultural land. Indeed, the Local Plan at Paragraph 11.1.4 highlights that *'most of the undeveloped coastal plain within the District is high grade agricultural land and falls within the Agricultural Land Classification Grades 1, 2 and 3a'*. 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 in line with the Council's Interim Housing Strategy. In this context, there are unlikely to be many 'better and more sustainable' options in line with the policy requirement.
- 5.75 The site is a small parcel of agricultural land. Land immediately south and east of the site is soon to be developed for residential development and it is bound to the north by Summer Lane; as a result, the application site will form a small parcel of agricultural land separated from the wider land generally used for farming. In this sense, the loss of the site would not prejudice farming on the

wider holding. In this regard the ALC report highlights that the agricultural land quality at the site is limited by soil wetness to Subgrade 3a or occasionally Grade 2. The north of the site is limited equally by droughtiness.

- 5.76 Irrespective of this, the loss of BMV land must be considered in the context of the Council's housing land supply. This issue has been considered in many appeals and more recently by the Council in considering another residential scheme elsewhere in the District. The appeal site at Land West of Tye Lane, Walberton (APP/C3810/W/21/3278130 – **Appendix 6**), which was being considered for 115 dwellings, fell within Grade 3a Agricultural Land. As part of the appeal, the Inspector noted that there is much better agricultural land elsewhere in the District, with Paragraph 9 highlighting that *'in this context and given the acute housing land supply position in the district, the Council and appellant agree that the need for housing outweighs the need to protect against the agricultural land at the appeal site.'* It goes on to note that *'this is subject to the imposition of a condition securing a Soil Resource Strategy and Sustainability Options Appraisal.'* As a result of this, the Council withdrew its reason for refusal on this matter prior to the opening of the hearing, and the Inspector recognised that there *'would be no conflict with Policy SO DM1 of the Local Plan or Paragraph 174(b) of the NPPF.'* However, it is noted at Paragraph 65 that *'although not resulting in a policy conflict, the loss of agricultural land would be an adverse impact of the proposal'.*
- 5.77 This same approach has been taken by the Council as part of the consideration of an outline application at Land West of Lidsey Road (A29), Lidsey for 155 dwellings (application reference AL/70/23/OUT), which was considered by the Planning Committee on 18th October 2023. Within the Officer's Report to committee, it states *'although this site is (or has until very recently been) used for crops, the council's housing land supply 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. On balance, the housing land supply need does serve to outweigh the loss of agricultural land.'*
- 5.78 It goes on to state that *'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 and other benefits and mitigation measures. The applicant has not responded to these criteria and has not provided a Soil Resource Plan (although this can be secured by a condition). Whilst the need for the whole development is accepted, there is conflict with the remaining parts of the policy.'*
- 5.79 The above confirms that criteria (d) to (g) can be secured by an appropriately worded planning condition.
- 5.80 As part of the appeal at Land west of Pagham Road (APP/C3810/W/22/3302023 – **Appendix 1**), the Inspector notes the following in terms of loss of BMV land:

'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.'

- 5.81 At the appeal at Land to the rear of Meadow Way, Westergate (APP/C3810/W/23/3323858 – **Appendix 5**), the Inspector states the following at Paragraph 20:

'It is common ground that the development would result in the loss of BMVAL, contrary to Policy SO DM1 of the ALP. However, it is accepted by the Council that BMVAL may well have to be used to provide housing within the district because of its housing land supply position and the large extent of the district which comprises BMVAL. Given that Policy SO DM1 is more restrictive than the Framework, and the high likelihood that BMVAL will have to be used to provide housing within the district, it is appropriate to assign only moderate weight to the conflict with Policy SO DM1 in this particular case.'

- 5.82 To conclude, whilst 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 with the NPPF, the housing land supply position and the acceptance that some of the criteria can be secured via condition. However, in line with the above appeal decisions, it is noted that there would be an adverse impact that would need to be factored in the planning balance.

Highways and Access

- 5.83 This application is accompanied by a Transport Assessment which assesses the impact of the proposed development on the highway network, as well as a Travel Plan which includes a series of measures to encourage the use of sustainable transport modes.
- 5.84 This highlights that the development will provide attractive sustainable infrastructure from the outset, including a pedestrian and cycle corridor to make walking and cycling convenient to travel within the application site and connect with the surrounding area. Many services and facilities are located within easy walking and cycling distance of the proposed dwellings enabling people to live, work and use educational facilities within the same community.
- 5.85 The main access to the site is through the Pagham South development to the south-east, connecting to Pagham Road. There is also a pedestrian/cycle access to Summer Lane.

- 5.86 The Transport Assessment concludes the following:
- The site is located close to a wide range of services of facilities;
 - The site is sustainably located in terms of trips by foot, cycle and public transport;
 - There are no underlying patterns in road traffic accidents;
 - The proposed access arrangements are appropriate;
 - A financial contribution is expected to mitigate the impact of the development on the Pagham Road/Lower Bognor Road junction based on agreements made as part of the decision on the Pagham South development proposal.
 - All other local junctions will either operate within capacity, or not be materially impacted by the proposals.
- 5.87 As such, it is considered that the proposals are acceptable in transport terms, consistent with Policy T SP1 and Policy T DM1 of the Local Plan as well as Paragraphs 114-116 of the NPPF.

Flood Risk and Drainage

- 5.88 The application is accompanied by a Flood Risk Assessment (FRA) and Drainage Strategy.
- 5.89 The FRA highlights that based on current information provided by the EA, the site is at low probability of flooding (Flood Zone 1) from fluvial sources and the sea. A localised area to the eastern side of the site along Horns Lane is shown to be susceptible to extreme rainfall ponding, which is likely to be directly attributable to localised topographical depressions on the site causing natural 'ponding' of surface water.
- 5.90 Detailed research into this suggests that flood encroachment to the site is extremely minor and provision can be readily included within the development proposals to overcome any flood risk throughout the lifetime of the proposed development.
- 5.91 Flood risk to the site from other potential sources such as surface water, sewers and infrastructure are also all considered low, with no significant flood risks identified.
- 5.92 Surface water generated from the proposed development will be managed in a sustainable manner and at source. The Drainage Strategy identifies that due to the presence of London Clay Formation (Bedrock), the site is unsuitable for infiltration. Therefore, the surface water will be discharged to the nearest watercourse (ditch) via attenuation ponds.
- 5.93 The volume and the rate of existing run-off will be reduced to greenfield rate for each storm event in accordance with local policy guidance. The scheme proposes a significant increase in impermeable area; however, this will be offset by ancillary SuDS benefits. Amenity and biodiversity

benefits are to be provided through the proposed SuDS systems which utilises water butts, swales and an attenuation basin.

- 5.94 As a result of the proposed SUDs drainage, there will be a reduction in flood risk associated with offsite flow, by providing a reduction in peak discharge rates and avoiding an increase in total runoff volume.
- 5.95 The proposed development will present an overall increase in foul water volume and peak flow to the public sewer. The foul water generated from the development is proposed to discharge into the existing Southern Water manhole. This is subject to network capacity and a S106 agreement with Southern Water.
- 5.96 The assessment work highlights that the immediate and residual flood risks over the lifetime of the development are readily manageable and the redevelopment proposals are deemed acceptable in terms of flood risk throughout their lifetime, without increasing flood risk elsewhere. As such, the proposed development is acceptable in terms of flood risk, in line with Policy W DM3 and the NPPF.

Heritage and Archaeology

- 5.97 The application is accompanied by a Heritage Impact Assessment, as well as an Archaeological Desk Based Assessment (DBA).
- 5.98 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.
- 5.99 The Heritage Impact Assessment highlights that that the proposals would have no impact on the character, setting or significance of any adjacent heritage assets, due to distance and/or intervening development, and therefore neither Section 66 of the 1990 Planning Act nor paragraphs 207 to 209 of the NPPF would be engaged. Furthermore, the proposed development would accord with policy HER SP1.
- 5.100 The archaeological DBA has identified the site has low potential for possible archaeological activity and finds from the Neolithic, Iron Age, Anglo-Saxon, medieval and post-medieval periods and low-moderate and moderate archaeological potential from the Bronze Age, prehistoric and Romano-British periods. It is considered that the potential impact of development on low and low-moderate archaeological potential will be low based on currently available data.
- 5.101 It recommends that site investigation should be undertaken post-determination, which can be secured by planning condition.

- 5.102 The above assessments demonstrate that the development accords with Policy HER SP1 of the Local Plan and NPPF.

Other Impacts

- 5.103 The application is accompanied by a Noise Impact Assessment, Air Quality Assessment and Odour Assessment. These assessments conclude that the development is acceptable in line with planning policies, and new and existing residential receptors will not be adversely affected by the proposed development.

Economic Impacts

- 5.104 There are two different strands to the economic impacts of the proposals: during construction and post construction. The House Builders Federation Calculator Tool identifies some of the key benefits building new homes can generate for the national and regional economy as well as for a local community's wellbeing and sustainability. It estimates that the provision of 110 dwellings in this Local Authority Area would have the following construction phase economic benefits:
- Support the employment of 341 people including 3 apprentices, graduates, or trainees.
- 5.105 In addition to the above, it estimates the following post construction phase economic benefits:
- Generate £1,325,830 in tax revenue, including £124,240 in council tax revenue.
 - The development would contribute to the viability and vitality of local services and facilities and is estimated to increase spending in local shops by £2,897,312

6. BALANCING EXERCISE / SUMMARY OF BENEFITS AND IMPACTS

- 6.1 As has been set out above, the provisions of paragraph 11(d) of the NPPF apply as the most important policies for determining this application are out of date¹². This sets out that planning permission should be granted unless the provisions of Limb 1 of Limb 2 apply.
- 6.2 Limb 1 of paragraph 11(d) advises that planning permission should not be granted where the policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 sets out an exhaustive list of policies that would apply. Whilst it is noted that this includes 'habitat sites', the above demonstrates that the proposed development will not adversely affect the integrity of Pagham Harbour SPA, and therefore the presumption in favour of sustainable development applies in line with Paragraph 188. It is clear that no other such policies are in play and Limb 1 is consequently not engaged.
- 6.3 Limb 2 is therefore the mechanism by which this application should be determined. It requires that planning permission is granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. This is commonly known as the 'tilted balance'.
- 6.4 This section of the statement therefore weighs the identified impacts and benefits in the titled planning balance.

Conflict with the Development Plan due to location outside Built-up Area Boundary (BUAB)

- 6.5 As above, it is acknowledged that the proposals would conflict with policies SD SP2 and C SP1 of the adopted Local Plan. However, given the significant undersupply of housing in the district, these policies are out-of-date. It is accepted that policies which are considered out-of-date due to a shortfall in housing land supply can still carry weight in the planning balance, and that the weight to be attributed to those policies is a matter for the decision-maker, as set out in *Suffolk Coastal District Council v Hopkins Homes Ltd. [2017] UKSC 37*.
- 6.6 The weight to be given to these policies is reduced due to the Council's housing land supply position. There is also no evidence that a five-year land supply will be restored at any point in the near future, given the prevailing trends and the stalling of the Local Plan Review. As set out in the judgment *Hallam Land Management Ltd v Secretary of State for Communities and Local Government & Anor*

¹² Footnote 8 clarifies that policies may be considered out of date in instances where: '(a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 77) and does not benefit from the provisions of paragraph 76; or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years'. As per the council's supply figure of 4.17 years, and failing of the Housing Delivery Test, it is clear that the policies relating to the supply of housing are not up to date.

[2018] EWCA Civ 1808, the extent of the shortfall and the length of time this is likely to persist will be material to the weight afforded to the provision of housing and to the weight afforded to any conflict with relevant policies.

6.7 The weight to be given to the conflict with the spatial strategy has been considered by Inspectors in recent appeals within Arun District.

6.8 In the appeal at Land West of Tye Lane, Walberton (APP/C3810/W/21/3278130 – **Appendix 6**), the Inspector notes at Paragraph 63:

‘As an adverse impact, the proposal would be at odds with the spatial strategy for housing set out in the NP and LP. However, a rigorous application of this policy would undermine attempts to remedy the housing deficit. 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. As a result, the conflict with the spatial strategy carries only limited weight in this instance when based on the evidence before me’

6.9 In the appeal for 76 dwellings a Land south of Littlehampton Road and east of Worthing Road, Angmering (APP/C3810/W/22/3295115 – **Appendix 3**), the Inspector notes at Paragraph 83:

‘ALP Policy C SP1 is one of the most important policies for determining the appeal. The conflict results in the proposals failing to accord with the development plan as a whole. However, as ALP Policy C SP1 acts as a constraint to residential development and there is a demonstrable shortfall in HLS, I have only attached moderate weight to the conflict with this policy.’

6.10 In determining the appeals at Rustington Golf Centre, Golfers Lane, Angmering, for 191 and 167 dwellings respectively (APP/C3810/W/22/32982, APP/C3810/W/22/3301932), the Inspector notes at Paragraph 53 that *‘the identified conflict with Policy C SP1 carries limited weight because that policy is out-of-date on the basis of a 5 year housing land supply.’*

6.11 As part of the appeal at Land west of Pagham Road (APP/C3810/W/22/3302023– **Appendix 1**), the Inspector highlights at Paragraph 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.’

- 6.12 At the appeal for Land West of Yapton Lane, Walberton (APP/C3810/W/22/3309365 – **Appendix 4**), the Inspector notes that *'the weight to be attached to the conflict with Local Plan Policy C SP1 and NP Policy HP1 relating to development in the countryside must be considered in relation to the lack of five-year housing land supply. The rigid application of policies seeking to restrict the spatial distribution of development to within the BUABs has certainly contributed to the current supply position. There is some consistency between the provisions of these Policies and the Framework paragraph 174b) in terms of recognising the intrinsic character and beauty of the countryside. Nonetheless in the circumstances of this case, noting the uncertainty around how the Council intends to address the housing shortfall, I attach no more than moderate weight to the conflict with these policies.'*
- 6.13 Land to the rear of Meadow Way, Westergate (APP/C3810/W/23/3323858 – **Appendix 5**), the Inspector notes at Paragraph 17 that *'the location of the proposed development would not accord with the spatial strategy for housing within the district, which indicates that it would be unsuitable for housing. However, it is directly adjacent to the Built-Up Area Boundary and other housing development, in a location described as sustainable by the Council on account of its proximity to local services and transport links. The appeal site is the type of location where the Council accepts that housing development will be permitted due to there being a demonstrable shortfall of housing land supply.'* For these reasons, the Inspector assigns only moderate weight to the conflict with Policy C SP1.
- 6.14 The Inspectors within the above cases attribute limited/moderate weight to the conflict with the spatial strategy. On the basis of the above, it is considered that **no more than moderate weight** can be given to the conflict of the proposed development with the development plan in respect of being outside the BUAB.

Provision of Market Housing

- 6.15 Providing a significant boost in the delivery of housing is a key priority of the Government's National Planning Policy Framework as outlined in paragraph 60.
- 6.16 It has been demonstrated above that the council have a significant undersupply against their 5-year housing land supply. The Councils position is that the supply is currently at 4.17 years. Furthermore, the housing delivery test shows that in the 3-year period to 2022, the total number of homes delivered has only been 1874 against a requirement of 3081, this equates to 61%.
- 6.17 The Council have therefore published their Interim Housing Statement which aims to speed up decision making and invite suitable sized housing and placemaking applications on 'deliverable' sites in the right locations in Arun. It is recognised that development on land not allocated for housing in

the local plan will be necessary to restore the council's five-year housing land supply position. The assessment against the HIS's RAG checklist shows the site is a suitable and sustainable location for development.

- 6.18 It is therefore considered that the provision of market housing in this instance where there is a recognised serious and persistent housing crisis locally should be attributed **substantial weight** in the planning balance. The weight given to this is consistent with the view taken as part of the appeal at Littlehampton Road and east of Worthing Road, Angmering (APP/C3810/W/22/3295115 – **Appendix 3**) at Paragraph 78, and Rustington Golf Centre, Golfers Lane, Angmering, for 191 and 167 dwellings respectively (APP/C3810/W/22/32982, APP/C3810/W/22/3301932 – **Appendix 7**) at Paragraph 52, Land West of Yapton Lane, Walberton (APP/C3810/W/22/3309365 – **Appendix 4**) at Paragraph 70, and Land to the rear of Meadow Way, Westergate (APP/C3810/W/23/3323858 – **Appendix 5**) at Paragraph 68.

Provision of Affordable Housing

- 6.19 It has also been found that the proposal would make a significant contribution to meeting the acute affordable needs in the area. As set out above, the proposals would deliver a policy compliant level of affordable housing, the detail of which to be subject to reserved matters.
- 6.20 As set out further above, is clear that there has also been a persistent under delivery of affordable housing, and there is currently a clear and pressing need for affordable housing across the District. As such, the provision of a policy compliant level of affordable housing is a significant benefit of the proposed development. Delivering sufficient amounts of affordable housing is a key component in supporting the government's objective of significantly boosting the supply of homes.
- 6.21 The provision of a policy compliant level of affordable housing would make a significant contribution to meeting the acute affordable needs in the area and should therefore attract **substantial weight** in the planning balance. This is in line with the conclusions of the Inspectors as part of the appeals at Littlehampton Road and east of Worthing Road, Angmering (APP/C3810/W/22/3295115 – **Appendix 3**) at Paragraph 79, Rustington Golf Centre, Golfers Lane, Angmering (APP/C3810/W/22/32982, APP/C3810/W/22/3301932 – **Appendix 7**) at Paragraph 52, Land West of Yapton Lane, Walberton (APP/C3810/W/22/3309365 – **Appendix 4**) at Paragraph 70, and Land to the rear of Meadow Way, Westergate (APP/C3810/W/23/3323858 – **Appendix 5**) at Paragraph 68.

Economic Benefits

- 6.22 The economic impacts of the proposals are split between during construction and post construction benefits. The above section estimates that the proposals would support the employment of 372

people during construction and generate £1,446,360 in tax revenue and increase spending in local shops by £3,160,704 post construction.

- 6.23 As part of the appeal at Littlehampton Road and east of Worthing Road, Angmering (APP/C3810/W/22/3295115 – **Appendix 3**), the Inspector notes at Paragraph 80 that *‘the construction phase would have an input to the local economy associated with expenditure on services and supplies needed by the contractors. At the operational phase, increased level of household spending in the local area would be expected from the introduction of new residents. I have given these benefits significant weight..’*
- 6.24 The above economic conclusions were also found in the appeal at Land west of Pagham Road (APP/C3810/W/22/3302023 – **Appendix 1**) where the Inspector notes at paragraph 58 that *‘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.’*
- 6.25 At the appeal for Land West of Yapton Lane, Walberton (APP/C3810/W/22/3309365 – **Appendix 4**), it notes at Paragraph 73 that *‘the economic benefits of the proposal would include the creation of jobs and other spin off benefits to the local economy during the construction period. There would also be ongoing additional expenditure in the local economy from new residents. It is agreed that any benefits from the dentist/doctors surgery would fall into this category. Whilst such benefits are in the main common to developments of this nature, I nonetheless both construction stage and ongoing economic benefits moderate weight.’*
- 6.26 The above shows that the above Inspectors have considered moderate or significant weight should be given to these benefits. In line with Paragraph 85 of the NPPF, significant weight should be placed on the need to support economic growth. As such, in line with the conclusions of the Inspector in the Angmering appeal above, it is considered that **significant** weight should be given to this benefit. At the very least, moderate weight should be given to this benefit.

Sustainable Location

- 6.27 The site is considered a sustainable location for residential development given its location adjoining Pagham’s built up area boundary and within walking and cycling distance to nearby services and facilities.

- 6.28 As demonstrated above the council's Interim Housing Statement identifies that development on land not designated for housing will be necessary. In this respect it also states 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.'

- 6.29 The site is located adjacent to the built-up area boundary, with committed development to the south, east and northeast.
- 6.30 For these reasons the site is considered a sustainable location for residential development which should attract **moderate** weight in the tilted planning balance.

Impact on the Gap Between Settlements

- 6.31 Policy SD SP3 states that development will only be permitted within the gaps if a number of criteria are achieved. The above assessment demonstrates that the proposals would not undermine the physical and or visual separation of the settlements nor compromise the integrity of the gap, either individually or cumulatively with other existing or proposed development. It is concluded that the proposals accord with ALP Policy SD SP3 and therefore the impact of the development within the gap between settlements is identified as Neutral.

Best and Most Versatile Agricultural Land

- 6.32 Whilst it is noted that the proposed development doesn't strictly meet the policy requirements of Policy SO DM1, it has been recognised that the policy is inconsistent with the NPPF, reducing the weight to be given to it. Furthermore, the Councils housing land supply shortfall is significant and agricultural land will need to be built on to meet the shortfall, which has been agreed by the Council as part of recent decisions and appeals in the area.
- 6.33 Overall, whilst 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. Nevertheless, the loss of BMV land has been given **moderate** weight, in line with Paragraph 84 of the appeal decision at Land south of Littlehampton Road and east of Worthing Road, Angmering (APP/C3810/W/22/3295115 – **Appendix 3**), Paragraph 77 of the appeal at Land West of Yapton Lane, Walberton (APP/C3810/W/22/3309365 – **Appendix 4**), and Paragraph 65 of Land to the rear of Meadow Way, Westergate (APP/C3810/W/23/3323858 – **Appendix 5**).

Provision of Public Open Space

- 6.34 The proposed development provides significant areas of Green Infrastructure and public open space, bringing a host of opportunities for social interaction. The open space would help to promote health and well-being within the wider community, in accordance with paragraphs 96 and 102 of the NPPF. It would provide an excess of 9,940m² against the Local Plan requirement. It is considered that **moderate** weight should be given to this benefit, in line with Paragraph 84 of the recent decision at Land south of Littlehampton Road and east of Worthing Road, Angmering (APP/C3810/W/22/3295115 – **Appendix 3**), Paragraph 60 of Land west of Pagham Road (APP/C3810/W/22/3302023 – **Appendix 1**) and Paragraph 77 of the appeal at Land West of Yapton Lane, Walberton (APP/C3810/W/22/3309365 – **Appendix 4**).

Landscape Impacts

- 6.35 The LVIA concludes that the site has Low Landscape Sensitivity and therefore capable of accepting development within a well-designed landscape framework. The LVIA concludes that the effects to both the Landscape Character and visual amenity are restricted to very localised receptors and do not impact upon any protected or designated landscape, cultural or ecological assets. The potential impact is therefore low level and localised and considered to have **limited** weight in the context of the planning balance.

Biodiversity Impacts

- 6.36 The Ecological Assessment highlights that the site is of limited intrinsic ecological value, largely comprising arable land. Those features of greater value in the context of the site are the ditches and tree lines, although these are not considered to be of high ecological value. Whilst noting some losses to ditches, and trees for access purposes, such features are to be retained and enhanced wherever possible. Significant enhancements would be realised through the creation of extensive areas of species rich grassland, new wetland features and new tree/shrub/hedgerow planting, using native species wherever possible. These measures, in tandem with appropriate future management will result in a significant net gain for biodiversity at the site. The Biodiversity Impact Assessment calculations tool identifies that a net gain well in excess of 10% is achieved for the proposed development, with habitat units and hedgerow units achieving a net gain of almost 40% and watercourse units achieving a net gain of almost 80%.
- 6.37 It is noted that the Inspector at south of Littlehampton Road and east of Worthing Road, Angmering (APP/C3810/W/22/3295115 – **Appendix 3**) gave the biodiversity gains in that case moderate weight. However, this was in the context that the biodiversity net gains were not quantified by any recognised metric. Moderate weight was also given to biodiversity net at Paragraph 60 of the appeal at Land west of Pagham Road (APP/C3810/W/22/3302023 – **Appendix 1**) and Paragraph 74 of the

appeal at Land West of Yapton Lane, Walberton (APP/C3810/W/22/3309365 – **Appendix 4**). The BNG in this case is significant, and well in excess of the requirements of policy and current legislation. In this context, it is considered that **significant** weight should be given to the net gain.

Highways and Access Impacts

6.38 The Transport Assessment concludes that the proposed development is acceptable in transport terms and compliant with the relevant policy. Any mitigation proposed is as required by policy, and therefore there will be a neutral impact.

Flood Risk and Drainage

6.39 The Flood Risk Assessment and Drainage Statement highlights that as a result of the proposed SUDs drainage, there will be a reduction in flood risk associated with offsite flow, by providing a reduction in peak discharge rates and avoiding an increase in total runoff volume. The assessment work highlights that the immediate and residual flood risks over the lifetime of the development are readily manageable and the redevelopment proposals are deemed acceptable in terms of flood risk throughout their lifetime, without increasing flood risk elsewhere. As such, the proposed development is acceptable in line with policy.

6.40 It is considered that the reduction in flood risk associated with offsite flow is a benefit of the scheme which is given **limited** weight in the planning balance.

Heritage and Archaeology

6.41 The Heritage Statement highlights that that the proposals would have no impact on the character, setting or significance of any adjacent heritage assets. As such, this affords neutral weight in the planning balance.

Other Issues

6.42 The Noise, Air Quality and Odour Assessments highlight that that the proposals are acceptable against relevant policies. These afford neutral weight in the planning balance.

Summary of Impacts

6.43 The benefits and adverse impacts identified above are summarised in the table below:

Contributing Factor	Weight
Conflict with Local Plan Policies in respect of location outside of a BUAB	Moderate (Adverse)
Provision of Market Housing (contributing to the 5YHLS shortfall)	Substantial (Benefit)

Provision of Affordable Housing (in context of recognised acute need)	Substantial (Benefit)
Economic Benefits	Significant (Benefit)
Sustainable Location	Moderate (Benefit)
Gap between settlement	Neutral Impact
Loss of BMV Agricultural Land	Moderate (Adverse)
Open Space Provision (delivery to be confirmed at reserved matters stage)	Moderate (Benefit)
Landscape Impact	Limited (Adverse)
Biodiversity Net Gain	Significant (Benefit)
Highways and Access Impacts	Neutral Impact
Flood Risk and Drainage Impacts	Limited (benefit)
Heritage and Archaeology	Neutral Impact
Noise	Neutral Impact
Air Quality	Neutral Impact
Odour	Neutral Impact

Concluding Comments in Respect of the Balancing Exercise

- 6.44 The overall package of benefits in this case are very significant indeed compared to the adverse impacts which are confined to the conflict with the Development Plan relating to the site's location outside the BUAB, the loss of a small amount of best and most versatile agricultural land, as well as limited localised landscape impact. As a result, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposals. On the contrary, the benefits in this case significantly outweigh the adverse impacts. Therefore, in accordance with NPPF paragraph 11 d), the planning balance demonstrates that the application should be approved.

7. CONCLUSIONS

7.1 This Planning Statement has been prepared by Ridge and Partners LLP on behalf of Northgate Properties Ltd in support of the outline planning application for residential development at Land South of Summer Lane, Pagham.

7.2 The application seeks:

‘Residential development of up to 110 dwellings including means of access into the site (not internal roads), with all other matters (relating to appearance, landscaping, scale and layout) reserved.’

7.3 It is identified within this statement that the provisions of paragraph 11(d) of the NPPF apply as the most important policies for determining this application are out of date. This sets out that planning permission should be granted unless the provisions of Limb 1 of Limb 2 apply.

7.4 Limb 1 of paragraph 11(d) advises that planning permission should not be granted where the policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 sets out an exhaustive list of policies. It is clear that where there are policies of relevance, the relevant policy test has been met and Limb 1 is consequently not engaged.

7.5 Limb 2 is therefore the mechanism by which this application should be determined. It requires that planning permission is granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. This is commonly known as the ‘tilted balance’.

7.6 The benefits and impacts identified within this statement can be summarised as follows:

Contributing Factor	Weight
Conflict with Local Plan Policies in respect of location outside of a BUAB	Moderate (Adverse)
Provision of Market Housing (contributing to the 5YHLS shortfall)	Substantial (Benefit)
Provision of Affordable Housing (in context of recognised acute need)	Substantial (Benefit)
Economic Benefits	Significant (Benefit)
Sustainable Location	Moderate (Benefit)
Gap between settlement	Neutral Impact
Loss of BMV Agricultural Land	Moderate (Adverse)
Open Space Provision (delivery to be confirmed at reserved matters stage)	Moderate (Benefit)
Landscape Impact	Limited (Adverse)
Biodiversity Net Gain	Significant (Benefit)
Highways and Access Impacts	Neutral Impact
Flood Risk and Drainage Impacts	Limited (benefit)

Heritage and Archaeology	Neutral Impact
Noise	Neutral Impact
Air Quality	Neutral Impact
Odour	Neutral Impact

- 7.7 The overall package of benefits in this case are very significant indeed compared to the adverse impacts which are confined to the conflict with the Development Plan relating to the site's location outside the BUAB, the loss of a small amount of best and most versatile agricultural land, and limited localised landscape impact. As a result, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposals. On the contrary the benefits in this case significantly outweigh the adverse impacts. Therefore, in accordance with NPPF paragraph 11 d), the planning balance demonstrates that the application should be approved.

Appendix 1:

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: 14 December 2022

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 2:

Interim Housing Statement RAG Rating

National Planning Policy Framework 2019 Considerations	Yes	No		<p>Green ✓ Encouraged and likely to be determined positively.</p> <p>Amber ✓ Encouraged where sustainable, assessed against the Development Plan, National policy requirements and any material planning considerations and may potentially be determined positively.</p> <p>Red X Not encouraged, likely to conflict with the Development Plan and/or national policies as a whole, and therefore, likely to be refused</p>
			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 application site does not fall within any landscape, environmental or heritage designations. It is within the 5km buffer zone around Pagham Harbour SPA. Policy ENV DM2 requires developer contributions to be made towards the agreed strategic approach to access management at Pagham Harbour, as well as ensure that accessible new green spaces for recreation are provided within the development site, to reduce recreational pressure on the SPA. The application submission demonstrates that development of the site would not adversely affect the integrity of the habitat site. As such, none of the exceptions at footnote 7 of the 2023 NPPF (footnote 6 of the 2019 NPPF) apply in this case and Paragraph 11 b i) is not 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 and is therefore not dependent on the adjacent housing development, although that site has benefit of planning permission and reserved matters approval, and discharge of conditions are currently being

			determined. There is no reason why the sites cannot be delivered concurrently.
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)]	<p>The site is located adjacent to the built-up area boundary, with committed development to the north- east, east and southern 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.</p> <p>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.</p> <p>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, which runs between Chichester and Bognor Regis from early morning into the evening at 30 minute intervals Monday to Saturday, with an hourly service after 18:00 hours on weekdays and 17:30 on Saturdays. The site is therefore considered to be a sustainable location for residential development.</p>
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)	The proposed development will take account of the ambition of national policy to maximise densities, whilst still respecting the character of the area. The density proposed is consistent with the adjacent approved development and reflects the character of the area. Appropriate parking levels are proposed in line with ADC's parking standards.

			Optimal densities appropriate to accessibility? Paragraph 123 a) and b)	
Achieving well designed places ?			High quality buildings and places? paragraph 124 Design policies; SPD; Neighbourhood plan design policies? 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 demonstrate that 110 dwellings can be achieved on site at a mix, density and scale that satisfies the requirements of the Arun District Design Guide.
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 existing 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.	<p>The site is situated in flood risk 1, although a localised area to the eastern side of the site along Horns Lane is shown to be susceptible to extreme rainfall ponding, likely to be directly attributable to localised topographical depressions on the site causing natural ‘ponding’ of surface water. More detailed research suggests that flood encroachment to the site is extremely minor and provision can be readily included within the development proposals to overcome any flood risk throughout the lifetime of the proposed development.</p> <p>Flood risk to the site from other potential sources such as surface water, sewers and infrastructure are also all considered low, with no significant flood risks identified. Surface water generated from the proposed development will be managed in a sustainable manner and at source. The Drainage Strategy identifies that due to the presence of London Clay Formation (Bedrock), the site is unsuitable for infiltration. Therefore, the surface water will be discharged to the nearest watercourse (ditch) via</p>

			attenuation ponds. As a result of the proposed SUDs drainage, there will be a reduction in flood risk associated with offsite flow, by providing a reduction in peak discharge rates and avoiding an increase in total runoff volume.
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 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)	An ecological assessment has been undertaken which confirms that the site is of limited intrinsic ecological value, largely comprising arable land. Those features of greater value in the context of the site are the ditches and tree lines, although these are not considered to be of high ecological value. Whilst noting some losses to ditches, and trees for access purposes, such features are to be retained and enhanced wherever possible. Significant enhancements would be realised through the creation of extensive areas of species rich grassland, new wetland features and new tree/shrub/hedgerow planting, using native species wherever possible. These measures, in tandem with appropriate future management will result in a significant 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.
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 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 allocations ¹⁶ and local evidence.	The site is outside, but immediately adjacent to the Built-up Area 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.
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	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. This site is immediately adjacent to the BUAB. with committed development to the north- east, east and southern boundaries. 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.

			sustainable travel modes; green infrastructure; public transport; joined up walking and cycling routes/facilities and community 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 located within the Pagham and Selsey 'gap between settlements' policy area and subject to policy SD SP3. However, as demonstrated by the Planning Statement, development of the site would accord with Local Plan Policy SD SP3.
Within settlement gap but small or modest site size and location would not significantly compromise the gap or purposes of the gap?			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 considered where a location also has good connectivity and access to local services though walking and cycling	In respect of Pagham and Selsey, it is accepted that Pagham and Selsey have separate identities. Selsey is situated to the south-west of Pagham, and the site is approximately 4.6 km from the edge of Selsey (roundabout at Chichester Road and Manor Road). The site sits on the north-west side of Pagham and therefore development would not encroach towards Selsey. Furthermore, the site

		<p>distances and public transport, may be considered sustainable subject all other relevant policies and considerations.</p>	<p>is physically and functionally separated from Selsey due to the intervening development at Church Farm and the lack of connections between the two settlements. As such, it is not considered that the development of the site would impact on the separate identity of the settlements.</p> <p>In this regard, reference can be made to the 2006 Arun Landscape Study (produced for Arun District Council by Hankinson Duckett Associates). This notes at Paragraph 6.4.4.5 that:</p> <p><i>'To the north of Church Lane [in which the site is located] the Coastal Plain and Pagham Rife form separate and distinct character areas which have little or no intervisibility with the Harbour, the adjacent fields in pasture or the holiday park. They do not contribute to the physical or visual separation between the principal settlements or contribute substantially to the setting of Pagham in relation to the Harbour or the gap designation.'</i></p> <p>The Landscape Study went on to recommend that <i>'since these areas do not contribute to the physical or visual separation between settlements it is proposed to omit land to the north of Church Lane from the Gap.'</i> This omission was not made and the area north of Church Lane in which the site is located was designated within the gap between settlements in the adopted development plan. Nevertheless, it is considered that it cannot reasonably be concluded that the physical and/or visual separation will be compromised in any way.</p> <p>The separation between the settlements will be retained as open fields and the distance between the edge of the settlements will not be reduced. The development of the site will not extend the built form of the village any further westwards given the proposed development to the south at Church Barton House. Given the location of Selsey to the south-west, and the fact that there is intervening existing and proposed development between the site and Selsey, the integrity of the gap will not be affected.</p>
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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'.	<p>The of the site falls within subgrade 3a (66%), with a proportion of the site falling within Grade 2 agricultural land (34%). The site is a small parcel of agricultural land. Land immediately south and east of the site is soon to be developed for residential development and it is bound to the north by Summer Lane; as a result, the application site will form a small parcel of agricultural land separated from the wider land generally used for farming. In this sense, the loss of the site would not prejudice farming on the wider holding. In this regard the ALC report highlights that the agricultural land quality at the site is limited by soil wetness to Subgrade 3a or occasionally Grade 2. The north of the site is limited equally by droughtiness.</p> <p>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 acceptance by the Council that some of the criteria can be secured via condition.</p>
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 Polices 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. The nearest designation is Barton Close, Pagham. There are no views between Barton Close and the site.
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 Shadow 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 Policies Map	Surveys have been conducted on the site and the mitigation and enhancement measures proposed for the site will result in a significant 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,	Mitigation and enhancement measures for the site will result in a significant net gain for biodiversity at the site. Indeed, the Biodiversity Impact Assessment calculations

			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.	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 payment of £871 per new dwelling to contribute 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 '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	The site is not within any mineral safeguarding area.

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 provision 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 (in Neighbourhood Plans).			As above.	The site not part of any Local Green Space designation.
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	Built development is located wholly within Flood Zone 1. As a result of SUDs drainage, there will be a reduction in flood risk associated with offsite flow, by providing a reduction in peak discharge rates and avoiding an increase in total runoff volume. The assessment work highlights that the immediate and residual flood risks over the lifetime of the development are readily manageable and the redevelopment proposals are deemed acceptable in terms of flood risk throughout their lifetime, without increasing flood risk elsewhere.
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	The drainage strategy has taken account of +40% climate change allowance.

			or require significant infrastructure to overcome?	
Climate change and 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 Lydney 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 Statement of Common Ground			Set out infrastructure requirements and delivery strategy whether on or off site. Agree delivery timescales including a housing trajectory with statutory providers and evidence in signed Statements of Common Ground. Evidence of engagement with the Local community and Parish Council	The housing proposed can be delivered within a 5 year period. The neighbouring development is progressing and reserved matters and conditions have been submitted and/or approved. Irrespective of the speed of delivery of the neighbouring site, the Applicant has control over the delivery of the access road.
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	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.

			Take particular care to ensure that habitat and species surveys are completed within the appropriate seasons.	
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Appendix 3:

Appeal Decision – Land South of Littlehampton Road and East of Worthing Road, Angmering



Appeal Decision

Inquiry opened on 4 July 2022 and closed on 7 July 2022

Site visits made on 3, 6 and 7 July 2022

by Martin Whitehead LLB BSc(Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 26 July 2022

Appeal Ref: APP/C3810/W/22/3295115

Land south of Littlehampton Road and east of Worthing Road, Angmering, West Sussex, BN12 6PN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Redrow Homes Limited against the decision of Arun District Council.
 - The application Ref A/168/21/PL, dated 28 July 2021, was refused by notice dated 16 November 2021.
 - The development proposed is erection of 76 No dwellings, means of access, public open space, play areas, associated infrastructure & landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 76 No dwellings, means of access, public open space, play areas, associated infrastructure & landscaping on land south of Littlehampton Road and east of Worthing Road, Angmering, West Sussex, BN12 6PN in accordance with the terms of the application Ref A/168/21/PL, dated 28 July 2021, subject to the conditions in the attached schedule.

Preliminary and Procedural Matters

2. Following the application, the appellant has produced plans showing minor amendments to the appeal proposal relating to the proposed access and landscape buffers. At the Inquiry, the Council confirmed that it has accepted that appropriate consultation has been carried out and it is satisfied that the proposal can be considered based on the amended plans. Applying the Wheatcroft Principles, I consider that acceptance of the proposed amendments would not unfairly prejudice the position of any interested parties. As such, I have determined the appeal based on the amended plans and details.
3. The Inquiry opened on 4 July and closed on 7 July, sitting for 4 days. I carried out site visits, including on Highdown Hill in the South Downs National Park (SDNP) on 3 July, the level crossing in East Preston at about 1730 hours on 6 July, and to view recent development in the area on 3 and 7 July. At my site visit on 7 July, I was accompanied by representatives from the Council and appellant. The other site visits I carried out unaccompanied.

Main Issues

4. The Council has confirmed that reasons for refusal 4, regarding surface water drainage details, and 7, regarding highway safety concerns at the access, have

been overcome by the submission of further information following the refusal of planning permission. Based on this, I am satisfied these reasons for refusal have been addressed and that drainage and highway safety matters are no longer main issues. Accordingly, the main issues are whether the proposal would be an acceptable development in the countryside, having regard to its effect on the character and appearance of the surrounding area, its effect on the East Preston to Ferring Settlement Gap, its effect on the setting of the SDNP and its design; and its effect on the provision of agricultural land in the District.

Reasons

5. The appeal site is part of an open arable field which, at the time of my site visit, had wheat growing in it. It is bounded to the north by mature conifer trees and a hedgerow along the A259 Littlehampton Road, the east by the remainder of the field, the south by the West Coastway Railway Line and the west by residential development in East Preston. The site is currently accessed from a single access track off the roundabout junction of Old Worthing Road with the A259 Littlehampton Road at its north-western corner, which also serves commercial units to the east.
6. **The Council's current assessment of 5-year housing land supply (HLS)** is set out in its Annual Monitoring Report (AMR), dated January 2022, and has a base date of 1 April 2021. This represents the most up-to-date assessment undertaken by the Council. Accordingly, I have taken the five-year period for HLS for this appeal as being 1 April 2021 to 31 March 2026. The January 2022 AMR concludes that the Council has a total requirement of 11,028 homes within the 5-year period, but a total supply of 5,339 homes. Accordingly, it can only demonstrate a 2.42-year HLS. This is an agreed position for this appeal.
7. The Development Plan for the area of the site includes Arun Local Plan 2011-2031 (ALP) and Angmering Neighbourhood Plan 2014-2029 (ANP). ALP Policy C SP1 is one of the policies which is most important for determining the appeal. It defines land that is outside the Built-Up Area Boundaries (BUABs) identified in ALP Policy SD SP2 as being shown on the Policies Maps as countryside. It is consistent with the approach in the National Planning Policy Framework (Framework) in that it recognises and seeks to protect the intrinsic character and beauty of the countryside.

Whether acceptable development

8. The appeal site lies outside the BUAB shown on the ALP Policies Maps and outside an area within which development should be focused as described in Policy HD1 of the ANP. The site is defined as being located in the countryside under the provisions of ALP Policy C SP1, where development will only be permitted for a defined list of countryside uses to prevent encroachment into open countryside. The proposal does not accord with any of these exceptions.
9. **The Council's Housing and Economic Land Availability Assessment (HELAA)** Summary Table for the appeal site, published in January 2022, indicates that it is not currently developable as a residential site. The constraints that it gives are the Strategic Gap and ground water flood risk. It does suggest that there might be scope for a more sensitive configuration in terms of design and layout of any proposed development. It also states that the site is available and

achievable, but the constraints would need to be fully addressed to make it suitable for delivery.

10. The site is about 2 km from the centre of Angmering and 1.5 km from the centre of East Preston, but it does have access to cycleways and footpaths and bus services from an adjacent bus stop on the westbound side of the A259 and another on the opposite side of the dual carriageway. At my site visits, I observed that an ASDA food store to the east is within walking distance and there is a public house and a local parade of shops/restaurants nearby. Based on this, I agree with the Council that the site is in a sustainable location.
11. The appellant has suggested that it has relied upon pre-application advice from Council officers in 2020 and 2021 that indicate that the proposal would be acceptable in principle and considered the proposal could result in a limited, acceptable impact to character and appearance. Whilst I accept that any views or opinions expressed were given without prejudice to the consideration by the Council of any formal planning application, the very detailed and supportive response **given by the Council's officers** carries some weight as a material consideration in my determination of this appeal.
12. The Council has acknowledged that the local housing shortfall will only be rectified if approval is given for sites not originally envisaged for residential development in the ALP, the review of which has only just been agreed to be **restarted at the Council's Planning Committee, held on 7 June 2022**. This has necessitated building on greenfield sites, as recognised **in the Council's** Interim Housing Statement, which was introduced to attempt to remedy the shortfall.
13. For the reasons given above, I find that the appeal site is acceptable in principle for residential development. However, the proposal would fail to accord with ALP Policy C SP1 and ANP Policy HD1, as it would be located in the countryside, outside the defined BUAB, where new development is strictly controlled, and it would not be one of the listed exceptions to this strict control.

Character and Appearance

14. The appeal site and its local setting are within National Character Area 126 South Coast Plain (NCA 126). In the published West Sussex County Landscape Assessment, it is identified within the 'Littlehampton and Worthing Fringe Area SC11' Local Landscape Character Area (LLCA). I consider that the key characteristics and general description of this LLCA are representative of the wider valley setting of the coastal plain and the local setting of the appeal site. Key landscape and visual sensitivities are given as urban development pressures especially in the gaps between settlements; closing of open views between settlements; new field divisions; and loss of tree and hedgerow cover.
15. The Council has referred to the Arun Landscape Study, which is a Landscape Character Assessment that was carried out on its behalf. The site falls within LCA 42 (Angmering coastal plain), which extends from the railway line to the north of the A259 and to the west between East Preston and Angmering. It concludes that LCA 42 has a low/medium capacity for development.
16. The appellant considers that the appeal proposal would inevitably change the character of the site because of developing in a greenfield location but that the character of the open countryside beyond the site would remain unchanged. The proposal would result in the removal of about 30m of the established green

corridor along the northern boundary of the site to facilitate a new access slip road and acceleration lane. The appellant has accepted that this would include the loss of 7 trees and part of the hedgerow. However, the revised proposal would no longer require the removal of any trees at the roundabout access, and it would minimise the loss of hedgerows.

17. The Council has not undertaken a landscape assessment to quantify the landscape harm. The **appellant's** Landscape and Visual Impact Assessment (LVIA) indicates that, with the incorporation of appropriate mitigation measures and a positive design response, the site would visually blend into the surrounding residential landscape. I accept that the key characteristics that define the local landscape character beyond the site would remain physically unaffected.
18. I agree with the Council and the findings of the LVIA that the appeal site has a medium value and a medium susceptibility, resulting in an overall medium **sensitivity to change, taking account of the site's** location adjacent to the settlement edge of East Preston, and between the A259 and a railway. The LVIA concludes that the development would result in a major adverse effect on the landscape character but that this change to the character of the landscape would be very localised and limited to the site and its immediate environment.
19. I accept that there would be significant harm to the landscape as a result of the permanent loss of the open rural character of the site. However, in terms of tree loss, the landscape masterplan shows that the revised proposal would **deliver a 'net gain' of additional native and ornamental hedges** and trees within the landscape areas, landscape corridors and areas of public open space. It would include new hedgerow planting along the southern boundary of the site to try to soften the appearance of the proposed 3.2m high acoustic fence; and a 10m wide planting belt of small trees below taller canopy trees outside the eastern boundary. As such, many of the landscape elements that contribute to defining the character of the site, including the trees, shrubbery and hedgerows, would be strengthened in the medium and longer term under the revised proposal.
20. Taking account of the above, I find that the magnitude of change to the landscape character of the site and the immediate surrounding area would be medium, **as suggested by the appellant's expert witness at the Inquiry**. This is because there would be benefits to some landscape elements, including additional hedgerows and trees, increased public access to open space and the addition of two natural surface water attenuation areas. Against these benefits would be the significant adverse effect of the loss of arable land and the minor adverse effect on the topography of the site. The result of combining medium sensitivity and magnitude of change is a moderate adverse effect on landscape character. Whilst I acknowledge that by year 15 the built development would integrate better into the landscape due to increased level of vegetation, I do not accept that it would be to such an extent as to reduce its impact to minor.
21. At my site visits I observed the site and surrounding area from viewpoints identified in the LVIA's at publicly accessible locations, including the public highway, public rights of way (PRoWs), and public access land. The main views of the site are from the A259 from passing road users, and from the PRoWs which lie about 150m to the east of the site and about 400m to the south of the site. The requirement for the new access and visibility splays would open

- up views from the north due to the removal of trees over about a 30m frontage along the A259.
22. In most of the views the proposed development would be visually well contained due to the existing and proposed tree cover and existing residential areas to the west. The visual effect would be limited to mainly the local area and the edge of East Preston. Whilst there are single storey properties in Saxon Close, which are screened behind vegetation with only the roofs visible, there are also 2 storey properties to the north that abut the site and these are more prominent, having limited planting on their eastern and southern boundaries.
23. I observed that views of the site from the PRoW heading south from the SDNP towards the A259 are limited due to tree and hedgerow planting on either side of the A259. Views from the verge and footway on the opposite side of the A259 to the site include houses within East Preston on the south side of the A259 near to the roundabout and views into the site along the existing access from the roundabout. There are also views into the site through gaps in the tree and hedgerow that line the south side of the A259. Whilst the views of the arable crop would be replaced by buildings, which would be clearly visible along the entrances to the site from the A259, new additional planting and the distance that the buildings would be set back from the road would help to reduce their impact in these views.
24. Further to the east along the A259, views from the entrance to Roundstone Business Park and along the PRoW heading south include buildings on the eastern edge of East Preston and on the north side of the A259 at Ferring, as well as the ASDA superstore on the edge of Ferring to the east. Whilst the extent of the arable field that would remain between the PRoW and the built-up edge of East Preston would be reduced under the proposal, a noticeable area would remain and the proposed dwellings along the new boundary would be screened behind the proposed 10m wide planted buffer.
25. Views from where the PRoW crosses the railway to the east of the site include hedgerow planting and the commercial buildings at the Roundstone Business Park. Whilst the proposed buildings would be visible in these views, they would be set behind these more prominent features and against a backdrop of much higher tree planting along the A259. Further to the southeast the topography prevents views of the site as the land falls towards the Rife on the edge of Ferring.
26. To the southeast of the site, there are views of both the edge of Ferring and East Preston from the PRoW. However, the appeal proposal would not significantly alter the perceived separation distance, as it would be seen in the distance as a band of built development on the horizon with existing development at East Preston behind and to the west.
27. The full extent of the proposed development would probably be most noticeable in views from the PRoW directly south of the appeal site. In these views it would appear as an extension to the existing 2 storey development to the northwest at the edge of East Preston. Whilst it would be closer to the PRoW than the existing development, it would be separated from views by a large arable field, and the railway and planting that would be provided to the north of the railway. The main inter-visibility between Ferring and East Preston that is available from the viewpoints is from where the PRoW joins the edge of East

Preston to the southwest of the appeal site. I did not observe any inter visibility between these settlements from the appeal site itself.

28. Having viewed the appeal site from most of the relevant viewpoints included in the LVIA, I have been made aware that the site appears open and is visible from some of the publicly accessible areas around it. However, I am satisfied that, with the mitigation from planting along the boundaries and within the site itself, the development would be low enough and generally set far enough away from these public vantage points to not appear unduly prominent or intrusive, when viewed against the existing development in East Preston.

Settlement Gap

29. The site is within an area designated as a Gap Between Settlements in ALP Policy SD SP3, being located in the East Preston to Ferring Gap. When travelling along the A259, there is a distinct sense of leaving East Preston at the northwest corner of the appeal site and the roundabout. This is where it is apparent that there is a break in the development with views through the trees that line the A259 and in open views at the access track to Roundstone Business Park. The proposal would introduce built form into part of this open gap, with access roads, car parking, street lighting and general activity. There would also be a loss of trees and hedgerow at the access to the development, which would open up views into the site, particularly to users of the A259.
30. ALP Policy SD SP3 generally seeks to protect the open and undeveloped nature of the gaps to prevent coalescence and retain the separate identities. I accept that the settlements of East Preston and Ferring currently have separate identities, with East Preston comprising a series of modern residential neighbourhoods and the north-eastern part a mix of residential properties which include detached and semi-detached between one and two storeys in height. **Ferring's western boundary is defined by the Rife**, which has vegetation along it, and the settlement includes mobile homes as well as larger residential blocks and the prominent ASDA superstore. I am satisfied that these separate identities would be retained by the proposal, which would clearly relate to East Preston rather than Ferring.
31. The Policy does permit development in the gaps if it meets listed criteria. With regard to criterion a, the physical separation of East Preston and Ferring would be reduced by about 200m, leaving about 500m between the east boundary of the site and the nearest built-up edge of Ferring. The current boundary of East Preston steps to the east and ends at the roundabout on the A259 to the north of the site. The appeal proposal would increase the extent of the step along the south side of the A259 but would leave a significant physical separation distance between the settlements.
32. Having viewed the site from most of the accessible public areas around it, I am satisfied that the proposed development would appear as a natural extension to the existing residential area of East Preston. Even though the proposed layout would include a relatively wide area of planting and open space between the new dwellings and existing dwellings in East Preston, I find that there would be a visual connection between the existing residential area and the site.
33. From most locations, the proposed development would be seen in the context of the existing urban edge of East Preston and appear as part of the settlement. There does not appear to me to be any inter visibility between the

two settlements from the appeal site and the proposal would not affect this. It would be visible from public vantage points to the south as an extension to the built-up area of East Preston, but a significant area of open fields and the commercial buildings at Roundstone would separate the two settlements in these views. Based on this, I am satisfied that the proposal would not undermine the physical or visual separation of the settlements.

34. In terms of criterion b, I find that the integrity of the gap would not be compromised, as a noticeable separation between the eastern boundary of the site and the commercial buildings at Roundstone would be retained as open field and the open space between these existing buildings and the ASDA superstore at Ferring would not be reduced. I have not been made aware of any other proposals for development in this gap.
35. Criterion c requires the development to not be able to be located elsewhere. It does not identify the evidence required to demonstrate that this is the case. However, the Council has been unable to demonstrate a 5-year HLS and it is significantly below the required level, even allowing for the implementation of its Interim Housing Statement in the last 18 months, which is intended to boost the supply of housing. Given the existing constraints on development in the District due to the SDNP, the amount of high grade agricultural land, and water neutrality issues, there is nothing before me that demonstrates the proposed development, which would assist in boosting the supply of housing to the required level could be located elsewhere.
36. Criterion d requires the development to maintain the character of the undeveloped coast. The purpose of the Policy is explained in accompanying paragraphs 7.4.1 to 7.4.7. These purposes include protecting areas of undeveloped coastline. However, paragraph 7.4.4 emphasises that the Policy is not intended to protect the countryside or landscape as such and it allows for appropriate, small scale development that is in keeping with the rural nature of the gaps. In this respect, I have found that, overall, the proposal would result in moderate harm to the landscape character but that this would be mainly contained within the site and would not have a significant effect on the character of the areas of undeveloped coast that surround the site.
37. For the reasons given above, I conclude that the proposal would generally accord with ALP Policy SD SP3.

The setting of the South Downs National Park.

38. The site lies within the wider setting of the SDNP, with its boundary being located about 1 km north of the appeal site at an elevated level. Paragraph 176 of the Framework gives great weight to conserving and enhancing landscape and scenic beauty in National Parks. It indicates that new development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on these designated areas.
39. At my site visit, I observed that the site is visible from the SDNP along the higher parts of the ridge up to Highdown Hill to the northeast. There are panoramic views southward over the coastal plain landscape from the summit of Highdown Hill. This landscape includes arable fields and settlements and isolated groups of buildings. Most of the proposed development would be screened behind tree cover north of the site. There would be a distant view of part of the development at its eastern end, where the access would be

provided, but this would be in the context of existing settlements and buildings, and I am satisfied that it would cause no significant harm to the setting of the designation.

40. With regard to views from the coastal plain to the SDNP, I observed that views to the south of the site would not include any views of the SDNP behind the appeal site, as the higher ground along the ridge and on Highdown Hill is to the east. As such, the proposal would not be seen in the same views as the SDNP and would therefore have no significant harmful effect on its setting. It would accord with ALP Policy LAN DM1, as it would have special regard to the conservation of the setting of SDNP, including views into and out of the Park; and ANP Policy EH2.

Design

41. National policy provided in Chapter 12 of the Framework recognises the need for high quality design. In this respect, the Council has referred to the Arun District Design Guide (ADDG) Supplementary Planning Document which includes much of the guidance in the National Design Guide. ALP Policy D DM1 requires compliance with the ADDG. I have therefore given it significant weight as a guide that needs to be followed but it offers a degree of flexibility, and its recommendations carry less weight than policies in the ALP.
42. The Council has **not contested the appellant's calculated overall** density of development of 23.6 dwellings per hectare (dph) for the proposed 76 houses. The proposed density and layout would make an efficient use of land and would reflect the local area in density. It would be graduated away from the higher density of the adjacent housing at Loxwood, which lies within the northeast part of East Preston, to a lower density to the east, adjacent to the open countryside, by different forms of housing with more terraced and semi-detached housing to the west.
43. Whilst the proposed design would generally not be outwardly facing, as recommended in the ADDG, the views of the rear gardens along the eastern boundary of the site would be screened by the proposed 10m planted buffer outside the redline boundary of the site. I accept that the planting would take a significant time to mature and, in the meantime, would allow partial views of the proposed houses and gardens, but it would be sufficient to ensure that an acceptable transition would be provided between built development and the adjacent open countryside, particularly as the housing density along that boundary would be slightly lower than to the west of the site.
44. The development layout would be set out in rows, but these would be mainly in relatively short lengths, broken up by the road layout and areas of public open space. The development near to the southern boundary would consist of a longer stretch of linear development. It would follow the railway line but would be separated from it by a 3.2m high acoustic fence, the rear gardens that would include tree planting, and hedgerow planting, as well as the existing vegetation along the railway. As such, it would not present a prominent feature and would be appropriate at that location. This band of planting along the railway would act as a boundary between the built-development and the countryside to the south. I have been provided with nothing to demonstrate that an outward facing development onto that railway would provide a more acceptable transition.

45. The Council has referred to recent new development located in the village of Angmering where dwellings face out to Roundstone Lane on the western boundary, face east on the eastern boundary and on the north side face north towards the rugby club. I observed that the transition on the eastern side is provided by setting back properties from the A280 at the edge of village location. However, the appeal site has different characteristics from this other development site, with the railway line providing a clear boundary to the south and the A259 providing a boundary to the north. It is also related to East Preston which has a different character from Angmering village. In this respect, the Design and Access Statement (DAS) has identified how the design and layout would relate to that in East Preston. Furthermore, most of the proposed dwellings to the north of the site would face outward towards the A259, being set back behind a wide area of planting and play space.
46. The Council has not objected to the materials and use of arts and craft design for the proposed 2 storey houses, as described in the DAS. This draws upon the red or orange stock bricks and yellow brick, with a mix of red and grey roof tile that occurs locally in the house designs. There would be some variation in height and style of the two storey, predominantly hipped roof and detached buildings that would reflect the traditional vernacular of some of the post war dwellings within East Preston. I consider that this would provide sufficient variety to not require any variation from the linear form of development proposed, particularly as many of the buildings would be partially screened by planting within the site and along the site boundaries.
47. The proposal would provide a greater level of play space than the policy requirement in the form of a Local Area for Play (LAP) that would be overlooked by dwellings that would face onto it, and a Local Equipped Area for Play (LEAP) that would be set back from the A259 behind a relatively wide planted area. As such, I find that these would be appropriately located to allow them to be widely used safely by not only future residents of the proposed development but also other nearby residents. There would also be a relatively wide band of planting and open space to the west of the site between the proposed buildings and the adjacent dwellings in East Preston that would help to soften the development.
48. The eastern access road into the appeal site would require some of the planting along the A259 to be removed which would allow views into the site, but the proposal would provide additional new planting to supplement that along the road and either side of the access road. I accept that this access would only be available from the A259 dual carriageway in a westerly direction which would limit vehicular accessibility between the development and East Preston. However, there would be a pedestrian/cycle link to Old Worthing Road at its junction with the roundabout on the A259 and the development would appear as an extension to that settlement, which has development on both sides of Old Worthing Road.
49. Having observed the development in the adjoining East Preston and for the reasons given above, I am satisfied that the proposed design would respect the existing surrounding development pattern, and would respond to the setting, scale and proportions. The appellant has demonstrated by means of the DAS, LVIA and expert evidence given at the Inquiry that the proposal would provide a high quality design in accordance with paragraph 134 of the Framework. It would accord with ALP policies D DM1, in that it has been demonstrated that

the proposal has had regard to the listed design aspects, including the ADDG; D SP1, as the proposed design would make efficient use of the land and reflect the characteristics of the site and local area; H DM1, as it would include an acceptable mix of dwelling types and sizes, including affordable housing; and OSR DM1, as it would provide an appropriate level of open space; and ANP policies HD3, HD4, HD5, HD6 and HD7.

Conclusions

50. I conclude on these main issues that the proposal is acceptable in principle; it would result in moderate harm to the character and appearance of the surrounding area; it would not cause any significant harm to the East Preston to Ferring Settlement Gap or to the setting of the SDNP; and would be a high quality design. Whilst I have found that it would be contrary to ALP Policy C SP1 and ANP Policy HD1, it would generally accord with other development plan policies in relation to design, settlement gaps, the SDNP, character and appearance, as well as relevant policies in the Framework.

Agricultural Land

51. The site forms part of one arable field, which would be lost because of the proposed development. The remaining land beyond the appeal site would be retained as a smaller arable field, except for a 10m wide landscape buffer along the eastern boundary of the site.
52. The appeal proposal is supported by an Agricultural Land Classification prepared by ADAS, dated December 2020. This includes a detailed soil survey, which classifies the site as Grade 2 Best and Most Versatile (BMV) agricultural land. I recognise that much of the area of greenfield land in the District is BMV agricultural land and that Grade 2 is not the highest grade of land, with the ALP identifying that most of the undeveloped coastal plain within the District is high grade.
53. The appellant has provided evidence to show that the loss of the appeal site to agriculture would not prejudice the farming on the wider holding, as it would represent a relatively small part of the overall land within that holding. The **site's physical constraints mean that it is largely separate from adjacent** expanses of agricultural land, which means that its importance to the farming activities at the holding is limited. This reduces both its economic significance and the environmental benefits of its agricultural use. However, this evidence does not meet the requirements of ALP Policy SO DM1, which seeks to protect the BMV agricultural land.
54. ALP Policy SO DM1 states that the use of Grades 1, 2 and 3a of the Agricultural Land Classification for any form of development not associated with agriculture, horticulture or forestry will not be permitted unless the need for the development outweighs the need to protect such land in the long term. It identifies how this can be demonstrated. This is more restrictive than paragraph 174(b) of the Framework, which requires the economic and other benefits of BMV agricultural land to be recognised.
55. Based on the above, I conclude on this main issue that the proposal would have an adverse effect on the provision of agricultural land in the District. The proposal also fails to accord with ALP Policy SO DM1, as a sustainability and options appraisal has not been submitted as required by the Policy to

demonstrate that the need for the development outweighs the need to protect such land in the long term.

Other Matters

56. I have considered the concerns expressed by local residents, Parish Councils and other interested groups that have objected to the proposal. I have dealt with some of these concerns under the main issues, in particular those regarding its design, the effect on the Settlement Gap and the countryside and the loss of agricultural land. Whilst the Council has not pursued some of its reasons for refusal at the Inquiry, I have addressed these below.

Flooding

57. The site lies wholly within Flood Zone 1, which comprises land where flooding from rivers and the sea is very unlikely. There is no history of flooding at the site from groundwater or from heavy rainfall events. Overall, the risk of flooding from all sources is low.
58. A surface water management strategy has been developed to manage and reduce the flood risk from surface water runoff, which accommodates a 1 in a 100-year storm event plus a 40% allowance for climate change. The Flood Risk Assessment and Drainage Strategy Report concludes that the proposed development satisfies the requirements of the Framework and that, through the incorporation of measures to accommodate flood risk within the development, including the implementation of the sustainable surface water drainage strategy, which would be secured by planning condition, the proposed development would not pose any flood risk.
59. The Council has agreed that the appeal proposal has been assessed robustly and consistently with the requirements of the ALP in respect of drainage and that it, as lead drainage authority, does not object on the basis of the amended plans submitted as part of the appeal proposal. The Council has shown that it is satisfied that the proposed drainage scheme, to be secured by planning condition, would constitute a sustainable form of development and there are no outstanding areas of dispute between the parties regarding drainage.
60. Based on the above, I find that there are no outstanding reasons to refuse planning permission on the grounds of drainage and flooding issues and I am satisfied that the proposal would accord with ALP policies W DM2 and W DM3 in this respect.

Traffic and Highway Safety

61. Following the refusal of planning permission, the appellant has submitted additional highways and transport information to the Council, including both a Technical Note addressing outstanding transport matters and a Design Audit addressing access design matters. West Sussex County Council, as the local highway authority (LHA), has not objected to the development proposals, and recognises that any issues could be suitably addressed by the provision of additional information.
62. The revised proposal includes amendments that were required to agree the access arrangements with the LHA. I am satisfied that they do not require comprehensive redesign of the access arrangements, nor alter the basis on which access would be achieved. The Council has confirmed that it has no

objection to the appeal proposal with regard to matters relating to highway safety, the form and design of the site access, highway capacity and traffic impact. I find that the proposal would accord with ALP Policy T SP1.

63. Local residents have expressed concerns about the level of queuing and congestion that is experienced near to the site, especially at peak times. However, I observed at my site visits that some of this is due to roadworks on the A259 and the timing of the level crossing closures on Old Worthing Road, East Preston. These are existing problems and I have been provided with very little substantive evidence to show that they would be made significantly worse by the appeal proposal. As such, and based on the evidence provided at the Inquiry, I find that the proposal would not have an unacceptable impact on highway safety and that the residual cumulative impacts on the road network would not be severe.

Other Relevant Concerns

64. With regard to the concerns expressed about the effect of **Natural England's** recent advice on water neutrality, at the Inquiry I have been provided with a copy of **Natural England's Position Statement and accompanying plan** that shows the site to be outside the affected area. Natural England responded in April 2022 to confirm that it has no objection to the proposed development.
65. I have considered the effect of the proposed planting and other works on the railway network, given that the southern boundary of the site abuts Network Rail's land. In this respect, there has been no objection from Network Rail regarding the proposal and its effect on the adjacent railway. Therefore, I am satisfied that the proposal would not compromise the operation and safety of the railway.
66. The Council has accepted that the impact of the proposed development on schools, healthcare and utilities in the area would be adequately dealt with by contributions made under the Community Infrastructure Levy Regulations 2010 (CIL), based on the **Council's charging schedule, January 2020**. The Council has not given this as a reason for refusal.
67. A local resident raised concerns about septic tanks adjacent to the site. The operation of septic tanks is dealt with under licence and environmental permits would be required to allow discharge on to the site. There is a duty to make the tanks watertight and the Environment Agency can take appropriate action to prevent any discharge of untreated sewage.
68. Other concerns, including those about construction noise and dust and highway safety, would be addressed by planning conditions. In terms of setting a precedent, each individual planning proposal should be determined based on its own planning merits in the light of prevailing policies and guidance. As such, allowing this appeal would not set a precedent for other development in the area.

Planning Obligations

69. After the close of the Inquiry, the appellant submitted an engrossed section 106 Unilateral Undertaking, dated 14 July 2022, which is based on that submitted in draft at the Inquiry. The Council has agreed that planning obligations that it had requested and supported in its CIL compliance statement would be secured under the Unilateral Undertaking.

70. A planning obligation to secure the provision of 30% Affordable Housing on site, together with the required tenure, is necessary to meet local housing need and to accord with the requirements of ALP Policy AH SP2.
71. A planning obligation to secure the layout and maintenance of green infrastructure on the appeal site, including public open space with a LEAP and a LAP, and a landscape buffer outside the eastern boundary of the site, is necessary to make the proposed development functionally and visually acceptable. It would ensure that the proposal would accord with ALP policies OSR DM1, regarding the provision of public open space, and INF SP1, regarding infrastructure. It is proportionate to the scale of the development, as it would accord with the requirements of the Supplementary Planning Document Public Open Space, Playing Pitches and Built Facilities, January 2020. It would be directly related to the development, as the green infrastructure would be located on or adjacent to the site and would be necessary to make the development acceptable in planning terms.
72. A contribution payable towards the cost of carrying out improvement works to the A27, as requested by Highways England, is necessary to mitigate the impact of additional traffic on the highway network, given that the appeal site is close to the A27. The sum of the contribution is based on the contributions that have been calculated to arise from the nearby Angmering South and East Strategic Development Site in the Enterprise Bognor Regis Transport Review 2017 report, which I consider would ensure that they would be proportionate to the scale of the development.
73. The provision of, and funding for, a travel plan, including its preparation and implementation, the appointment of a co-ordinator and its monitoring, is necessary to promote the use of sustainable modes of transport in order to mitigate the effect of the occupiers of the development on the need to travel in the area. It would also ensure that the proposal would accord with ALP policies T DM1, regarding the promotion of safe pedestrian and cycle access and access to public transport; and T SP1, which seeks to reduce the need to travel by car.
74. I have examined the evidence provided by the Council regarding the need for the above planning obligations and compliance with CIL Regulation 122. Based on this, and for the reasons given above, I am satisfied that the planning obligations in the Unilateral Undertaking would be necessary to mitigate the effects of the development and they meet the tests in CIL Regulation 122 and paragraph 56 of the Framework. I have therefore taken them into account in my determination of this appeal.

Planning Balance

75. Based on its AMR, the Council has accepted that it is unable to demonstrate a 5-year supply of deliverable housing land. As such, the policies which are most important for determining the application are considered out of date, as specified in footnote 8 of the Framework. In these circumstances, paragraph 11d)(ii) of the Framework 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.
76. The Council has accepted that the appeal site is in a sustainable location, being well connected to public transport services and close to local services and

facilities, including shops, local schools, health facilities, sport facilities and community facilities. This is confirmed by the draft allocation of the site for such in the emerging Local Plan.

77. It is **evident by the Council's low** 5-year HLS that there is a serious and persistent housing crisis locally. The Council has acknowledged that currently the only way to solve the problem locally is to grant permissions on greenfield sites not originally envisaged for housing in the adopted ALP, as residential development on the allocated large strategic sites is not coming forward early enough to make a significant contribution to the 5-year HLS.
78. The appeal proposal would deliver 76 dwellings, which would contribute towards boosting the District's HLS. As the proposal is for full planning permission from a national housebuilder with an agreed planning condition to reduce the implementation time to 2 years, it is likely to make a significant contribution towards the 5-year HLS. I have therefore given this substantial weight as a benefit.
79. The section 106 Unilateral Undertaking would secure the provision of 23 affordable dwellings, which would be policy compliant with a 30% affordable housing provision. The **Council's Housing and Homeless Strategy states that** there were 900 applicants on the Housing Register in August 2018. The Strategy sets a target of 250 affordable homes per annum over its two-year period from 2019 to 2021, totalling 500 by March 2021 and recognises that most of these homes will be delivered within market developments that come forward through the planning system. Although the proposal would provide no more affordable homes than that required by the policy, such a provision carries **substantial weight, based on the Council's continued failure to deliver** sufficient affordable housing.
80. The construction phase would have an input to the local economy associated with expenditure on services and supplies needed by the contractors. At the operational phase, increased levels of household spending in the local area would be expected from the introduction of new residents. I have given these economic benefits significant weight as the appellant has identified that 76 new households could be expected to generate around £1.9 million per year in household spending, based on data from the Office for National Statistics.
81. The provision of public open space provision carries moderate weight, as it is likely to be mainly used by future residents of the proposed development. I have also given the environmental benefits from the proposed ecological and landscaping enhancements moderate weight, as much of the landscaping is mitigation and any biodiversity gains are not quantified by any recognised metric.
82. The provision of sustainable drainage (SUDS) would be necessary to achieve sustainable development and satisfy requirements under ALP policies. Therefore, any improvements that the proposal would make to drainage and surface water run-off carry limited weight as a benefit.
83. I have found that the proposal fails to accord with ALP Policy C SP1, ALP Policy SO DM1 and ANP Policy HD1. ALP Policy C SP1 is one of the most important policies for determining the appeal. This conflict results in the proposal failing to accord with the development plan as a whole. However, as ALP Policy C SP1 acts as a constraint to residential development and there is a demonstrable

shortfall in HLS, I have only attached moderate weight to the conflict with this Policy. Also, as ALP Policy SO DM1 is inconsistent with paragraph 174 b) of the Framework, I have given it moderate weight.

84. The harm to the character and appearance of the area is the main adverse effect that I have identified. I recognise that the design has included mitigation such as increased tree and hedgerow planting and landscape buffers to reduce the severity of this harm. I have therefore given this significant weight. There is also the harm that would result from the loss of agricultural land. I have given this adverse effect moderate weight, due to the relative location and scale of the land that would be lost.
85. When the above considerations are taken together and weighed in the balance, I find that the adverse impacts would not significantly and demonstrably outweigh the benefits that I have identified, when assessed against the policies in the Framework taken as a whole. I conclude that a presumption in favour of sustainable development has been established for the proposed development.

Planning Conditions

86. I have considered the suggested conditions should the appeal be allowed that formed the basis of discussions at the Inquiry. A condition requiring development to commence within 2 years¹ is necessary to ensure that the development is likely to make a contribution to the agreed 5-year HLS shortfall. A condition referring to the plans² is in the interests of certainty and to ensure that the development would accord with what is proposed.
87. A condition to secure and implement a Construction Management Plan (CMP)³, including the control of hours of working, noise and dust, is necessary to safeguard the environment, public amenity and highway safety during construction. A condition regarding energy supply⁴ is necessary in the interests of sustainable development and climate change. A condition to secure the implementation of an 'Ecological Enhancement Plan'⁵ is necessary to protect the wildlife and biodiversity of the area.
88. A condition to secure the provision of landscaping⁶, including measures to protect existing trees and hedgerows, is necessary to minimise any impact that the proposal would have on the character and appearance of the area. A condition to secure the installation of electric vehicle charging points⁷ is in the interests of promoting sustainable development. A condition to control external lighting⁸ is necessary to protect the environment, the appearance of the area, residential amenity, and wildlife.
89. A condition to secure car parking and cycle parking⁹ is necessary to protect residential amenity and highway safety and in the interests of promoting sustainable transport. A condition regarding the construction of roads,

¹ Condition 1

² Condition 2

³ Condition 3

⁴ Condition 4

⁵ Condition 5

⁶ Condition 6

⁷ Condition 7

⁸ Condition 8

⁹ Condition 9

footways, and casual parking areas¹⁰ is necessary for residential amenity and highway safety reasons.

90. A condition regarding the provision and maintenance of fire hydrants¹¹ is necessary to protect the health and safety of future residents. A condition to control the materials and finishes used for external walls and roofs¹² and a condition to control finished floor levels¹³ are necessary in the interests of providing a high quality development and to protect visual amenity. A condition to secure the implementation of a programme of archaeological work¹⁴ is necessary to protect the potential archaeological significance of the site, given the evidence from the Council.
91. Conditions regarding contamination¹⁵ are in the interests of health and safety. Conditions regarding noise mitigation¹⁶ and glazing¹⁷ are necessary to ensure that future residents have acceptable living conditions. Conditions to ensure that an acceptable surface water drainage scheme is secured¹⁸ and maintained¹⁹ are necessary to protect the area from pollution and flooding. Conditions to secure the implementation of approved access, pedestrian and highway works²⁰ and a scheme to prevent the egress of vehicles onto the roundabout²¹ are necessary for highway safety reasons.
92. I have amended and/or combined some of the suggested conditions. The Council and appellant have agreed that a condition originally suggested by the Council to secure housing for older people and people with disabilities is unnecessary and would not meet the tests in the Framework. I am satisfied that all the conditions that I have included are reasonable and necessary, meet the tests given in the Framework and reflect the advice in the Planning Practice Guidance.
- Overall Conclusions
93. In applying section 38(6) of the Planning and Compulsory Purchase Act (2004), I have found that the proposal would not accord with the development plan as a whole. However, in my opinion the presumption in favour of sustainable development is a material consideration that indicates that the decision should be taken otherwise than in accordance with the development plan. Therefore, for the reasons given and having regard to all relevant matters raised, I conclude that the appeal should succeed.

M J Whitehead

INSPECTOR

¹⁰ Condition 10

¹¹ Condition 11

¹² Condition 12

¹³ Condition 22

¹⁴ Condition 8

¹⁵ Conditions 14 and 15

¹⁶ Condition 16

¹⁷ Condition 17

¹⁸ Condition 18

¹⁹ Condition 19

²⁰ Condition 20

²¹ Condition 21

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Andrew Parkinson, of Counsel	instructed by the Solicitor, Arun District Council
He called	
David Innes BA(Hons) Dip	Blueprint Planning & Development Ltd
TP MRTPI	

FOR THE APPELLANT:

Thea Osmund-Smith, of Counsel	instructed by the Planning Director and Planning Manager, Redrow Homes Limited
Odette Chalaby	
She called	
Andrew Cook BA Hons MLD	Director, Pegasus Group
CMLI C Env MIEMA	
Colin Pullan BA(Hons)	Head of Urban Design and Masterplanning,
DipUD	Lambert Smith Hampton
Sarah Beuden MRTPI	Director, Savills (UK) Ltd

INTERESTED PERSONS:

Nikki Hamilton-Street	Chair, Angmering Parish Council
Councillor Andy Cooper	Ward member for Angmering, Patching, Clapham and Findon, Arun District Councillor
Helen Keeping	Local resident
Carol Ellis	Local resident
Edward Wilkinson	Local resident
Ed Miller	Secretary of Ferring Conservation Group and
	Convenor of the Protect Our Gaps Alliance
Roger Elkins	Ferring Councillor

DOCUMENTS SUBMITTED AFTER OPENING THE INQUIRY

- 1 Notification letter and list of those notified, submitted by the Council on 4 July
- 2 Landscape Masterplan No P21-3569_01 Rev D, submitted by the appellant on 4 July
- 3 **Copy of the appellant's opening statement, submitted by the appellant on 4 July**
- 4 **Copy of the Council's opening statement, submitted by the Council on 4 July**
- 5 Copy of the statement read by Nikki Hamilton-Street, submitted by Nikki Hamilton-Street on 4 July
- 6 Copy of the statement read by Councillor Cooper, submitted by Councillor Cooper on 4 July
- 7 Copy of the statement read by Ed Miller, submitted in email by Ed Miller from 4 July
- 8 Copy of the statement read by Edward Wilkinson, submitted in email from Edward Wilkinson on 4 July
- 9 HELAA assessment summary table, submitted by the appellant on 5 July
- 10 Site visit itinerary and plan, submitted by the appellant on 5 July
- 11 Suggested conditions, submitted by the Council on 6 July
- 12 List of appeal plans, submitted by the appellant on 6 July
- 13 Signed Landscape Statement of Common Ground, submitted by the Council on 6 July
- 14 Signed general Statement of Common Ground, submitted by the Council on 6 July
- 15 Signed Urban Design Statement of Common Ground, submitted by the Council on 6 July
- 16 CIL Compliance Statement, submitted by the Council on 6 July
- 17 **Copy of Natural England's Position Statement for Applications within the Sussex North Water Supply Zone, September 2021 Interim Approach and accompanying plan; and Natural England consultation response to the appeal proposal, dated 28 April 2022, submitted by the Council on 6 July**
- 18 Report to and decision of Planning Policy Committee on 7 June 2022 to resume the Arun Local Plan update, submitted by the Council on 6 July
- 19 Report and resolutions of the Planning Policy Committee on 7 June 2022, submitted by the Council on 6 July
- 20 Erratum for Sarah Beuden Planning Proof of Evidence, submitted by the appellant on 6 July
- 21 Suggested amendments to the noise condition, submitted by the appellant on 7 July
- 22 Updated CIL Compliance Statement, submitted by the Council on 7 July
- 23 Draft section 106 Unilateral Undertaking, submitted by the appellant on 7 July
- 24 Closing comments on behalf of the Council, submitted by the Council on 7 July
- 25 Closing submissions on behalf of the appellant, submitted by the appellant on 7 July
- 26 **Appellant's reply to the Council's closing comments, submitted by the appellant on 7 July**
- 27 Engrossed section 106 Unilateral Undertaking, received on 14 July

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 2 years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the following approved plans:
 - Planning Layout (Drawing: A1004 001, Rev C)
 - Coloured Planning Layout (Drawing: A1004 01 Rev C)
 - Site Location Plan (Drawing: A1004 02, Rev A)
 - Massing Plan (Drawing: A1004 003 Rev B)
 - Occupancy Plan (Drawing A1004 004 Rev B)
 - Enclosures Plan (Drawing: A1004 006 Rev B)
 - Parking Plan (Drawing: A1004 008 Rev B)
 - Refuse Plan (Drawing: A1004 009 Rev B)
 - Cycle Storage Plan (Drawing: A1004 010 Rev B)
 - Street Scenes (Drawing: A1004 011 Rev B)
 - House Type Brochure including:
 - A1004 12 Letchworth Plans
 - A1004 13 Letchworth Brick Elevations
 - A1004 14 Letchworth Render Elevations
 - A1004 15 Warwick Brick Plans & Elevations
 - A1004 16 Oxford-Lifestyle Brick Plans & Elevations
 - A1004 17 Oxford- Lifestyle Render Plans & Elevations
 - A1004 18 Windsor Special Brick Plans & Elevations
 - A1004 19 Windsor Special Render Plans & Elevations
 - A1004 20 Marlow Render Plans & Elevations
 - A1004 21 Oxford Brick Plans & Elevations
 - A1004 22 Oxford Render Plans & Elevations
 - A1004 23 Cambridge Render Plans & Elevations
 - A1004 24 Henley Special Plans
 - A1004 25 Henley Special Brick Elevations
 - A1004 26 Tavy Leadon Special – Maisonette & Block Plans
 - A1004 27 Tavy Leadon Special Brick - Maisonette 6 Block Elevations Brick 1
 - A1004 28 Tavy Leadon Special Brick - Maisonette 6 Block Elevations Brick 2
 - A1004 29 Tavy Special 4 Block Plans
 - A1004 30 Tavy Special 4 Block Brick Elevations
 - A1004 31 Dart Special 2 Block Plans
 - A1004 32 Dart Special 2 Block Brick Elevations
 - A1004 33 Dart Special 3 Block Plans
 - A1004 34 Dart Special 3 Block Brick Elevations
 - A1004 35 Single Garage
 - Topographical Survey Sheets 1-6
 - General Arrangement (Drawing Ref: A334-FA-10 P2)
 - Long sections 1 (Drawing Ref: A334-FA-15 P2)
 - Long sections 2 (Drawing Ref: A334-FA-16 P1)
 - Drainage Layout (A334-FA-50 P2)
 - Drainage Construction Details 1 (Drawing Ref: A334-FA-55 P1)
 - Drainage Construction Details 2 (Drawing Ref: A334-FA-56 P1)
 - Large Refuse Vehicular Tracking (Drawing Ref: A334-FA-80 P2)
 - Fire Tender Vehicular Tracking (Drawing Ref: A334-FA-81 P2)
 - Car Vehicular Tracking (Drawing Ref: A334-FA-82 P2)
 - Landscape Masterplan (Drawing Ref: P21-3569_Rev 01D)

Tree Protection Plan (Drawing Ref: RED23031 03 Rev F)

- 3) No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. Thereafter the approved CMP shall be implemented and adhered to throughout the entire construction period. The CMP shall provide details as appropriate but not necessarily be restricted to the following matters:
 - the anticipated number, frequency and types of vehicles used during construction;
 - the method of access and routing of vehicles during construction;
 - mitigation measures associated with limiting dust arising from construction activities to protect neighbouring residential properties;
 - the parking of vehicles by site operatives and visitors, and the loading and unloading of plant, materials and waste;
 - the storage of plant and materials used in construction of the development;
 - the erection and maintenance of security hoarding;
 - the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders);
 - details of public engagement both prior to and during construction works; and
 - times of working.
- 4) 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 National Planning Policy Framework, 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 the development, including full details of physical works on the site, shall be submitted to and approved in writing by the local planning authority before any development above damp proof course begins. The development shall be implemented in accordance with the approved details and timetable and retained as operational thereafter.
- 5) The development shall proceed in accordance with the 'Ecological Enhancement Plan' dated July 2021 (EEP). These measures shall include:
 - A bat sensitive lighting scheme;
 - planting including native scrub, orchard and species rich grassland in accordance with Appendix 3 of the EEP;
 - where possible, the retention of vegetation along the northern boundary of the site; and
 - provision for bats, birds, reptiles and hedgehogs.
- 6) No development above damp proof course level shall take place until there has been submitted to and approved in writing by the local planning authority a

landscaping scheme. The landscaping scheme shall include details of hard and soft landscaping and details of existing trees and hedgerows to be retained, together with measures for their protection during the course of the development in accordance with the Arboricultural Impact Assessment & Method Statement (Rev: D: 10.03.200, Ref: RED23031aia_ams). The approved details of the landscaping shall be carried out in the first planting and seeding season following the first occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

- 7) A scheme for the provision of facilities to enable the charging of electric vehicles to serve the dwellings hereby permitted shall be submitted to and approved in writing by the local planning authority and no dwelling with an electric car charging point shall be occupied until the electric car charging point for that dwelling has been provided in accordance with the approved scheme. The charge points shall thereafter be retained and maintained in accordance with the manufacturer's instructions.
- 8) No external lighting shall be installed until details have been submitted to and approved in writing by the local planning authority. The details shall include a layout plan with beam orientation and a schedule of light equipment proposed, giving luminaire type, mounting height, aiming angles and luminaire profiles. The external lighting shall be installed prior to first occupation of the development hereby permitted, fully assessed by a competent individual when operational to ensure no light creep/bleed, maintained and operated, in accordance with the approved details.
- 9) No dwelling shall be first occupied until the car parking and cycle parking serving that dwelling has been constructed in accordance with the approved site plan. Once provided the spaces shall thereafter be retained at all times for their designated purpose.
- 10) No part of the development hereby permitted shall be occupied until the roads, footways, and casual parking areas serving the development have been constructed, surfaced, and drained in accordance with plans and details that shall have been submitted to and approved in writing by the local planning authority.
- 11) Prior to the first occupation of any dwelling/unit forming part of the permitted development fire hydrants shall be installed in accordance with details and in locations that shall have been submitted to and approved in writing by the local planning authority. The details shall include the maintenance of the fire hydrants and the fire hydrants shall thereafter be maintained in accordance with the approved details.
- 12) No buildings hereby permitted shall be constructed above damp proof course level until a schedule of materials and finishes to be used for external walls and roofs of the buildings have been submitted to and approved in writing by the local planning authority. The materials so approved shall be used in the construction of the buildings.

- 13) No development shall take place until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation that has been submitted to and approved in writing by the local planning authority.
- 14) Prior to commencement of the development hereby permitted 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 Report providing details of the data 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.

The scheme shall be implemented as approved above.

- 15) 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, unless otherwise expressly agreed in writing with the local planning authority, until it has been fully investigated using suitably qualified independent consultants. The local planning authority shall be informed immediately of the nature and degree of the contamination present and a method statement detailing how the contamination will be dealt with shall 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 shall be submitted in writing to the local planning authority prior to the first occupation of the development hereby permitted.

- 16) Prior to the first occupation of the development hereby permitted, a noise mitigation strategy in accordance with the **document entitled 'Land South of Angmering: Noise Impact Assessment: Technical Report: R8760-3 Rev 2'**, dated 26 May 2021, produced by 24 Acoustics shall be submitted to and approved in writing by the local planning authority. Thereafter, the strategy shall be implemented and maintained as approved.
- 17) Prior to the construction of any dwelling hereby permitted, details of the glazing specification for all habitable rooms shall be submitted to and approved

in writing by the local planning authority to ensure that the internal noise levels detailed in British Standard 8223 are met. The development shall be carried out in accordance with the approved details.

- 18) No development other than works of site survey and investigation shall commence until full details of a surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The design shall 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. No dwelling hereby permitted shall be occupied until the complete surface water drainage system serving the dwelling has been implemented in accordance with the approved details.
- 19) No development shall commence until full details of the maintenance and management of the surface water drainage system have been set out in a site-specific maintenance manual which has been submitted to and approved in writing by the local planning authority. The manual shall include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. Upon completion, the surface water drainage system shall be maintained and managed strictly in accordance with the approved maintenance manual.
- 20) Prior to the first occupation of the development hereby permitted, the site access onto the A259 and the associated pedestrian improvements and highway works as set out in Drawing ITB16357-GA-004 Revision F shall be implemented and brought into use in accordance with detailed construction drawings that shall have been submitted to and approved in writing by the local planning authority.
- 21) Prior to first occupation of the development hereby permitted a scheme of works to prevent the egress of vehicles from the development onto the A259/A280 roundabout shall be implemented and brought into use in accordance with plans and details that shall have been submitted to and approved in writing by the local planning authority. Thereafter, the scheme shall be maintained in perpetuity.
- 22) No development other than site clearance and site preparation shall commence until details of finished levels of the ground and floors of the buildings 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.

Appendix 4:

Appeal Decision – Land West of Yapton Lane, Walberton

Appeal Decision

Inquiry held 28 February – 3 March 2023

Site visits made on 27 February and 3 March 2023

by AJ Mageean BA(Hons), BPI, PhD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th April 2023

Appeal Ref: APP/C3810/W/22/3309365

Land West of Yapton Lane, Walberton

- 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 LandQuest UK (Southern) Ltd against the decision of Arun District Council.
 - The application Ref WA/2/22, dated 12 January 2022, was refused by notice dated 25 April 2022.
 - The development proposed is outline planning application with all matters reserved, other than means of access, for the construction of up to 48 dwellings (30% affordable homes) and dental/doctors' surgery (Use Class E (e)).
-

Decision

1. The appeal is allowed and planning permission is granted for outline planning application with all matters reserved, other than means of access, for the construction of up to 48 dwellings (30% affordable homes) and dental/doctors' surgery (Use Class E (e)) at Land West of Yapton Lane, Walberton, in accordance with the terms of the application, Ref WA/2/22, dated 12 January 2022, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Whilst there were eight reasons for refusing the planning application, a number of these were addressed prior to the opening of the inquiry. Specifically, the Council agreed that those relating to biodiversity and affordable housing could be resolved, subject to conditions and the completion of planning obligations under Section 106 of the Town and Country Planning Act 1990 (Section 106 Agreement). A certified copy of the executed Section 106 Agreement was handed up at the Inquiry. The implications of this will be considered further below.
3. The Council and the Minerals and Waste Planning Authority agreed that the mineral safeguarding reason for refusal could be withdrawn, subject to a planning condition requiring a scheme for incidental extraction of the safeguarded mineral resources underlying the site.
4. A further reason for refusal concerned highway safety, and specifically the impact of the development on the capacity of the eastbound right turn lane at the A27/Yapton Lane junction. This junction has been subject to previous impact assessments, following which improvements to the length of the right turn lane were proposed and agreed. However, National Highways required that modelling be undertaken to consider whether the proposed improvements allowed sufficient capacity for the traffic flows associated with this development

and that of other committed developments within the locality. This work has been undertaken and has confirmed that with the junction improvements undertaken, there would be sufficient capacity at the junction to accommodate the appeal scheme traffic and that of other committed schemes. As a result this objection has been withdrawn, subject to conditions securing a Travel Plan, a Construction Traffic Management Plan and the junction improvements.¹

5. It is common ground that the proposal would result in less than substantial harm to the heritage significance of the Walberton Village Conservation Area (CA), through changes to its setting. The implications of this will be considered further below.

Main Issues

6. The remaining areas of dispute between the parties relate to:
 - The effect of the proposal on the intrinsic character and beauty of the countryside, and on the Barnham to Walberton settlement Gap;
 - The implications of the loss of Grade 1 agricultural land;
 - Accepting that the Council is unable to demonstrate a five year supply of housing land, the significance of the shortfall; and,
 - The consistency or otherwise of the proposal with the development plan taken as a whole, and whether any conflict and harm arising would be outweighed by other material considerations.

Reasons

Countryside and settlement gap

7. The appeal site lies outside the built-up area boundary (BUAB) of Walberton and is therefore located in the open countryside. It does not fall within any of the categories of development permitted under Policy C SP1 of the Arun District Local Plan (the Local Plan) and is therefore in conflict with its provisions. Linked to this, whilst not referenced in the reasons for refusing the application, there would also be conflict with Policy HP1 of the Walberton Neighbourhood Plan (the NP). More specifically, matters of dispute between the parties relate to the implications of the proposal for firstly the countryside and landscape character and appearance, and secondly for the settlement gap.

Landscape character and appearance

8. The appeal site is located within County level Landscape Character Area (LCA) SC8: Fontwell Coastal Plain. Of greater relevance is the district level LCA, that is 23 Walberton Upper Coastal Plain. The Arun Landscape Study 2006 (the Landscape Study)² describes this LCA as being a partially enclosed and largely flat agricultural landscape providing separation between Walberton and Barnham, with heritage value. The Landscape Study notes that there was little influence from the existing settlement. The area was assessed as having 'moderate'³ landscape value, 'substantial' landscape sensitivity, and low

¹ As set out in CD 9.3 Statement of Common Ground Highways Matters

² Landscape and Visual Amenity Aspects of Development Choices in Arun District 2006-2026.

³ Within document CD8.6 whilst both 'slight' and 'moderate' landscape values are recorded, it appears that the later is correct.

capacity such that development in this area would have 'a significant and detrimental effect on the character of the landscape as a whole'. The appeal site sits on the edge of this LCA, which extends considerably further west. The site and its immediate surrounds are also reasonably contained, with little interaction with the wider LCA. It is therefore appropriate to focus primarily on assessing the value and sensitivity of this landscape at a more localised level.

9. Considering the respective positions of the landscape professionals, for the purposes of this decision it is sensible to combine consideration of the site with that of its local context. The latter is defined as including the network of fields to the south of Walberton village, the northern part of the commercially used land to the south of the Appeal Site, and land to the immediate east of Yapton Lane.
10. Immediately to the north the appeal site adjoins and incorporates two very small parts of the southern edge of the Walberton Village CA. These relate to the entrance and driveway of the former approach to Walberton House, a GII* listed building. It is agreed that the appeal site does not form part of the setting of Walberton House. The parkland associated with this heritage asset, located to the north-west of the appeal site, once extended further south and eastwards as far as Yapton Lane. However, this area has been reduced with much of it converted to agricultural use, such that the references to 'remnant park/estate landscape south of Walberton' in the Landscape Study is not readily apparent in the vicinity of the appeal site.
11. The appeal site is part of an open and largely flat arable field. Landscape features include the mature landscape setting provided by the tree belts to the east and north, both of which are protected by Tree Preservation Orders (TPO), with mature vegetation interspersed with trees on other boundaries. To the north the trees are associated with the former driveway to Walberton House, with a paddock area behind this providing a degree of separation between the appeal site and the village. The tree belt to the east provides some separation between the appeal site and Yapton Lane, with a permissive footpath route running through the trees. To the south, is a small allotment colony, a designated local green space. Beyond the allotments is a mixture of horticulture/nursery commercial uses, with some residential use. The local area benefits from a well-used network of public rights of way (PROW).
12. Detracting elements of the local landscape include the audible presence of the busy Yapton Lane directly to the east. The large, prominent and unscreened care home building known as Walberton Place is visible directly to the north of the site. Also to the north, the DM Chainsaw premises are a visible element of the area, though as these buildings are more modestly scaled structures with an agrarian character they do not appear out of place. To the south there is some awareness of the glasshouses and other structures associated with horticultural businesses. Overall, the appeal site and its immediate vicinity are of rural character, though with the presence of elements associated with the edge of settlements apparent as part of the wider context.
13. The landscape character of the appeal site and its vicinity typifies the rural context of many villages. Whilst it is of local value, there is nothing to elevate this contribution **above that of an 'ordinary' landscape**. This area has a medium to high level of susceptibility to change, noting that this indicates that there may be some or limited ability to accommodate the type of change

proposed without undue consequences for the baseline situation. In these circumstances the resulting level of sensitivity of this landscape receptor, that is the appeal site and its immediate context, is at a medium level overall. This is not inconsistent with the assessment of the wider district level LCA, which was found to have medium to high sensitivity in the Landscape Study.

14. Turning to visual matters, the visual envelope of the site is limited by vegetation and built form, such that it is agreed that far ranging views of the site across open countryside are not possible. Its context is defined by the circular walk from Walberton village, past the Church and along the PROW which passes the allotments, returning via the permissive path through the eastern tree belt.
15. As a recreational route it is agreed that people following the PROW and permissive path are the most sensitive visual receptors, as they are most likely to be immersed in the landscape experience. Views through to the appeal site are possible from the southern section of the PROW, though these are filtered by intervening trees and lower-level vegetation. In this respect there is a degree of seasonality associated with such views of the site. More distinct views of Walberton Place are possible from the PROW as it passes by the allotments as here the intervening vegetation narrows. A greater awareness of the site is gained from the permissive path as it weaves its way through the tree belt, particularly where it passes close to the site. There is also a clear view into the site from the south-eastern corner of the field, from which its open aspect can be appreciated. These views have community value and are of medium to high sensitivity.
16. The experience of viewpoints from Yapton Lane are largely restricted to those driving past the appeal site having some awareness of the open fields beyond. The tree belt means that any such views are, at best, fleeting, particularly during summer months. These views are therefore of medium to low sensitivity. Private residential views over the appeal site are possible from Walberton Place and a small cottage adjacent to DM Chainsaws, each of which are of medium to high sensitivity.
17. The appeal scheme would introduce a development of up to 48 dwellings, representing a density of around 19.5 dwellings per hectare served by a single access point off Yapton Lane. It would therefore not be of high density, noting references elsewhere to such densities being similar to that found in Walberton village.⁴ Whilst a Parameters Plan has been provided for approval, all matters other than access are reserved at this stage.
18. The Parameters Plan confirms that the scheme would comprise two storey properties, the retention and improved management of a significant proportion of existing woodland areas and the creation of new woodland planting adjacent to Walberton Place and the DM Chainsaws. A significant area of open space incorporating a sustainable drainage scheme and an equipped play area would be located adjacent to the southern site boundary. The location for a potential dental surgery is indicated to the north-east of the site. Two trees and around 60 self-seeded sycamore stems would be lost from the eastern tree belt to accommodate the site access, with more lost to permit the upgrade to the permissive path. The point of access would also require the removal of a short section of flint wall.

⁴ CD 7.2 APP/C3810/W/21/3278130, para 26.

19. Unsurprisingly, it is agreed that the development would have an adverse effect on landscape character, noting the wholesale loss of open agricultural land. This would be replaced by a new estate, with its associated infrastructure including lighting and signage, and a significant increase in vehicular and pedestrian activity.
20. The magnitude of the landscape effect refers to the scale or extent of the loss, its duration and reversibility. The Council suggests that the magnitude of the effect on the site and its local context **would be 'high adverse'**, at the top of the scale of effects, referring to major loss or alteration of an existing landscape element that may be key to landscape character, with an extensive geographical area affected. This exaggerates the extent of the effect, given the relatively contained nature of the appeal site and its context.
21. **I prefer the appellant's assessment** that the magnitude of the effect would be medium adverse, that is a noticeable/prominent change of more limited scale and extent, including the loss of some key landscape characteristics or elements. Nonetheless, I disagree that the residual effect would be of a low adverse level in terms of magnitude. This has been suggested on the basis that the development would form a logical southern extension to Walberton. However, whilst the development would be close to the settled edge of the village, I have noted that the paddock area currently provides a degree of separation.
22. The significance of the landscape effect overall is greater for the site context than the site itself, noting that the site context contributes to the setting and identity of Walberton as part of the approach to the village. On the basis of the **'medium sensitivity' of the site** context and the **'medium adverse' magnitude of change**, it is appropriate that I conclude that there would be a moderately adverse effect. This is defined as being of local importance, causing a noticeable difference in the landscape, but not generally significant. Whilst the Council considers that the landscape effect would be major adverse, as this typically relates to change that would completely alter landscape character, my view is that this exaggerates the effect of what would be a reasonably contained development. The effect on the LCA would be minor adverse as this would be a relatively modest loss to the landscape character of the wider area.
23. Looking at the visual effects of the development, there is a little more consistency between the parties positions. From the filtered viewpoints along the PROW to the south the appeal development would appear as a conspicuous addition, in stark contrast to the open field. This would generate moderate to major visual adverse effects during construction, reducing to moderate in the operational phase, and a minor to moderate adverse residual effect when the development and its landscaping become established. Similar conclusions can be drawn in relation to the effect on views from the permissive path, though the proposed formalisation of this route, the close-range nature of views into the site, and the presence of construction traffic would suggest a major adverse effect during the construction phase, reducing to moderate adverse residual effects.
24. The parties agree that there would be a moderate adverse visual effect for views from Yapton Lane during construction. This would reduce to a minor adverse residual effect over the longer term, noting the screening from the tree belt and that the sinuous route of the road access would avoid direct views of

housing from Yapton Lane. Residential receptors, most notably the residents of the Walberton Place, would experience major to moderate adverse effects during construction, reducing to moderate adverse once the development and its landscaping become established.

25. Summing up, the landscape effects of the development would be significant at the level of the site and its local context, but much less so for the wider LCA. Additionally, whilst the identified visual effects would again be significant, the relatively contained nature of the site means that vantage points are limited in number. Overall, there would undoubtedly be a moderate level of harm to the local landscape by virtue of the loss of open agricultural land and the introduction of an urbanising form of development, however the nature of the landscape and visual harm would be localised and limited
26. **I reach this view having considered the Council's Leisure and Landscape Officer** comments on the application. On initial reading these comments appear to offer support for the proposal in landscape terms, suggesting that the design of the site should promote a high-quality development that respects, maintains and enhances local landscape character. Nonetheless, closer consideration reveals that no comment is made on the landscape value of the site and its context, nor how this would be impacted by the scheme. Such comments are therefore of little relevance to this matter.
27. Comparisons have been made between the landscape assessment of the appeal site and that of other sites during the decision-making process. These may be located within the same LCA and in general terms be of a similar nature to the appeal scheme, that is residential development on greenfield sites adjacent to settled areas. However, given the variations in site circumstances and local contexts, such comparisons do not assist with reaching conclusions on landscape matters.
28. The reasons for refusing the application refer to conflict with Local Plan Policy D SP1 which requires development to reflect the characteristics of the site and local area in terms of matters including landscaping, density and scale, as well as massing, materials and finish. Local Plan Policy D DM1 is also referenced which similarly refers to aspects of form and design quality within built development, requiring that development 'make best possible use of land by reflecting or improving upon the character of the site and the surrounding area.' The detailed design matters referred to in these Policies are generally not of relevance to an outline scheme of this nature. Nonetheless the principles relating to the need for the development to reflect the character of the site and surrounding area are relevant to the appeal. To the extent that I have found harm in these regards, there would be conflict with Policies D SP1 and D DM1. For the same reason there would be conflict with the National Planning Policy Framework (the Framework) paragraph 174b), which requires development to respect the intrinsic character and beauty of the countryside.
29. I have considered the suggestion that there is additional conflict with the NP Policy VE13. However, the Policy wording refers to the need to respect and enhance specific views and vista, none of which relate directly to the appeal site. The supporting text also refers to open fields adjacent to built-up areas being important elements of the village landscape which should not be regarded as expendable. However, this represents an additional criterion as it

is not referred to in the Policy wording. As such, any conflict with such provisions cannot be said to have the force of the Policy itself.

Settlement gap

30. Local Plan Policy SD SP3 sets out that the generally open and undeveloped nature of specific gaps between settlements, as identified on the Policies Map, will be protected to prevent coalescence and retain their separate identities. The Barnham to Walberton Gap (the Gap) focuses on the network of large-scale arable fields between Walberton and Barnham.
31. Policy SD SP3 only permits development where it meets a number of criteria. These are that a) it would not undermine the physical and/or visual separation of settlements; b) it would not compromise the integrity of the gap, either individually or cumulatively with other existing or proposed development; c) It cannot be located elsewhere. Further criteria are that development maintains the character of the undeveloped coast, or a subsequent DPD or Neighbourhood Plan deems it appropriate through an allocation. This Policy is not intended to rule out all development, rather the supporting text indicates that it allows for appropriate small-scale development, sited and designed to minimise the impact on the openness of the gap.
32. The parties agree that Policy SD SP3 is a spatial planning policy. It is a well-established policy approach focusing on protecting the distinctive and separate identities of settlements. **It is not a landscape 'designation'**, and as such is not an indicator of landscape condition, quality, or value. Whilst the application of this Policy requires consideration of land within the gap in terms of its nature, its relationship with the settlements and the implications of development for it, such an assessment aligns with, rather than duplicates, landscape character considerations.
33. Before considering the nature of the Gap it is necessary to address the disagreement between the parties about where these settlements start and end. The core of the settlement of Barnham is located to the south-west of Walberton, with ribbon development extending east along Lake Lane petering out as it progresses away from the BUAB towards Yapton Lane. The point at which it can no longer be considered as part of the settlement is difficult to say precisely, though Todhurst Cottages appear to be at the fringe of the settlement, with the area beyond having a sense of being rural hinterland. This is somewhat beyond the BUAB. Therefore, **whilst there is no 'clear break'**, there is a definite sense of having left Barnham along Lake Lane.
34. The arrival into Walberton along Yapton Lane is most clearly apparent at the entrance to DM Chainsaws, with built form to the west and the arrival at the junction with The Street closely followed. The BUAB boundary follows the rear of properties on The Street. Beyond this, the area of paddock land to the south of The Street, and to the north of DM Chainsaws/Walberton Place, forms a transition between the built character of the village and the countryside to its south. Therefore, whilst in my view DM Chainsaws/ Walberton Place are associated with Walberton village, the paddock area creates visual separation.
35. The Gap itself encompasses agricultural land extending northeast from the BUAB of Barnham to adjoin the BUAB of Walberton. There is clearly a logic to using the BUAB as the starting point for defining the Gap, noting the role of such boundaries in defining the extent of settlements. This Gap is described in

the Landscape Study as comprising the 'partially enclosed large scale arable landscape with glasshouses and horticultural land uses around Barnham.' Whilst much of the horticultural/nursery activities to the south of Walberton are excluded from the Gap, they are not obviously part of either settlement area, noting that activity of this nature is not unusual in rural areas. Further, the horticultural area extends to the east and south, away from the area of greatest significance between the settlements in terms of defining their individual extent.

36. It is relevant to note that the recommendation of the Landscape Study to extend the existing Gap further east to Yapton Lane was adopted. This was because the existing Gap edge was indistinct in that it did not relate to a robust boundary on the ground. As things now stand Yapton Lane the eastern extent on the Gap, including the field within which the appeal site is located. Whilst there is a logic to establishing clear boundaries, it does not necessarily follow that this additional land provides a similar level of contribution to maintaining the Gap as land further west. The Landscape Study rationale for inclusion of this area makes no reference to it supporting the physical or visual separation of the settlements. This is unsurprising, noting that this additional area extends further away from what can reasonably be considered as forming the edge of Barnham village. This is not to say that the additional area does not serve any function in terms of maintaining the Gap. Rather, its purpose is to define and contain the areas of sensitivity and significance in gap terms, particularly that to the south of the Church and Walberton House. The importance of this area in maintaining the Gap must be considered on this basis.
37. The appeal scheme would not represent the small-scale development which may be permissible under Policy SD SP3. It would clearly result in the physical alteration of the Gap. Built form would occupy a relatively large proportion of the Gap as it adjoins the Yapton Lane frontage which, at around 400m, is already narrow. The Council estimates that the appeal site area covers between 13-**35% of this part of the Gap. The appellant's measurements of the** Gap spans between the BUAB of the settlements, suggesting that there would be a 13% Gap reduction. This analysis better represents the spatial extent and purpose of the Gap as it includes the large-scale fields to the south-west of Walberton. These fields are of great importance to the spatial separation of the settlements. The use of the BUABs rather than the Gap boundaries as the **basis for the appellant's measurements does underestimate the reduction** resulting from the appeal scheme, though not to a significant degree.
38. Turning to visual matters, the Council analysis places particular emphasis on the visual gap along Yapton Lane, noting that this is one of the main approaches to Walberton from the south, and that it connects with the open countryside on either side, thereby contributing to the rural character of the setting of Walberton. In this context it is noted that the allotments and field containing the appeal site provide the only area of completely unimpeded relief from development along the western side of Yapton Lane. However, I have noted that this is some distance from the edge of Barnham, with significant horticultural and other development in the intervening area, an area which has not been identified as being of importance to the Gap function. Further, Gap policy seeks to protect the space between the settlements, rather than the character and identity of specific settlements. The latter is protected by other policy provisions.

39. Focusing on the effect on the visual separation of Walberton and Barnham, at present the smaller more enclosed field pattern close to Barnham, the green houses and the tree cover combine to preclude both intervisibility and intravisibility between these settlements. Whilst Walberton Place and DM chainsaws are visible elements within the Gap, they do not appear as part of the settlement edge when viewed from the south.
40. The development would have the effect of extending the settlement edge of Walberton, such that it would be visible across the narrow eastern section of the Gap from the allotments and the PROW. In this sense it would fore-shorten views across this part of the Gap. It would also interrupt views across the open land of the Gap from Yapton Lane and the permissive path. However, for the reasons previously given, I do not agree that the area of horticultural and other development beyond the southern boundary of the Gap, that is directly to the south of the allotments, can reasonably be regarded as forming the outskirts of the settlement of Barnham. Therefore the development would not lead to a reduction in the perceptual gap between these settlements.
41. Summing up, residential development of the nature proposed cannot be considered small scale. It would extend the settlement of Walberton into the eastern part of the Gap both physically and visually. As a result it would erode the degree of visual openness here, including the extent of the rural setting of Walberton. Looking specifically at the requirements of criteria b) of Policy SD SP3, in this sense there would be some conflict with the requirement that the integrity of the Gap should not be compromised. Nonetheless, the degree of conflict would be moderated by the fact that I have found that this part of the Gap to be of lesser importance in defining the separation between Walberton and Barnham than the land further to the west. As a result, whilst the appeal development would reduce the undeveloped extent of this part of the Gap, it would not lead to a significant erosion of the physical or visual separation between the two settlements. In this regard I do not find conflict with criteria a) of Policy SD SP3.
42. Turning to criteria c) and the question of whether the development could be located elsewhere, it is relevant to refer to the current constraints on housing delivery in the District, a point to which I return below. By any standards the Council is facing a serious and persistent housing crisis. In these circumstances there is nothing before me to suggest that this development could be accommodated elsewhere.
43. Of the final two criteria, this is not an allocated site and so the question of whether the development would maintain the character of the undeveloped coast remains. On the basis that the site is some distance from the coast I do not find conflict in this regard.
44. To conclude on this matter overall, there would be a moderate degree of landscape and visual harm to the intrinsic character and beauty of the countryside. This would be localised and limited in extent. In this regard there would be some conflict with Local Plan Policies D SP1 and D DM1 and the Framework Paragraph 174b). There would also be an incursion into the Barnham to Walberton settlement Gap resulting an element of conflict with Policy SD SP3, though overall there would be large degree of compliance with the requirement to maintain the separate identity of these settlements.

Agricultural land

45. The appeal scheme would result in the loss of some 2.46 hectares of agricultural land which is currently in arable use. This has been classified as Grade 1 Best and Most Versatile (BMV) agricultural Land and is therefore of excellent quality. The appellant has sought to demonstrate that there are some constraints associated with the economic productivity of this land, suggesting that as a standalone parcel it is marginally feasible, though there is no compelling evidence to suggest that it cannot continue to be actively farmed.
46. It is agreed that the loss of BMV agricultural land would result in conflict with Local Plan Policy SO DM1. This sets out that the use of Grade 1, 2 and 3a of the Agricultural Land Classification for any form of development not associated with agriculture, horticulture or forestry will not be permitted unless the need for the development outweighs the need to protect such land for the long term. This must be demonstrated through sustainability and options appraisals.
47. These provisions are more restrictive than the Framework paragraph 174b) **requirement to 'recognise' the economic and other benefits of BMV agricultural land**. The Council refers to the fact that Inspectors have reached different conclusions on consistency between Policy SO DM1 and the Framework. However, in the absence of a five year supply of housing land, the parties agree that moderate weight should be given to the loss of Grade 1 agricultural land in the planning balance. Based on the evidence before me, I agree. It is therefore not necessary to explore this matter further.

Housing land supply

48. The Statement of Common Ground sets out that the Council has 2.4 years supply of housing land. The most up to date assessment is set out in the Draft Annual Monitoring Report published in January 2023. This concludes that the supply level is 2.36 years, equating to a shortfall of over 6,000 homes over the next 5 years. This situation has worsened from the 3.3 years supply identified in 2021. The housing delivery test for the District has also been below 70% since the Local Plan was adopted in 2018. This is evidence of a significant and persistent housing crisis in the District. In these circumstances the presumption in favour of sustainable development set out at paragraph 11 d) of the Framework must apply. In considering the significance of this situation it is also relevant to review the measures in place to address housing delivery.
49. The Local Plan refers to the intention to '**immediately**' commence production of a non-strategic site allocations DPD for those parts of the District not covered by, or committed to, the preparation of an up-to-date Neighbourhood Plan. The DPD has not been progressed. I understand that the reviewed Walberton NP was made in 2021, however there is no evidence before me to suggest that the housing numbers included within this Plan were subject to significant examination as part of this process.
50. The Local Plan also sets out that if annual housing delivery is less than the annualised requirement in two consecutive years a partial review would be undertaken. This has not been progressed. I understand that a proposed review has been paused pending the changes signalled in the Levelling Up and Regeneration Bill.

51. The specific measures put into place by the Council in order to address delivery issues include the Housing Delivery Action Plan, produced in 2019 and updated in 2021. It reviews the reasons for such issues including infrastructure delivery constraints, poor-quality planning applications and other market factors. A series of recommendations to overcome such barriers and boost delivery include inviting applications from landowners of deliverable sites, targeting pre-application discussions to improve the quality of applications and applying the presumption in favour of sustainable development in decision making.
52. The Council also published an Interim Policy Statement for Housing Delivery in February 2021, which similarly aims to identify suitable sites and to speed up decision making. Specifically, it applies to non-allocated brownfield and greenfield sites outside but adjacent to settlement boundaries. A checklist of criteria is based on national and local policy considerations and applied as a red/amber/green rating, seeking to provide a balancing tool to maximise green, justify amber and avoid or minimise red **'ticks'**. It is not intended to replace policy but to guide developers and inform planning decisions.
53. Using this approach the Council suggests that the appeal site attracts five red ticks against the 40 criteria. This includes red ticks in relation to national habitat, landscape or heritage designations, none of which were reasons for refusing the planning application. It is therefore suggested that the site is not suitable for development. However, there is no evidence of the **'balancing'** across the range of criteria in order to reach this conclusion.
54. A higher-level assessment of the availability and achievability of sites is set out in the Housing and Economic Land Availability Assessment (HELAA) of January 2022. **This was on the basis of a 'call for sites' exercise.** In assessing the wider field in which the appeal site is located the HELAA concluded that there were significant constraints associated with this site relating to the Gap policy and its heritage and landscape setting.
55. More generally, it appears that development in the District is constrained by a range of national and local environmental and planning designations, including the South Downs National Park and a series of other protective landscape and habitat measures. Furthermore, much of the District is rural and some distance from settlements and appropriate infrastructure.
56. Summing up, whilst the Council has sought to identify a **'roadmap of steps'** to address the housing crisis, at this point in time there is no evidence to suggest that these provisions are generating the step change required to improve housing delivery. The assessment of the appeal site using the approaches identified reflects the difficulty of identifying suitably unconstrained sites based on existing policy measures. Furthermore, there is no prospect of a plan-led solution to this matter being in place in the short or medium term.

Other Matters

Conservation area

57. I have noted that the appeal sites northern boundary is partly contiguous with, and includes small sections of, the southern extent of the Walberton Village CA. The significance of the CA is derived from the historic and aesthetic values of its serpentine layout, its form reinforced by traditional boundary treatments. Similarly, the mix of period buildings exhibiting original architectural details,

decorative features and the use of traditional materials are of historic and aesthetic value, creating a distinctive and attractive streetscape.

58. The wider rural setting of the CA contributes to significance through the appreciation of the historic and continuing relationship of the village with the rural landscape beyond. There are limited opportunities to view this from within the CA, though the open land to the south of both the Church and Walberton House do provide some intervisibility. The field in which the appeal site is located can be seen as part of this setting in glimpsed and filtered views from PROW and Yapton Lane, however any intervisibility with the CA itself is limited. Walberton Place is a more prominent element of these views. The contribution of the appeal site to the significance of the CA setting is therefore modest.
59. The introduction of the built form of the appeal scheme would result in the loss of openness in views from the PROW and Yapton Lane on the approach to the CA, though as these views are already heavily filtered by trees any impact on the setting of the CA, and specifically its special interest and significance, would be limited. The existing tree belt to the north of the site which lies within the CA boundary would not be affected.
60. Overall I agree that the proposal would result in less than substantial harm to the heritage significance of the CA through changes to its setting. Noting the modest contribution of the site to the heritage significance of the CA, this would be at the lowest end of the spectrum. In accordance with the Framework paragraph 202 such heritage harm must be weighed against the public benefits of the proposal, a matter to which I return below.

Other concerns of interested parties

61. I have noted that the current NP was made as part of the development plan in 2021. As the appeal site is outside the BUAB the development would conflict with NP provisions. The Framework paragraph 14 sets out that in situations involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, providing that four criteria are met. This includes the requirement that the local planning authority has at least a three-year supply of deliverable housing sites, which is not the case here. Therefore the Framework paragraph 14 is not engaged and the application must be determined in accordance with paragraph 11d). Whilst this will be frustrating locally, it signifies the severity of the situation and the significance to be attached to the level of unmet housing need in the District.
62. That said, there is nothing before me to indicate that if this scheme were to proceed it would set a precedent for further development to the south of the village. Future cases would have to be considered in the light of their site specific and policy circumstances.
63. The appeal site is located close to the village of Walberton which has a modest range of services and facilities. Barnham, along with Eastergate and Westergate share a wider range of facilities, with Barnham also having a mainline railway station. Whilst the site is not remote, equally its location is not highly sustainable, meaning that residents of the appeal scheme would, to a large degree, be dependent on private transport to access the full range of services and facilities, as well as employment opportunities.

64. Whilst at this stage the level of car parking provision is not indicated, this would be established at the reserved matters stage. There is nothing before me to suggest that the scheme would exacerbate local parking stress.
65. Concerns raised regarding the potential ecological and biodiversity impacts of the development, particularly in terms of bats in the woodland belt to the east, have been addressed in updated information submitted at appeal stage. This demonstrates that this area is of significance for foraging and commuting bats, such that without mitigation the appeal scheme would cause a moderate adverse level of impact. Whilst mitigation measures would be considered further as part of detailed design, at this stage it is envisaged that further landscape buffers, a requirement that development be set 5m away from the tree belt and conditions to address lighting would mitigate any adverse effects.

Planning Obligations

66. The Section 106 Agreement would provide for 30% affordable housing. This would accord with the Local Plan Policy AH SP2 requirement that 30% affordable housing should be sought on development of 11 units or more. The Section 106 Agreement would also secure the management and maintenance of public open space and play facilities, which would comply with the requirements of Local Plan Policy INF SP1 relating to infrastructure provision and implementation.
67. In the light of policy requirements, I am satisfied that these obligations would be necessary to mitigate the effects of development and to make the development acceptable in planning terms. I also agree that they would be directly related to the appeal development, and fairly and reasonably related to it in scale and kind. Accordingly, they would meet the tests set out in paragraph 57 of the Framework and in Regulation 122 of the CIL Regulations. On this basis I have taken them into account in reaching my decision.

Planning balance and conclusions

68. The starting point for decision-making is Section 38(6) of the Planning and Compulsory Purchase Act 2004 which establishes that planning applications should be determined in accordance with the development plan, unless material considerations indicate otherwise. The development plan here is comprised of the Local Plan and the NP. As a starting point I have found some conflict with Local Plan Policy C SP1 and NP Policy HP1 relating to countryside protection, Local Plan Policies D SD1 and D DM1 relating to design matters, Local Plan Policy SD SP3 relating to settlement gaps and Local Plan Policy SO DM1 relating to soils and agricultural land.
69. The provisions of the Framework relating to housing land supply are material in this case. Paragraph 11d) and footnote 8 indicate that in these circumstances the policies which are most important for determining the application are out of date. That said, the Framework paragraph 219 sets out that due weight can be given to such policies according to their degree of consistency with policies in the Framework. The Framework does not prescribe the weight to be given to conflict with development plan policies, which must be based on consideration of the purpose of the policy and the circumstances of the case. In terms of the balance, I consider firstly the benefits of the development followed by the adverse impacts before concluding overall.

Benefits of the development

70. The five-year housing land supply situation is an indicator that the future needs of local people will not be met. Further, there is no prospect of this situation being resolved in the short or medium term through the plan-led system. On this basis the parties agree that the highest possible weight should be attached to the acute need for market housing in the District. There is also significant need for affordable housing within the District, with over 1,000 households **currently on the Council's housing register**, having risen from 900 in 2018.⁵ As a greenfield site it is likely that housing development here could be delivered within 5 years, thereby assisting with current housing land supply issues. I therefore give substantial weight to both the provision of market housing and also the provision of up to 14 affordable homes.
71. In terms of housing mix, whilst the Local Plan Policy H DM1 requirement relating to a balanced mix of housing types and sizes applies only to developments of over 11 dwellings, NP Policy HP6 has a similar requirement and with no minimum size. Therefore, as this is a policy requirement, a benefit of at most modest weight can be attached to the provision of a mix of dwellings to meet local need.
72. Turning to the question of whether development in a sustainable location attracts beneficial weight, I have noted that whilst the site is not remote this is not a highly sustainable location. Any benefit in this regard would therefore be modest.
73. The economic benefits of the proposal would include the creation of jobs and other spin off benefits to the local economy during the construction period. There would also be ongoing additional expenditure in the local economy from new residents. It is agreed that any benefits from the dentist/doctors surgery would fall into this category. Whilst such benefits are in the main common to developments of this nature, I nonetheless both construction stage and ongoing economic benefits moderate weight.
74. The provision of public open space is referred to as a benefit, as is the sustainable drainage scheme, with the consequential likely reduction in surface water run-off and associated off-site flooding. These matters are primarily intended to address the impact of development and respond to the needs arising from it. Nonetheless modest weight can be attached to these social and environmental benefits. Further benefit would attach to ecological improvements, noting the estimated 12% Biodiversity Net Gain (BNG) the development would bring, attracting moderate weight in favour of the appeal scheme.

Adverse impacts of development

75. The weight to be attached to the conflict with Local Plan Policy C SP1 and NP Policy HP1 relating to development in the countryside must be considered in relation to the lack of five-year housing land supply. The rigid application of policies seeking to restrict the spatial distribution of development to within the BUABs has certainly contributed to the current supply position. There is some consistency between the provisions of these Policies and the Framework paragraph 174b) in terms of recognising the intrinsic character and beauty of

⁵ CD 1.17 Arun District Council Housing and Homelessness Strategy 2018, Section 4.1

the countryside. Nonetheless in the circumstances of this case, noting the uncertainty around how the Council intends to address the housing shortfall, I attach no more than moderate weight to the conflict with these policies.

76. Whilst Local Plan Policies D SD1 and D DM1 relate in the main to design matters, I have found some conflict with provisions relating to the effect of the development on the character of the site and local area. These policies are consistent with the Framework insofar as they seek to make efficient use of land and ensure that new development is sympathetic to local context and character. On the basis that I have concluded that the development would cause a moderate level of landscape and visual harm which would be localised and limited in extent, my view is that the conflict with these policy provisions should be accorded moderate weight in the planning balance.
77. As noted previously, it is agreed that the conflict with Local Plan Policy SO DM1 relating to development on BMV agricultural land should attract moderate weight in the overall balance.
78. Local Plan Policy SD SP3 seeks to restrict development in the countryside by protecting settlement gaps. There is some consistency between this Policy and the provisions of the Framework paragraphs 174b) and 130c) and d) in terms of protecting settlement character. Its requirements are more specific and tightly drawn than the BUAB, and there is no evidence of this specific provision preventing the Council from achieving a five-year housing land supply. Nonetheless, it has the effect of constraining the spatial distribution of housing in sustainable locations close to settlements. In light of the acute housing land supply position, it should therefore be given reduced weight. In this case I have found some limited conflict with Policy SP3 provisions. Overall I accord no more than modest weight to the conflict with this Policy.
79. The harm to the significance of the setting and small incursion into the Walberton Village CA would be less than substantial and low level. Although great weight should be given to the conservation of designated heritage assets, the identified public benefits would outweigh the harm on this occasion. There would be no conflict with the Framework paragraph 202 and the clear and convincing justification required by paragraph 200 would be demonstrated. Therefore, in these circumstances, the development would have an acceptable effect on the significance of the CA and its setting.

Conclusion

80. I have reached my conclusion based on the harms and benefits identified, as well as all of the other matters raised. On the one hand I have identified conflict with development plan provisions relating to the protection of the countryside, landscape, settlement gaps and agricultural land. For the reasons given these harms attract moderate and modest weight. Set against this the housing benefits identified are of substantial weight, delivering positively against the requirements of the Framework, with other benefits attracting further moderate and modest beneficial weight. In the overall planning balance I find that the adverse effects of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole. Therefore, material considerations support a decision other than in accordance with the development plan.

Conditions

81. I have considered the conditions suggested by the Council and appellant, as well as the advice set out in the Planning Practice Guidance. Where there is disagreement between the parties, I have indicated my position. Additionally, I have made some amendments in the interests of precision and enforceability, though this has not altered the aims and requirements of the conditions.
82. It is necessary to specify the reserved matters to be submitted for approval, the time limits for their submission and the subsequent implementation of the permission in accordance with the requirements of the Act (1,2). Conditions specifying approved plans, including site access and visibility arrangements, are necessary in the interests of good planning and highway safety (3,21,22).
83. A condition requiring that at least 10% of energy supply is secured from decentralised and renewable sources (4) is required to accord with the provisions of Local Plan Policy ECC SP2 in relation to energy and climate change mitigation. A condition requiring the provision of electric vehicle charging points (6) is necessary to support the forthcoming shift away from new petrol and diesel vehicles in support of the transition to a low carbon future. It also meets the requirements of Local Plan Policy QE DM3c). A condition requiring that the appeal dwellings be provided with high-speed broadband (7) is necessary to support the amenity of future residents, including supporting opportunities for home working.
84. A condition requiring that an acoustic assessment be undertaken to determine the noise associated with the adjacent chainsaw business, along with details of an appropriate scheme of mitigation for the appeal properties (8), is necessary to protect the amenity of future residents by guarding against noise complaints. Similarly, conditions requiring the scheme to demonstrate that the appeal dwellings would comply with appropriate internal and external noise levels (12,13) are also required to protect the amenity of future residents.
85. Conditions relating to a scheme of works investigating the possibility of land contamination (9) and the procedure for dealing with unexpected contamination (10) are necessary to protect the amenity of local residents. A condition setting out permitted construction hours (11) is required for the same reason.
86. A condition relating to the provision of a Construction and Environment Management Plan (5) is required to protect the local environment during the construction period, particularly wildlife habitats and green infrastructure. Similarly, conditions requiring ecological mitigation measures to be carried out (14), setting out the requirements for circumstances in which works could impact on protected species (15), requiring the submission of a Biodiversity Net Gain Design Stage Report (16), requiring a Construction Environmental Management Plan for Biodiversity (17) and a Biodiversity Enhancement Strategy (18) are necessary to protect and enhance biodiversity and comply with legal duties in relation to protected species. For the same reasons it is appropriate to require conditions relating to a wildlife sensitive lighting design scheme (19) and a Landscape and Ecological Management Plan (20).
87. A condition requiring the agreement of the specification for, and implementation of, the improvements to the permissive path (23), is necessary to manage the impact on protected trees and to provide improved pedestrian

access. A condition requiring that the improvements to the A27/Yapton Lane junction are put into place prior to the occupation of the development (30) is required in the interests of highway safety. To promote active travel and improve road safety a condition requiring a travel plan (31) is necessary.

88. As the site is located within a Minerals Safeguarding Area it is necessary to include a condition requiring a scheme for the incidental extraction of safeguarded mineral resources underlying the site (24), in accordance with Policy M9 of the West Sussex Joint Minerals Local Plan. Conditions relating to foul and surface water drainage (26,27,28,29) are required to ensure that the development makes provision for satisfactory disposal of foul and surface water and to reduce flood risk. In order to ensure sustainable re-use of soils a condition requiring the provision of a soil resource plan (34) is necessary. To protect as yet unknown archaeology, a condition requiring a programme of archaeological work in accordance with a written scheme of investigation (35) is required.
89. A condition requiring details of how the scheme would meet the requirements for older persons housing be submitted at reserved matters stage (25) is necessary to ensure that the needs of the community are met. Conditions setting out details of the delivery of the dentist/doctors surgery (32,33) are required to ensure that the provision of this facility is managed in accordance with Local Plan Policy INF SP1, and to protect residential amenity.
90. Some conditions are pre-commencement (4,5,7,8,9,12,13,14,15,16,17,24,34,35) as they concern matters that need to be addressed and/or provided before works begin on site.
91. The Council have suggested a condition requiring an Air Quality Impact Assessment. Whilst Local Plan Policy QE DM3 requires such an Assessment within Air Quality Management Areas, it is not apparent that this should apply to all major developments. Rather, Policy QE DM3 requires that the impacts of development should be considered in terms of maximising walking, cycling and public transport use, providing for electric vehicles and supporting improvements to the highway network where the development could contribute to congestion. In my view these requirements would be met. As such it is not necessary to apply this condition.

Overall Conclusion

92. For the reasons set out above I conclude that the appeal should succeed.

AJ Mageean

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Thea Osmund-Smith and Odette Chalaby	Instructed by Peter Cleveland for Henry Adams LLP
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They called:

Peter Cleveland BSc, MSc MRTPI	Partner, Henry Adams LLP
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Clare Brockhurst FLI, BSC (Hons), Dip LA	Director, Leyton Place Ltd
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FOR THE LOCAL PLANNING AUTHORITY:

Andrew Parkinson	Instructed by Arun District Council
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He called:

Karen Jones BA (Hons), MCD, MRTPI	Senior Director RPS Group Ltd
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Robyn Butcher BA (Hons), Dip LA, FLI	Director, The terra firma Consultancy
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Juan Baeza	Planning Team Leader, Arun District Council (for Conditions/Planning Obligation discussion)
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INTERESTED PARTIES:

Matthew Litchfield	Director of DM Chainsaws
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DOCUMENTS SUBMITTED AT THE INQUIRY

1. Appearances for the Appellant.
2. Updated Core Documents list.
3. Opening Statement for the Appellant.
4. Opening Statement for the Council.
5. Copy of the dated and certified Planning Obligation.
6. Updated Conditions Schedule

DOCUMENTS SUBMITTED AFTER THE INQUIRY

1. Updated Conditions Schedule.
2. Closing Statement from the Council.
3. Closing Statement for the Appellant

Schedule of conditions

1. The permission hereby granted is an outline permission under s92 of the Town and Country Planning Act 1990 (as amended). An application to the local planning authority for approval of the following matters must be made not later than the expiration of 2 years from the date of this permission: Scale; Layout; Appearance; Landscaping (hereafter referred to as "**the** reserved matters").
2. The development hereby permitted shall be begun either before the expiration of 3 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 including the access hereby approved shall be carried out in accordance with the following approved plans:
 - 20-1092-001-A Site Location Plan
 - 21xx_P01 Parameters Plan
 - 5478/002 Rev. F Proposed Access
4. At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low carbon energy sources 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, including details of physical works on site, shall be submitted to and approved in writing by the local planning authority before any development in that phase begins. The development shall be implemented in accordance with the approved details and timetable and retained as operational thereafter.
5. No development shall take place until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. Thereafter the approved CEMP shall be implemented and adhered to throughout the construction period. The CEMP shall include the following matters:
 - a. An indicative programme of works;
 - b. Details of proposed construction hours;
 - c. Details of public engagement and consultation prior to and during the works;
 - d. Measures to minimise noise and vibration (including working hours, piling methods, selection of plant/machinery and noise barriers);
 - e. Floodlighting details;
 - f. The number, frequency and types of construction related vehicles;
 - g. Access and routing of construction vehicles;
 - h. The parking of vehicles of site operatives and visitors;
 - i. Loading and unloading of plant, materials and waste;
 - j. Storage of plant and materials used during construction;
 - k. The erection and maintenance of security hoarding;
 - l. The provision of wheel washing facilities and any other measures to mitigate the impact of construction on the public highway;
 - m. Measures to control the emission of dust and dirt during construction;
 - n. A scheme for recycling/disposing of waste.
6. Prior to the occupation of any dwelling, a scheme for the provision of facilities to enable the charging of electric vehicles to serve the approved dwellings shall be submitted to and approved in writing by the local planning authority. The

development shall be carried out in accordance with the approved details and the charging points shall thereafter be permanently retained in good working condition.

7. No dwelling shall be occupied until a strategy for the provision of the highest available headline speed of broadband services to serve the permitted dwellings has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved strategy.
8. No development shall commence until an acoustic assessment has been undertaken to determine the impact of noise from commercial related noise sources (including DM Chainsaws) on the proposed dwellings. The results of the assessment and details of a scheme of mitigation measures necessary to ensure an appropriate level of aural amenity within habitable rooms and amenity in garden areas shall be submitted and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed before any part of the development is occupied and shall thereafter be maintained in accordance with the approved details.
9. 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 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; potentially unacceptable risks arising from contamination at the site.
 - b. A Site Investigation Scheme, based on (a) above to provide information a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - c. Based on the Site Investigation Scheme and the detailed risk assessment (b), an options appraisal and remediation strategy giving full details of the remediation measures and how they are to be undertaken.
 - d. A Verification Report providing details of the data that will be collected in order to demonstrate that the works set out in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
 - e. Any changes to these components (a) to (d) require the express written consent of the local planning authority.

The scheme shall be implemented as approved above and, prior to commencement of any construction work (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 the for the reporting of this in writing to the local planning authority.

10. 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.
11. Demolition/construction activities shall take place only between the hours of 08.00 and 18.00 Monday to Friday inclusive; between 08.00 and 13.00 on Saturdays; and not at any time on Sundays or Bank/Public Holidays.

In addition to these hours of working the local planning authority may approve in writing a schedule of activities where it is necessary to conduct works outside the hours specified in this condition.

12. Prior to the commencement of the development hereby approved, a scheme to demonstrate that the 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 shall be compiled by a competent acoustician on sound insulation and noise reduction for buildings and shall be submitted to and approved in writing by the local planning authority. 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.
13. Prior to the commencement of the development hereby approved, a scheme to demonstrate that the external noise levels within the curtilage of residential **units will conform to the 'Design criteria for external noise' upper guideline** value of 55dB $L_{Aeq,T}$ as specified within section 7.7.3.2 of BS 8233:2014 shall be prepared.

Guidance on sound insulation and noise reduction for proposed development shall be submitted to and approved in writing by the local planning authority. The work 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.

14. Prior to the commencement of development, mitigation measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment, (Ecosupport, October 2022) as already submitted with the planning appeal 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 undertake all activities, and works shall be carried out, in accordance with the approved details.

15. Any works associated with the development which will impact the breeding / resting place of Dormice or Great Crested Newts, shall not 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/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.
16. 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 which provides a minimum of 10% measurable biodiversity net gain, using the DEFRA Biodiversity Metric 3.1 or any successor. The content of the Biodiversity Net Gain Design Stage Report should include the following:
- a. Baseline data collection and assessment of current conditions on site;
 - b. A commitment to measures in line with the Mitigation Hierarchy and evidence of how BNG Principles have been applied to maximise benefits to biodiversity;
 - c. Provision of the full BNG calculations, with plans for pre- and post-development and detailed justifications for the choice of habitat types, distinctiveness and condition, connectivity and ecological functionality;
 - d. Details of the implementation measures and management of proposals;
 - e. Details of any off-site provision to be secured by a planning obligation;
 - f. 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.

17. Prior to the commencement of development, 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 the following.
- a. Risk assessment of potentially damaging construction activities.
 - b. **Identification of "biodiversity protection zones".**
 - c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d. The location and timing of sensitive works to avoid harm to biodiversity features.
 - e. The times during construction when specialist ecologists need to be present on site to oversee works.
 - f. Responsible persons and lines of communication.
 - g. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h. Use of protective fences, exclusion barriers and warning signs.

- i. 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.

18. Prior to any works above slab level, a Biodiversity Enhancement Strategy for protected and Priority species on site, as set out in Ecological Impact Assessment (prepared by EcoSupport on 12 October 2022)), shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a. Purpose and conservation objectives for the proposed enhancement measures;
- b. detailed designs or product descriptions to achieve stated objectives;
- c. locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d. timetable for implementation demonstrating that works are aligned with the proposed any phasing of development;
- e. persons responsible for implementing the enhancement measures;
- f. details of initial aftercare and long-term maintenance (where relevant).

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

19. Prior to occupation of the development, an external lighting scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The approved 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.

The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

20. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the occupation of the development.

The content of the LEMP shall include the following:

- a. Description and evaluation of features to be managed.
- b. Ecological trends and constraints on site that might influence management.
- c. Aims and objectives of management.
- d. Appropriate management options for achieving aims and objectives.
- e. Prescriptions for management actions.
- f. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g. Details of the body or organisation responsible for implementation of the plan.
- h. 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 and adhered to at all times.

21. 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 the drawing titled 'Land to the West of Yapton Lane'** and numbered 5478/002 Revision F.
22. No part of the development shall be first occupied until visibility splays of 2.4 metres by 120 metres to the north and 125 metres to the south have been provided at the proposed site vehicular access onto Yapton Lane in accordance **with the details shown on the drawing titled 'Land to the West of Yapton Lane'** and numbered 5478/002 Revision F. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level or as otherwise agreed.
23. No part of the development shall be first occupied until improvements have been undertaken to Permissive Route P23 in accordance with plans and details, which shall include a Construction Specification for the proposed surfacing works have been submitted to and approved in writing by the local planning authority.

The content of the Construction Specification shall include the following:

 - a. Detailed plans to 1:100 or 1:200 scale showing clearly the proposed route which shall have a minimum width of 2m;
 - b. Details of the surfacing material to be used;
 - c. Detailed sections to show the method of construction;
 - d. Details of lighting proposed to the footpath;
 - e. Details of trees to be removed to enable construction;
 - f. Suitable tree protection measures to ensure that the works do harm retained and/ or TPO trees;
 - g. An ecological assessment to cover the area affected by the proposed enhancements.
24. Prior to the commencement of development, a scheme for incidental extraction of the safeguarded mineral resources underlying the site shall be submitted to and approved in writing by the local planning authority. The scheme shall include but not be limited to:
 - an assessment of the extent, volume and practicability for incidental extraction, which shall be based on detailed ground investigations; and
 - the methodology for which any identified incidental mineral extraction would be carried out, which shall include a detailed programme/phasing of extraction, and details of the proposed destination/use of the mineral.

25. Detailed plans and particulars of the Reserved Matters submitted to the local planning authority for approval 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 entitled "Accommodation for Older People and People with Disabilities Guidance".
26. 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.
27. Development shall not 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. 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 building shall be occupied until the complete surface water drainage system serving the development has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.
28. Development shall not commence, other than works of site survey and investigation 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.
29. Immediately following implementation of the approved surface water drainage system and prior to occupation of any part of the development, the developer/applicant shall provide the local planning authority 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. No part of the development hereby permitted shall be occupied until the improvements to the A27/ Yapton Lane junction shown on drawing ITB11324-GA-014 Revision C (within Transport Statement produced by Bellamy Roberts dated January 2023, ref ITR/5857/TS.2) are opened to the travelling public.
31. Prior to the first occupation of any dwelling hereby permitted a detailed Travel Plan, to ensure the reduction of trips and promote active travel, shall be submitted to and approved in writing by the local planning authority and

thereafter fully implemented. The Travel Plan shall include details regarding responsibilities and arrangements for monitoring, review, amendment and effective enforcement in perpetuity.

32. As part of the approval of the reserved matters, the following shall be submitted to and approved in writing by the local planning authority in respect of the dentist / doctor surgery building:
- a. A scheme and specification for the dentist/doctors surgery building.
 - b. Details of proposed marketing for a minimum period of 6 months. The details should include when/where/how the marketing is to take place.

In the event the site is not successfully let / purchased following the 6 month marketing period and a four month period for completion of the contract for the sale/letting of the building, the land will revert to open space and be provided in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The scheme shall be submitted to the local planning authority within 2 months of the end of the 6 month marketing period if no expressions of interest have been received or within 2 months of the additional 4 month period if the sale/letting is not finalised and delivered within 6 months of any approval from the local planning authority.

The dentist/doctor surgery building shall be provided in accordance with the approved details, prior to occupation of the 30th dwelling.

33. The use of the dentist/doctors building shall only fall within Class E (e) of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purposes.
34. 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.
35. No development shall take place 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 to and approved in writing by the local planning authority.

Appendix 5:

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



Appeal Decision

Hearing held on 17 October 2023

Site visit made on 17 October 2023

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 December 2023

Appeal Ref: APP/C3810/W/23/3323858

Land to the rear of Meadow Way, Westergate

Grid Ref Easting: 493620, Grid Ref Northing: 104816

- 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 Mr Nick Keeley, Gleeson Land against the decision of Arun District Council.
 - The application Ref AL/178/22/OUT, dated 6 December 2022, was refused by notice dated 26 April 2023.
 - The development proposed is described in the application form as: Outline planning application with all matters reserved, other than principal means of access and 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.
-

Decision

1. The appeal is allowed and planning permission is granted for outline planning application with all matters reserved, other than principal means of access and 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 at Land to the rear of Meadow Way, Westergate (Grid Ref Easting: 493620, Grid Ref Northing: 104816) in accordance with the terms of the application, Ref AL/178/22/OUT, dated 6 December 2022, subject to the attached Schedule of Conditions.

Application for costs

2. An application for an award of costs was made at the Hearing by Mr Nick Keeley of Gleeson Land against Arun District Council. That application is the subject of a separate decision.

Preliminary Matters

3. The application is made in outline, with all matters reserved apart from access. The proposed plans and the description of the development proposed all make it clear that vehicular access to the appeal site would be constructed between 23 Meadow Way and 1 Lamorna Gardens, in place of 24 Meadow Way. The existing access from Hook Lane is shown to be retained as a cycle/pedestrian access only. These form the access matters under consideration, as shown on the proposed Parameter Plan¹. The Highways Technical Note on Hook Lane Access Feasibility² does not form part of a proposal to provide vehicular access to the appeal site from Hook Lane.

¹ Drawing ref: 1318.03

² **Appendix 1 of the appellant's Hearing Statement**, by Motion, dated May 2023

4. The Illustrative Masterplan³ provides a potential layout of the proposed development. It is merely illustrative. As the application is in outline with all matters reserved apart from access, other matters such as the appearance, landscaping, layout, and scale of the proposal are not under consideration. Gaps in the southern boundary hedgerow are shown on that illustrative plan, but these are not shown on any of the other plans and do not form part of the proposal before me.
5. Prior to the Hearing, the Council withdrew its second reason for refusal, which concerned the effect of the demolition of 24 Meadow Way on bats. This followed **receipt of the appellant's Hearing Statement, which included** a Bat Emergence Survey⁴.
6. A copy of a completed legal agreement entered into by the relevant parties was provided after the close of the Hearing. The Council confirmed that it addresses the fourth and fifth reasons for refusal concerning provision of affordable housing and an education transport contribution.
7. **The Council's decision notice does not refer to the suitability of the appeal site** for housing, with **regard to the development plan's spatial strategy** for the location of housing. Nevertheless, it was agreed between the main parties that Policy C SP1 of the Arun Local Plan 2011-2031 (2018) (the ALP) and Policy EH1 of the Aldingbourne Neighbourhood Development Plan 2019-2031 (2021) (the ANDP) are amongst the most important development plan policies for determining the application, and I see no reason to find otherwise. I shall address this in the first main issue.

Main Issues

8. Taking the above and all other matters raised into account, the main issues are:
 - Whether the appeal site would be suitable for housing, with particular **regard to the development plan's** spatial strategy for the location of housing;
 - The effect of the proposed development on best and most versatile agricultural land (BMVAL); and
 - The effect of the proposed development on the living conditions of occupants of nearby residential properties, with particular regard to noise and disturbance.

Reasons

Location of Housing

9. The appeal site is an arable field and an adjacent residential property. The field has an existing access used by agricultural vehicles from Hook Lane. It is roughly rectangular in shape and is skirted by trees and hedgerows. Open land lies to the north. A large garden borders the appeal site to the west, with a short row of houses further beyond. The rear gardens of houses along Meadow Way abut the eastern boundary of the appeal site, and a public footpath runs the length of its southern boundary, linking Meadow Way and Hook Lane. Rear

³ Drawing ref: 1318.02

⁴ By The Ecology Partnership, dated 16 May 2023

gardens of dwellings in Lamorna Gardens and the fronts of dwellings accessed from Hasler Grove, Toop Gardens, and Hook Lane line the southern side of the public footpath.

10. The appeal site is therefore surrounded by housing development to its east and south and a small amount of sparse residential development to its west. It forms an undeveloped parcel of agricultural land at the southern end of Westergate. The village generally comprises development either side of Westergate Street (A29), close to neighbouring villages and smaller settlements, surrounded by countryside.
11. **The appeal site lies outside the 'Built-Up Area Boundaries' defined in the ALP.** Policy C SP1 of the ALP states that land outside those boundaries will be defined as countryside and will be recognised for its intrinsic character and beauty, where development will be permitted if it complies with various criteria. None of those criteria apply to the proposal and it is common ground that the proposal conflicts with Policy C SP1.
12. Owing to its position alongside established housing on more than a single side, its modest size, and its contained nature, I do not consider that the field makes an important contribution to the intrinsic character or beauty of the countryside surrounding Westergate. The Council has not suggested otherwise. The proposal would not harm local landscape character, the wider setting of the South Downs National Park, or the character of any settlements. Whilst it would comprise a significant number of dwellings, the proposal would not greatly affect the discernible urban boundary of Westergate.
13. Policy EH1 of the ANDP states that development of land located to the west of Westergate Street and outside of the Built-Up Area Boundaries will not be supported. It then states that where there is a demonstrable shortfall of housing land supply, development outside the Built-Up Area Boundaries must meet 7 criteria, otherwise it will be resisted. It is common ground between the main parties that there is a shortfall of housing land supply in the district and that the proposed development would accord with Policy EH1.
14. I have considered the comments of Aldingbourne Parish Council (the Parish Council) which explain that the development would not accord with Policy EH1 of the ANDP, and that the ANDP has allocated a site for the development of 38 houses elsewhere in Westergate. However, Policy EH1 does not place a blanket ban on development outside the Built-Up Area Boundaries to the west of Westergate Street. This is clear from the supporting text to the policy, which explains why that land has been considered unacceptable for development on the basis of evidence available at the time the ANDP was adopted. It explains that the significant adverse effects of development on land previously considered unacceptable in this location would need to be satisfactorily addressed such that the benefits of development would be evident to the local community. Those matters would be addressed if the **policy's** 7 criteria are complied with.
15. The development would accord with the first 6 criteria of Policy EH1 of the ANDP. Specifically, its scale, which would include 30% affordable housing, would be proportionate to the **district's** housing supply shortfall and the local housing needs of the Parish. I accept that the appellant is not a builder but that is not unusual and in itself does not mean the housing could not be delivered in the short-term. I have already found that the location of the proposal would

not harm landscape character or that of settlements. As addressed below, it would also accord with dark skies policies and matters raised by criteria (iv) to (vi) of Policy EH1. However, the development would lie within 50 metres of a biodiversity corridor which appears likely to be used by roosting, feeding, or commuting bats. In that regard, the proposal would fail to accord with criterion (vii) of Policy EH1.

16. The Council accepted that because it cannot demonstrate a 5-year housing land supply, it will allow housing development in the countryside, adjacent to the Built-Up Area Boundaries. **I am also aware of the Council's previous informal advice⁵** that there was no objection in principle, considering its 5-year housing land supply position.
17. Bringing these matters together, the location of the proposed development would not accord with the spatial strategy for housing within the district, which indicates that it would be unsuitable for housing. However, it is directly adjacent to the Built-Up Area Boundary and other housing development, in a location described as sustainable by the Council on account of its proximity to local services and transport links. The appeal site is the type of location where the Council accepts that housing development will be permitted due to there being a demonstrable shortfall of housing land supply. For these reasons, I assign only moderate weight to the conflict with Policy C SP1 of the ALP. I shall discuss the weight to be assigned to the conflict with Policy EH1 of the ANDP in the final balancing exercise.

Agricultural Land

18. The arable field forming part of the appeal site measures approximately 3.8 hectares in area and is classed as grade 2 agricultural land, which is defined as BMVAL at Annex 2 of the National Planning Policy Framework (the Framework). Grade 2 agricultural land is described as very good with minor limitations that affect crop yield, cultivations or harvesting.
19. Policy SO DM1 of the ALP states that the use of BMVAL 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. The policy goes on to provide 3 scenarios where the requirement to protect BMVAL can be outweighed, and explains that where development is permitted, it should, as far as possible, use the lowest grade of land suitable for that development and only where 4 criteria are met. This is more restrictive than the Framework, which sets out at paragraph 174(b) that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the economic and other benefits of BMVAL, amongst other things.
20. It is common ground that the development would result in the loss of BMVAL, contrary to Policy SO DM1 of the ALP. However, it is accepted by the Council that BMVAL may well have to be used to provide housing within the district because of its housing land supply position and the large extent of the district which comprises BMVAL. Given that Policy SO DM1 is more restrictive than the Framework, and the high likelihood that BMVAL will have to be used to provide housing within the district, it is appropriate to assign only moderate weight to the conflict with Policy SO DM1 in this particular case.

⁵ The appellant's Appendix 6: Email dated 17 March 2023

21. Policy EH3 of the ANDP seeks to restrict development unrelated to the diversification of agricultural enterprise on BMVAL identified on a specific map, unless the need for the development clearly outweighs the harm. It is unclear whether the appeal site is identified on the map referred to by the policy. Nevertheless, the Council's 5-year housing land supply position and its acceptance that BMVAL may well have to be used to meet housing need in the district, demonstrate that the need for up to 89 dwellings clearly outweighs any harm caused by the loss of grade 2 agricultural land. Therefore, even if the appeal site is identified on the map, the proposal would accord with Policy EH3.

Living Conditions

22. The Council confirmed during the Hearing that it is concerned with the effect of the proposed access road on the living conditions of residents at 23 Meadow Way and 1 Lamorna Gardens, with particular regard to noise and disturbance which would be experienced in the rear gardens of those properties. I have also considered points made by other neighbouring residents who are concerned that the proposal would harm their living conditions with regard to noise, disturbance and privacy effects. Those residents mainly live along the southern boundary of the appeal site. The Parish Council also raised concerns with the impact that building works and construction vehicles accessing the site could have on the living conditions of neighbouring residents.
23. As set out above, the appearance, landscaping, layout, and scale of the development are not specified for consideration. The potential layout of dwellings shown on the illustrative masterplan does not form part of the proposal. Increased pedestrian use of the existing footpath to the south of the appeal site would be likely. However, the level of that increase in use would not result in unacceptable harm to the privacy of any neighbouring residents, where members of the public are already free to use that footpath. The proposal would not therefore result in a harmful loss of privacy to any neighbouring residents.
24. The proposed vehicular access road would run between 23 Meadow Way and 1 Lamorna Gardens, along the side boundaries of their rear gardens. Beyond those properties, it would roughly follow a straight line parallel to the northern boundaries of rear gardens which serve 3 to 9 Lamorna Gardens, before turning north.
25. A Noise Impact Assessment⁶ (NIA) explains that a 3D noise model was used to calculate noise levels from anticipated development traffic at nearby residential properties, including those mentioned above. The NIA relies on predicted vehicle movements set out in the Transport Assessment⁷, which have been agreed as reasonable by the Highway Authority⁸.
26. The NIA demonstrates that likely noise emissions generated by development traffic would be within reasonable limits when experienced within nearby dwellings with open windows, and the rear gardens of 23 Meadow Way and 1 to 9 Lamorna Gardens. The Council does not dispute these findings, but it claims the change in noise levels would result in harm to the living conditions

⁶ By Cass Allen, ref: RP01-23298-R0, dated 15 May 2023

⁷ By Motion, Final Revision A, dated 23 November 2022

⁸ Consultation response from WSCC dated 22 December 2022

of occupiers of 23 Meadow Way and 1 Lamorna Gardens. No detailed analytical evidence is submitted to corroborate this view.

27. There will be changes to the levels of noise and disturbance experienced within the rear gardens and houses of the residential properties at 23 Meadow Way and 1 to 9 Lamorna Gardens. The evidence demonstrates that these changes would be noticeable, but not harmful to the living conditions of occupiers of those properties. The effect upon the living conditions of nearby residents, including those of 23 Meadow Way and 1 to 9 Lamorna Gardens, would not therefore be unacceptable.
28. I accept that construction works associated with the proposal, including construction vehicle movements, would be disruptive to local residents. However, such effects would be temporary and are associated with most development projects. There is an existing access to the appeal site from Hook Lane which is currently used by agricultural vehicles. Construction works and the access routes to be taken by vehicles associated with that process are capable of being controlled through conditions. For the same reasons set out above, I am unconvinced that access to the appeal site during construction works, either from the existing Hook Lane or proposed Meadow Way access points, would cause unacceptable harm to the living conditions of any nearby residents by way of noise or disturbance.
29. Policies QE SP1 and D DM1 of the ALP seek to avoid development which will have a significant negative impact upon residential amenity and cause unacceptable noise and disturbance, amongst other things. The proposal would not result in such harm and would accord with these policies with regard to its effect on the living conditions of nearby residents.

Other Matters

Biodiversity

30. The appeal site is approximately 11 kilometres from the Singleton and Cocking Tunnels Special Area of Conservation (SAC). It is within the 12 kilometre wider conservation area of the SAC, but outside its key conservation area. The SAC comprises disused railway tunnels which support large numbers of hibernating **bats, including Barbastelle and Bechstein's bats, which are amongst the UK's rarest mammals.** The SAC is designated and protected as a European Site and all species of bats are designated and protected as European Species by The Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations).
31. The conservation objectives of the SAC include maintaining functionally linked habitats, which comprise flightlines and foraging habitats outside of the SAC, ensuring that the integrity of the site is maintained and that the site contributes to achieving the favourable conservation status of its qualifying features.
32. **The Council's Habitats Regulations Assessment**⁹ found that the proposal would not be likely to have a significant effect on the integrity of the SAC at the screening stage. **The Council's Ecological Consultant**¹⁰ was satisfied that impacts upon the SAC and its qualifying features had been sufficiently assessed

⁹ The Council's Appendix 8

¹⁰ Place Services Ecology consultation response dated 12 July 2023

by the Technical Note to Inform Habitat Regulations Assessment¹¹ (TN). I see no reason to disagree.

33. I note reference to bat sightings at the appeal site and within surrounding hedgerows. As set out above, the removal of sections of any hedgerow which appear to be shown on the Illustrative Masterplan do not form part of the proposal at this stage.
34. Bat surveys were undertaken at the site in 2022. These are described in the TN, which found that the site supports limited suitability for bat species and that hedgerows along the site boundaries offer the most interest, which may provide some habitat linkages for bats, who use linear features as flight lines **for navigation. No Bechstein's bats were recorded at the site during those** surveys, and that species typically forages close to its roosts, within woodland. Barbastelle bats have a further range, and 9 Barbastelle calls were recorded across 15 nights at the site. This led the TN to conclude that significant numbers of Barbastelle bats are not using the site. The TN found that with such low levels of use of the site by **Barbastelle and Bechstein's bats**, the SAC is not functionally linked to the site.
35. The development would avoid any potential significant adverse effects on the integrity of the SAC, when considered alone or in combination with other plans or projects. Therefore, it is not necessary for me to undertake any further consultation with Natural England on this matter or to undertake an Appropriate Assessment under the Habitats Regulations.
36. In addition to bats, I have considered other protected wildlife which may be affected. Based on everything I have read and heard, including the Ecological Impact Assessment¹² and Biodiversity Net Gain Assessment¹³, I am satisfied that any unacceptable harm to wildlife could be avoided through mitigation/compensation measures which could be secured by conditions. Furthermore, a 13% net gain in habitat units and a 21% net gain in hedgerow units could be achieved through enhancement measures.
37. Policy EH2 of the ANDP states that development immediately adjacent to Biodiversity Corridors, identified on specific maps, will only be supported where it can be clearly demonstrated that the development will not give rise to significant harm to the integrity or function of the Biodiversity Corridors. The policy refers to habitats within those corridors needing to be protected as they are important for feeding, roosting and movement of bats, amongst other things. It is unclear whether the proposal would be immediately adjacent to a corridor along part of Hook Lane. Even if it is, based on everything I have read and heard, I am satisfied that it would not give rise to any significant harm to the integrity or function of the Biodiversity Corridors. The proposal would accord with Policy EH2.

Highway Safety and Traffic Emissions

38. I am aware of significant development planned to the east of Westergate, which would include the eventual realignment of the A29 south of Barnham Road. The development would increase traffic on local roads, and I am aware that highway congestion can be experienced along the A29 by the level

¹¹ By The Ecology Partnership, Issue 3, dated 5 December 2022

¹² By The Ecology Partnership, Issue 3, dated 6 December 2022

¹³ By The Ecology Partnership, Issue 2, dated 5 December 2022

crossing. There will be an increase in traffic using the junction of Meadow Way and the A29, and significant numbers of pedestrians, including school children, regularly walk along these roads. Nevertheless, this junction has the appropriate visibility splays and there is a lack of detailed evidence to suggest the development would have a harmful effect on highway safety when considered alongside other proposed and permitted developments locally.

39. That reflects the comments of the Highway Authority and the findings of the Transport Assessment, which includes a Stage 1 Road Safety Audit. In addition to what was discussed at the Hearing, having experienced the roads surrounding the appeal site, I am unconvinced by claims that the proposal would be likely to result in unacceptable harm to highway safety, subject to conditions and the legal agreement.
40. The site has an existing access from Hook Lane which is used by agricultural vehicles and equipment. It may not be necessary for construction vehicles to access the appeal site from Hook Lane before the proposed access has been created from Meadow Way. In any case, the existing access from Hook Lane may be capable of providing an appropriate access point for vehicles during the construction process, before completion of the proposal and the implementation of the proposed cycle/pedestrian access.
41. The Highways Technical Note does not demonstrate that use of the existing access from Hook Lane, by construction vehicles, would have an unacceptable impact on highway safety. The scale of the proposal in relation to the size and position of the appeal site indicate that concerns relating to the effect of construction works on highway safety and living conditions of neighbouring residents could be addressed through a condition. This could secure the approval of a Construction and Environmental Management Plan in advance of the commencement of development. The existing and proposed accesses to the appeal site and wider road network are not restrained to such an extent that safe arrangements for access and egress of vehicles involved in the construction process could not be agreed with the Council at a later stage, avoiding unacceptable harm to the living conditions of neighbouring residents.
42. The likely increase in vehicles on local highways as a result of the proposal would be modest. The Air Quality Assessment¹⁴ sets out that each dwelling would have access to an electric vehicle charging point and concludes that emissions from road traffic associated with the proposal would have a negligible effect on air quality conditions along the local road network. The Air Quality Assessment shows the overall operational air quality effects would not be significant and there is no clear evidence to lead me to doubt this. Off-site highway improvements form part of the proposal, which would benefit local residents and improve the accessibility of local bus services to future occupants.

Flooding and Drainage

43. I have considered concerns that the appeal site is liable to flood and that drains have overflowed, which has included the release of foul sewage locally, during periods of heavy rain. I have also taken into account photographs showing waterlogged land at the appeal site.

¹⁴ By Air Quality Consultants Ltd, Report No. J10/12311A/10/1/F3, dated 20 January 2023

44. However, the Flood Risk Assessment and Drainage Strategy¹⁵ shows the appeal site is in Flood Zone 1, which has a low probability of flooding from rivers, and that it is at very low risk of surface water flooding. **The Council's Drainage Engineer and Southern Water** raised no objections, subject to conditions being imposed on any planning permission granted. Although I have been provided with evidence of localised flooding concerns¹⁶, I am unconvinced that any drainage, flooding or foul sewage issues associated with the proposal could not be appropriately addressed by conditions.

Dark Skies

45. The South Downs National Park Authority raised no objection to the proposal with regard to its impact on the setting of the National Park, subject to a condition relating to external lighting. I am satisfied that this could address light pollution and dark skies concerns relating to Policy EH10 and the second criterion of Policy EH1 of the ANDP.

Local Infrastructure

46. I heard concerns about local services, **including doctors' and dentists' surgeries**, being at capacity and unable to accommodate further residents. The appellant suggested these were not uncommon issues across the country and pointed out that no objections had been made to the proposal in this regard by any clinical commissioning group or the Council. The information provided in relation to local infrastructure capacity is anecdotal, but I do not doubt that it is difficult to secure doctor or dentist appointments across a wide area.
47. No obligations have been sought from the Council as part of the legal agreement to address any deficiencies which may exist in local infrastructure, other than those discussed below. **The Council's officer report explains that** Community Infrastructure Levy receipts from the development would contribute towards local projects, schools, libraries, sports facilities, allotments and the local health service. There is no clear and reliable evidence that future residents would not be able to access appropriate healthcare or that the proposal would have any notable detrimental effect on local infrastructure, including healthcare provision.

Planning Obligations

48. A completed legal agreement has been entered into between the relevant parties to secure 30% of the proposed dwellings as affordable housing units and a managed publicly accessible area of open space. The legal agreement also secures the submission of a travel plan and the payment of financial contributions towards travel plan monitoring, the provision of transport for children to and from school, and a planning obligation monitoring fee.
49. Policy AH SP2 of the ALP requires a minimum 30% of all developments of 11 residential units to comprise affordable housing. This should be provided within the same site. The legal agreement requires the provision of the appropriate amount of affordable housing and stipulates that no development shall commence until an affordable housing scheme has been approved by the Council. This would ensure compliance with Policy AH SP2.

¹⁵ By Motion, Issue: Final D, dated 23 November 2022

¹⁶ Including those set out in the report by Richard Allitt Associates Ltd, dated February 2023

50. A Framework Travel Plan¹⁷ has been agreed as acceptable by the Highway Authority, subject to appropriate monitoring. The only means to secure such monitoring would be through the agreement of further details and the payment of a travel plan monitoring fee. The legal agreement requires a travel plan to be approved by West Sussex County Council (the County Council) prior to the commencement of development, and the payment of £3,500.00. That payment shall be index linked and paid within 10 working days of the commencement of development, which the County Council shall use for travel plan monitoring purposes. That would appear to be appropriate, considering the scale and location of the development proposed. This would seek to encourage future residents to consider and make use of transport options other than private motor vehicles for local journeys, in accordance with Policy T SP1 of the ALP.
51. Local residents and the Ward Councillor explained that local primary and secondary schools had little or no places for new students, and that there was a severe lack of secondary school places across the district. I have been advised that proposed development to the east of Westergate includes provision of a new secondary school, but that development is yet to receive planning permission and there are no known likely timescales for the delivery of a new secondary school within the district.
52. The Lead Education Authority objected to the proposal, but it suggested an interim solution. The interim solution would secure the costs associated with transporting secondary school pupils unsuccessful in obtaining a place at their preferred or catchment school, to fund their transport to alternative secondary schools in the county. It was claimed at the Hearing that such an arrangement would see secondary school pupils being transported 28 miles to the nearest secondary schools with capacity for additional pupils.
53. I also heard that there were complex arrangements in place for assigning secondary school places, administered by education experts. In the absence of further expert evidence on the matter, I find it very unlikely that pupils, including those already living in Westergate, would be forced to travel 28 miles for secondary school education as a result of the proposal. It is possible that the ability of local schools to take on additional pupils may improve or worsen before the proposal could be occupied. In either case, it appears that some secondary school pupils across the district may need to travel longer distances from their homes to reach schools until a new secondary school is delivered within the district, even in the absence of the proposed development.
54. The legal agreement secures the payment of an education transport contribution within 10 days of the commencement of development. This would amount to the cost of £1,434.00 per pupil per year (to be reviewed annually), multiplied by the estimated number of secondary school pupils likely to be generated by the proposal, over a period of 5 years. This figure is based on the cost of a bus/coach with a pupil capacity of 53 costing £400.00 per day at current rates. As a temporary arrangement, this would be a reasonable solution to ensure future occupiers of the development would have access to education facilities, without having an unacceptable effect on access to education facilities across the district.
55. A monitoring fee of £1,200.00 is secured, to cover the **Council's costs incurred** in monitoring the delivery of the planning obligations. Considering the extent of

¹⁷ By Motion, Final Revision A, dated 23 November 2022

obligations set out in the legal agreement, notwithstanding a separate travel plan monitoring fee also being secured, this would appear to be reasonable and proportionate to the development.

56. The legal agreement would ensure the development accords with Policies AH SP2, T SP1, and INF SP1 of the ALP. These require, amongst other things, development to promote sustainable transport options, to provide appropriate levels of affordable housing, and to contribute toward services. The legal agreement is therefore necessary to make the development acceptable in planning terms, directly relevant to the development, and fairly and reasonably related in scale and kind to the development.

Housing Land Supply and Planning Balance

57. In accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, it is necessary for me to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration, but the development plan is the starting point for decision-making.
58. The Council cannot demonstrate a 5-year supply of deliverable housing sites. Where this is the case, paragraph 11 of the Framework explains 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 Framework taken as a whole.
59. **The Council's latest Annual Monitoring Report (January 2023) states there is a** housing land supply of 2.36 years. The latest Housing Delivery Test results (2021) show the Council delivered only 65% of its housing requirement in the previous 3 years. Evidently, there are severe and chronic shortages of housing land supply and housing delivery within the district. Recent planning applications and permissions for other housing developments suggest there may be some improvement in these regards in future years. On the evidence presented, I am unconvinced that there has been a significant improvement in housing land supply or housing delivery within the district since the last Annual Monitoring Report and Housing Delivery Test results, or that there will likely be significant improvements in the near-future.
60. It was agreed between the main parties that the most important development plan policies for determining this appeal are policies C SP1, SO DM1, D DM1, and QE SP1 of the ALP and Policies EH1 and EH3 of the ANDP. Policy EH2 of the ANDP was also put forward as one of the most important development plan policies for determining the appeal. I have found that the proposal would accord with Policies D DM1, QE SP1, EH2 and EH3 for the reasons given above.
61. I have found that the proposal would be contrary to Policies C SP1 and SO DM1 of the ALP and Policy EH1 of the ANDP. The Council accepts, on account of its housing land supply position, that it will grant planning permission for housing in the countryside adjacent to the Built-Up Area Boundaries contrary to Policy C SP1. It has also accepted that although it would seek to focus new housing development on lower grade agricultural land, it may well be necessary for BMVAL to be used to provide housing. Much of the district comprises BMVAL,

especially that surrounding existing development where infrastructure and services are located, outside of the South Downs National Park¹⁸.

62. The Agricultural Land Classification and Soil Resources Report¹⁹ explains that the proposal would result in the economic loss of £3,000.00 per annum, which would not represent a significant development of agricultural land, and that there are limited opportunities to direct development to areas of poorer agricultural quality within the district. I accept that the cumulative loss of BMVAL may have a notable negative effect on agricultural and horticultural production. However, it is clear that the Council is prepared to grant planning permission for housing on some BMVAL and there is little evidence to explain why the BMVAL in this particular case would not be suitable for development.
63. I have considered an appeal decision²⁰ where the loss of BMVAL, which had not been in agricultural use for more than 40 years, was found to result in a reduced level of environmental and economic harm, compared to such land in active use. However, I do not agree that this means increased weight should be assigned to the harm which would be caused by the loss of BMVAL in active use in this case, although I note the economic loss referred to above. This is because the starting point for Policy SO DM1 of the ALP is to protect the active use of BMVAL for agricultural, horticultural or forestry purposes.
64. The proposal only fails to accord with Policy EH1 of the ANDP on account of the appeal site being within 50 metres of a biodiversity corridor. Detailed evidence has been provided which convinces me that there would not be significant harm to Barbastelle or Bechstein's bats, and that any harm which may be caused to wildlife could be adequately mitigated through the use of conditions. For these reasons, together with the potential biodiversity enhancements, I assign only modest weight to the conflict between the proposed development and Policy EH1.
65. I accept that it is possible that a slow delivery of strategic housing sites within the district may be one of the main issues behind the shortfall in housing supply. It is also possible that the housing shortfall will be temporary. However, it is clear that **the Council's strategic approach to managing the** location of housing on land within the Built-Up Area Boundaries and not on BMVAL is resulting in a severe and prolonged under-delivery of housing within the district. I therefore assign only moderate weight individually to the conflict with Policies C SP1 and SO DM1 of the ALP in this particular case.
66. There would be a contribution of up to 89 dwellings towards what is a severe and chronic under-delivery of housing land supply within the district. At least 30% of those dwellings would be affordable, against a backdrop of 900 applicant households on the Housing Register in 2018. There is little information to suggest that position has improved greatly in recent years. There would be modest temporary economic benefits throughout the construction phase of the development and long-term small-scale economic benefits to local businesses resulting from up to 89 new households living at the appeal site. There would also be a biodiversity net gain of at least 10%, which is not currently required by local or national policies, but it will be in the near future.

¹⁸ The appellant's Appendix 10

¹⁹ By Reading Agricultural Consultants, dated November 2022

²⁰ APP/C3810/W/19/3234972

67. The Parish Council has advised that other housing development granted elsewhere in the district reduces the weight which I should assign to the benefits of the proposal. It is claimed that the provision of up to 89 houses, including affordable housing, should not be assigned significant weight because the proposal would not make a difference to future planning decisions relating to other housing development under similar circumstances. I disagree, taking into account the specific issues relating to the proposal and the appeal site, but particularly their size and location, which mean that the proposal could be built out relatively quickly in comparison to larger schemes I have been referred to.
68. The provision of up to 89 dwellings in what the Council has referred to as a sustainable location would have **a moderate impact on the Council's 5-year** housing land supply position. The Council has suggested it would be appropriate in this case to allocate 'substantial/significant weight to the contribution to the housing shortfall'. **In my view**, the supply of market and affordable housing within the district is such that I assign substantial weight to the benefits associated with the provision of up to 89 dwellings, 30% of which would be affordable, in this particular location. I assign modest cumulative weight to the economic and biodiversity benefits associated with the proposal. Taken together, these benefits amount to substantial weight in favour of granting planning permission.
69. Paragraph 15 of the Framework states that the planning system should be genuinely plan-led, **but I have found that the Council's plan-led** approach for the strategic distribution of housing is failing. I have not been provided with convincing evidence that housing land supply or housing delivery will greatly improve in the district in the short or medium terms.
70. **The Government's objective is to significantly boost the** supply of housing. The Framework refers to the important contribution small sites can make to meeting the housing requirement of an area and explains that planning decisions should promote an effective use of land in meeting the need for homes while safeguarding the environment and ensuring healthy living conditions. Elsewhere, the Framework advises that planning decisions should ensure that developments will function well and optimise the potential of sites to accommodate an appropriate amount of development, amongst other things.
71. Overall, when assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal resulting from its conflict with the most important development plan policies amount to significant, but not substantial, weight against planning permission being granted. On the other side, the benefits attract substantial weight in favour of planning permission being granted.
72. I have read the appeal decisions²¹ referred to, and I note the various detailed comments made by the Parish Council throughout the application and appeal processes, including those which refer to public confidence in the planning system and proposed changes which may be made to the Framework. I have taken all points made into account as part of my deliberations and they do not lead me to any different conclusions on the matters relevant to this appeal.
73. In conclusion, I find that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits when assessed

²¹ Appeal refs: APP/R3650/W/22/3310793, APP/Q3115/W/22/3309622

against the policies in the Framework taken as a whole. Therefore, although I have found that the proposal would conflict with the development plan, the Framework is a material consideration that indicates a decision other than in accordance with the development plan, which leads me to conclude that planning permission should be granted.

Conditions

74. A list of agreed suggested conditions has been provided and was discussed at the Hearing. Where necessary, I have amended those conditions to ensure they meet the tests at paragraph 56 of the Framework.
75. The application is made in outline in respect of access only, and it is necessary to attach standard conditions identifying the approved plans and requiring an application for the approval of the appearance, landscaping, layout, and scale of the development and the commencement of development within the relevant timeframes.
76. The approved plans provide details of the proposed accesses, which would need to be completed to the specification provided in the interests of highway safety. It would also be necessary for a condition to require details of all roads, footways and parking areas to be approved as part of the reserved matters application and for those parts of the development to be completed prior to the first occupation of any dwelling to ensure safe access for future occupants. For the same reason, it is necessary to attach a condition requiring the approval of a timetable for the construction of the accesses.
77. A condition requiring the approval of a construction and environmental management plan before the commencement of development is necessary. This is to allow the Council to control various aspects of the construction process in the interests of highway safety and to protect the living conditions of neighbouring residents with particular regard to noise and disturbance. It would also be reasonable to control the hours between which construction activities can take place to protect the living conditions of neighbouring residents, restricting them to 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays.
78. Trees are located around the edges of the appeal site and it would be reasonable and necessary to require further details of the effect of the landscaping and layout of the development on those features as part of the reserved matters application to protect the character and appearance of the area. The reserved matters application will also need to include details of boundary treatments, external lighting, public open space, play areas, wall and roof finishes, and temporary sales areas to ensure appearances and landscaping are appropriate for their location.
79. Conditions are necessary to ensure the development is designed to be accessible with regard to Parts M4(2) and M4(3) of the Building Regulations, and to ensure that various transport options are available to future occupants. This would allow the dwellings to be occupied by a wide range of people and to allow bicycle storage and electric vehicle charging points to be designed into the development, in line with the mitigation measures set out in the Air Quality Assessment.

80. Conditions requiring compliance with the submitted Ecological Impact Assessment and further details in respect of biodiversity gain and protected species would be needed to avoid any unacceptable harm to wildlife and to ensure appropriate biodiversity enhancements are carried out. The external lighting details would also need to demonstrate there would be no unacceptable harmful effect on bats.
81. Details of foul and surface water drainage systems would need to be approved before the commencement of development to allow those systems to be incorporated into the development. Those systems would need to be retained and maintained in accordance with those details, with a completion report to be submitted to the Council prior to the first occupation of any dwelling to ensure the surface water drainage system is in effect and that enforcement action could be considered if it is not. With regard to flood zones surrounding the appeal site, it would be reasonable and necessary to prevent discharges from the development into watercourses and any alterations to watercourses, unless otherwise approved by the Council.
82. A condition requiring off-site highway improvements would be reasonable and necessary to ensure future occupants of the development would have good access to nearby bus stops, to encourage bus use as a more sustainable mode of transport in comparison to private motor vehicles. Those works would require an agreement to be entered into with the Highway Authority under section 278 of the Highways Act 1980 (as amended).
83. An employment and skills plan would be necessary to comply with Policy SKILLS SP1 of the ALP, considering the size of the development. This would ensure local craftspeople and apprentices are considered for employment at the site. This would need to be approved before the commencement of development to take full account of the employment opportunities created.
84. As an arable field which has historically been in agricultural use, it would be necessary for a condition to require the completion of a contamination risk assessment prior to the commencement of development to protect the living conditions of future occupants and neighbouring residents. If that risk assessment identifies any contamination, a remediation scheme would need to be approved, also before the commencement of development. It would also be reasonable to attach a condition requiring development to cease and a further risk assessment to be carried out and approved in the event that any unexpected contamination is found during construction works.
85. A condition requiring the approval of a written scheme of investigation and the carrying out of any necessary archaeological work would be necessary to examine any archaeological potential at the appeal site, in accordance with the **recommendations of the appellant's Archaeological** desk-based assessment²².
86. It would be reasonable and necessary to attach a condition controlling the design of the dwellings to ensure appropriate noise levels would be experienced by future occupants, and a condition requiring the provision of appropriate broadband infrastructure. This would protect the amenities of future occupants and support opportunities for home working.

²² Report 21/133, dated June 2022 by TVAS South

87. A condition requiring at least 10% of energy supply to be provided from decentralised and renewable or low carbon sources is necessary for the development to accord with Policy ECC SP2 of the ALP in relation to efficient energy consumption. For this to be enforceable, the condition would need to require the approval of details of how that would be achieved, and the implementation of those details. It is also necessary to attach a condition requiring approval and implementation of fire hydrant details. These details would need to be approved before any development above damp proof course level to allow them to be integrated within the development.
88. A Soil Resource Plan has already been submitted, which sets out a suitable strategy and procedures for stripping, storing and reinstating soils throughout the construction process. It is necessary to require that Soil Resource Plan to be adhered to in the interests of the finished appearance of the development with regard to the establishment of landscaping details, and to avoid the need to import soil into the site.

Conclusion

89. For the reasons outlined above, the appeal should be allowed.

L Douglas

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Adam Ross	Planning Consultant
Phil Bell	Highways Consultant

FOR THE LOCAL PLANNING AUTHORITY:

Simon Davies	Principal Planning Officer
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INTERESTED PARTIES:

Sue Wallsgrove	Ward Councillor
Steve Tilbury	Planning Consultant, on behalf of Aldingbourne Parish Council
Margaret Rhodes	Local resident
Mike Turner	Local resident
Joy Rutter	Local resident
Mark Kennard	Local resident
Susan Deadman	Local resident
Lucy French	Local resident
Alan Johnson	Local resident
Brian Fitzgerald	Local resident
Mark Gregory	Local resident

DOCUMENTS PROVIDED AT THE HEARING

- Policy AH SP2 of the Arun Local Plan 2011-2013 (2018)
- **The appellant's costs application**

DOCUMENTS PROVIDED AFTER THE HEARING

- Observations on Planning Application for development by Richard Allitt Associates Ltd, dated February 2023, commissioned by Aldingbourne Parish Council
- Legal agreement dated 26 October 2023

SCHEDULE OF CONDITIONS

- 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.
- 2) The application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 3) The development including the access hereby permitted shall be carried out in accordance with the following approved plans: Site location plan 1318.01; Parameter plan 13.18.03; Proposed Site Access drawing 1809023-04 Revision C; Improvements to Pedestrian Route and Bus Stops at Westergate Street drawing 1809023-06 Revision B; and Hook Lane Pedestrian / Cycle Access Arrangement drawing 1809023-07 Revision A.
- 4) The landscaping and layout details to be submitted pursuant to condition 1 shall include the following:
 - (i) 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.
 - (ii) Landscaping details including the use of native trees and compensatory planting on the basis of at least 2 trees/hedge units for every 1 lost.
 - (iii) 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 first occupied or in accordance with an approved phasing plan. Gaps shall be included at the bottom of the fences to allow movement of small mammals across the site.
 - (iv) Details of all external lighting (including type of light appliance, the height and position of fitting, predicted illumination levels and light spillage). The details shall seek to conform with the recommendations of the Institution of Lighting Professionals "Guidance Notes for the Reduction of Obtrusive Light" (GN01:2011). In addition, they must: (a) 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 (b) 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 bats 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 approved details and maintained thereafter in accordance with the details. No other external lighting shall be installed.

(v) Details of public open space and play areas. The public open space and play areas shall thereafter be completed in accordance with the approved details prior to the first occupation of the 45th dwelling, and they shall be maintained and retained thereafter.

(vi) A Biodiversity Gain Plan to ensure that there is a minimum 10% net gain in biodiversity within a 30-year period as a result of the development. The net biodiversity impact of the development shall be measured in accordance with the Secretary of State's biodiversity metric as applied in the area in which the site is situated at the relevant time. The content of the Biodiversity Gain Plan shall include the following: (a) Proposals for the on-site biodiversity net gain; and (b) A management and monitoring plan for onsite biodiversity net gain including 30-year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2,5,10,15,20,25 and 30 from commencement of development, demonstrating how the Biodiversity Gain Plan is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed. The development shall be carried out in accordance with the approved Biodiversity Gain Plan.

(vii) A Reptile Mitigation Strategy which shall include the following:

(a) Purpose and conservation objectives for the development hereby permitted;

(b) Review of site potential and constraints;

(c) Detailed designs and/or working methods to achieve stated objectives;

(d) Extent and area of proposed works on appropriate scale plans;

(e) Type and source of materials to be used where appropriate;

(f) Timetable for implementation demonstrating that the Reptile Mitigation Strategy is aligned with any phasing of development;

(g) Details of persons responsible for carrying out the Reptile Mitigation Strategy;

(h) Details of initial aftercare and long-term maintenance of any Receptor areas.

(i) Details for any monitoring and remedial measures; and

(j) Details for disposal of any wastes arising from the Reptile Mitigation Strategy.

The Reptile Mitigation Strategy shall be carried out in accordance with the approved details and all features shall be retained as approved thereafter.

(viii) A Biodiversity Enhancement Strategy for protected and Priority species prepared by a suitably qualified ecologist. The content of the Biodiversity Enhancement Strategy shall include:

(a) Purpose and conservation objectives for the proposed enhancement measures;

(b) detailed designs or product descriptions to achieve stated objectives;

- (c) locations, orientations, and heights of proposed enhancement measures by appropriate plans;
- (d) details of persons responsible for implementing the enhancement measures; and
- (e) details of initial aftercare and long-term maintenance.

The Biodiversity Enhancement Strategy shall be carried out in accordance with the approved details and all features shall be retained as approved thereafter.

- 5) The layout, scale, and appearance details to be submitted pursuant to condition 1 shall include the following details:
 - (i) A scheme for the provision of facilities to enable the charging of electric vehicles in accordance with the Arun Parking Standards Supplementary Planning Document to serve the approved dwellings;
 - (ii) A detailed level survey of the site including existing and resulting ground levels and the slab levels of the development hereby permitted;
 - (iii) a minimum of 5% of all parking to be provided as suitable for disabled persons. This must include a percentage of the proposed visitor parking spaces;
 - (iv) Cycle storage facilities including elevations; and
 - (v) A colour schedule of the materials and finishes to be used for the external walls and roofs of the development hereby approved.
- 6) 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 appearance within 3 months of the date of the last building sold.
- 7) The reserved matters application pursuant to condition 1 shall include details of how the development will provide accommodation to meet the Building Regulations Standards M4(2) and M4(3) in accordance with Policy H2 of the Aldingbourne Neighbourhood Development Plan 2019-2031 (2021) and Arun District Council's guidance note entitled "Accommodation for Older People and People with Disabilities Guidance", for approval by the local planning authority. The development shall be carried out in accordance with the approved details.
- 8) The reserved matters application pursuant to condition 1 shall include details of all roads, footways and parking areas which would serve the development for approval by the local planning authority. No dwelling hereby permitted shall be first occupied until all roads, footways and parking areas have been completed in accordance with the approved details.
- 9) No development shall take place until a Construction and Environmental Management Plan, accompanying Site Setup Plan, and details of any temporary site accesses have been submitted to and approved in writing by the local planning authority. Thereafter the approved details shall be carried out and adhered to throughout the construction period. The Construction

and Environmental Management Plan must include details of the following information for approval:

- (a) the phased programme of construction works;
- (b) the maximum numbers and frequencies of vehicles entering and exiting the site and the timing windows of those vehicles entering and exiting the site on different days of the week, and the details of the types of those vehicles;
- (c) the preferred road routeing for all construction traffic associated with the development;
- (d) provision of wheel washing facilities (details of their operation & location) and any other works required to mitigate the impact of construction upon the public highway (including the provision of any necessary temporary Traffic Regulation Orders);
- (f) street sweeping arrangements, where necessary;
- (g) a means of suppressing dust and dirt during the construction;
- (h) a scheme for recycling/disposing of waste during construction;
- (i) all proposed external lighting to be used during construction (including location, height, type and direction of light sources and intensity of illumination);
- (j) areas for the loading, unloading, parking, and turning of vehicles associated with the construction of the development;
- (k) areas to be used for the storage of plant and materials;
- (l) the temporary site enclosure to be used throughout the course of construction;
- (m) contact details for the site contractor, site manager and CDM co-ordinator (including out-of-hours contact details);
- (n) the arrangements for public engagement/consultation both prior to and continued liaison during the construction works;
- (o) any temporary traffic management that may be required to facilitate the development including chapter 8 traffic signage; and
- (p) measures to minimise the noise and vibration generated by the construction process to include hours of work, proposed methods of piling for foundations, the careful selection of plant and machinery, and the use of noise mitigation barriers if necessary.

- 10) No development shall commence until details of a proposed foul drainage system have been 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 first occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details.
- 11) No development shall commence, other than works of site survey and investigation, until details of a proposed surface water drainage scheme, including details of its maintenance and management set out in a site-specific maintenance manual, 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 standard, will be required to support the design of any infiltration drainage. The site-specific maintenance manual shall include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. No dwelling shall be first occupied until the approved surface water drainage scheme has been completed in accordance with the agreed details. The approved surface water drainage scheme shall thereafter be retained and maintained in accordance with the approved site-specific maintenance manual.

- 12) No dwelling hereby permitted shall be first occupied until as-built drawings of the implemented surface water drainage scheme and a completion report (prepared by an independent engineer confirming that the implemented surface water drainage scheme is fit for purpose) have been submitted to and approved by the local planning authority.
- 13) No development shall commence until an Employment and Skills Plan has been submitted to and approved by the local planning authority. The approved Employment and Skills Plan shall be carried out and adhered to throughout the construction of the development hereby approved.
- 14) No development shall commence until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation to be submitted to and approved by the local planning authority.
- 15) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of **Practice and the Environment Agency's Model Procedures** for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - (a) a survey of the extent, scale and nature of contamination;
 - (b) the potential risks to: human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - (c) adjoining land;
 - (d) ground waters and surface waters; and
 - (e) ecological systems.
- 16) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall

be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is first occupied.

- 17) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 18) No development shall commence until an agreement pursuant to section 278 of the Highways Act 1980 (as amended) has been entered into with the local highway authority to enable the following off-site highway works to be carried out (as shown in the approved plan titled 'Improvements to Pedestrian Route and Bus Stops at Westergate Street drawing 1809023-06 Revision B'):
- (a) the upgrading of the surface, cutting back of vegetation, and the upgrading/provision of any lighting of the Public Right of Way between Meadow Way and Westergate Street.
 - (b) improvements to the two bus stops on Westergate Street located immediately to the south of Elmcroft Place including shelters and real time public information displays.
 - (c) the existing traffic island located to the north of the Elmcroft Place junction with Westergate Street to be upgraded to a pedestrian crossing point refuge island with the carriageway width on both sides; and
 - (d) the re-alignment of kerbs and crossing points to be provided over the junction of Elmcroft Place with Westergate Street.
- The locations of all of these off-site highway works are identified on the approved plan referred to above. The off-site highway works shall be completed prior to the first occupation of any dwelling hereby permitted.
- 19) No development above the damp-proof course level of any dwelling shall take place until a scheme to demonstrate the following has been submitted to and approved in writing by the local planning authority:
- (a) 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; and
 - (b) external noise levels within the curtilage of the residential units will conform to the 'Design criteria for external noise' upper guideline value of 55 dB LAeq, T as specified within section 7.7.3.2 of BS 8233:2014.
- The scheme shall be compiled by a qualified acoustician on sound insulation and noise reduction for buildings and gardens. The scheme shall take into account the correct number of air changes required for noise affected rooms. The approved scheme shall be carried out and completed prior to the first occupation of any dwelling hereby permitted.

- 20) No development above the damp-proof course level of any dwelling shall take place until details of fire hydrants to serve the site have been submitted to and approved in writing by the local planning authority. Those details shall include how the fire hydrants will be connected to an appropriate water supply in terms of pressure and volume for the purposes of firefighting. The fire hydrants shall be installed and connected to the specified water supply in accordance with the approved details prior to the first occupation of any dwelling. The fire hydrants shall thereafter be retained and maintained 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.
- 21) No development above the damp-proof course level of any dwelling shall take place until a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources shall have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented and thereafter retained in operation.
- 22) No construction activities shall take place other than between the hours 0800 to 1800 on Mondays to Fridays and 0800 to 1300 on Saturdays. No construction work shall take place on Sundays or Bank/Public Holidays.
- 23) No dwelling hereby permitted shall be first occupied until a timetable covering the construction of the vehicular and non-vehicular accesses serving the development has been submitted to and approved in writing by the local planning authority. The accesses shall thereafter be constructed in accordance with the approved timetable and details shown on the approved plans referred to by Condition 3.
- 24) No dwelling hereby permitted shall be first occupied until infrastructure is implemented to allow for the provision of the highest available headline speed of broadband provision to future occupants of all dwellings 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.
- 25) The development hereby permitted shall be carried out in accordance with the mitigation measures set out in the Air Quality Assessment, Report No. J10/12311A/10/1/F3, dated 20 January 2023, by Air Quality Consultants Ltd.
- 26) The development hereby permitted shall be carried out in accordance with the mitigation and enhancement measures set out in the Ecological Impact Assessment, Issue 3, dated 6 December 2022, by The Ecology Partnership Ltd. An appropriately competent person, such as an ecological clerk of works, must be appointed to provide on-site ecological expertise and to oversee the carrying out of the mitigation and enhancement measures set out in the Ecological Impact Assessment.
- 27) The development hereby permitted shall be carried out in accordance with the Soil Resource Plan set out in the Agricultural Land Classification and Soil Resources Report dated November 2022 by Reading Agricultural Consultants.

- 28) No discharge shall flow from the development hereby permitted into any watercourses, and no culverting, diversion, infilling or obstruction of any watercourses shall take place on the site, unless otherwise approved by the local planning authority.



Costs Decision

Hearing held on 17 October 2023

Site visit made on 17 October 2023

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 December 2023

Costs application in relation to Appeal Ref: APP/C3810/W/23/3323858

Land to the rear of Meadow Way, Westergate

Grid Ref Easting: 493620, Grid Ref Northing: 104816

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Gleeson Land for a full award of costs against Arun District Council.
 - The appeal was against the refusal of planning permission for proposed development described in the application form as: Outline planning application with all matters reserved, other than principal means of access and 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.
-

Decision

1. A partial award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant submitted their costs application against the Council orally at the Hearing and provided a written copy at the same time. After a brief adjournment, the Council provided an oral response to the application and the applicant made final comments on that response at the Hearing. The application is for a full award of costs, on substantive grounds.

The Applicant's Claims

4. The applicant **refers to the Council's handling of the** planning application, which was submitted on 8 December 2022. On 21 February 2023, the Council's Planning Officer advised the applicant that it was expected that the planning application would be put to **the Council's Planning Committee in April 2023** with a recommendation for approval. The Council's **Planning Officer** emailed the applicant on 17 March 2023 to advise that having considered the application in depth, the application would not be put to the Planning Committee, and instead it would be recommended for refusal on account of noise and disturbance which would be caused to neighbouring residents, and insufficient information relating to bats. This email explained that the Council had no objection to the proposal in principle. The applicant pointed out that noise and disturbance had

not been raised as a concern in pre-application planning advice provided by the Council.

5. The planning application was refused for 5 reasons. The applicant claims the first reason for refusal (RfR 1), relating to the living conditions of neighbouring residents, was vague and not supported by objective technical evidence, in the absence of an objection **from the Council's environmental health team**.
6. It is claimed the second reason for refusal (RfR 2), relating to the absence of a bat survey concerning 24 Meadow Way, should have been avoided by the Council waiting for the **applicant's scheduled bat survey to be completed at the earliest possible point in the year**.
7. It is claimed that the third reason for refusal (RfR 3), relating to the loss of Grade 2 agricultural land, should not have been relied upon considering the need for housing in the district and the findings in a previous appeal decision.
8. It is claimed the fourth and fifth reasons for refusal (RfR 4 and 5), relating to the absence of a legal agreement to address affordable housing and education transport contribution matters were unnecessary, as the relevant legal agreement was always going to be forthcoming.

The Council's Response

9. The Council explained that RfR 1 refers to the change in living conditions which would be experienced by neighbouring residents, with particular regard to noise and disturbance, and that those changes would not be shown in a noise report. As such, it is claimed the Noise Impact Assessment (NIA), which was submitted **as part of the applicant's Hearing Statement**, would not be helpful to its environmental health team.
10. With regard to RfR 2, the Council claims the relevant bat survey should have formed part of the application and could not have been required by condition. The Council was not under an obligation to substantially delay its decision on the application. It is claimed that waiting for the relevant survey to be submitted would have required further time for the Council to consider the report, consult relevant parties, and write the officer report, all of which would have delayed the determination of the application by at least 4 additional weeks beyond its target determination date.
11. The Council has explained that the proposal would be contrary to Policy SO DM1 of the Arun Local Plan 2011-2031 (2018) (ALP) and it considered the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, with regard to paragraph 11 of the National Planning Policy Framework (the Framework). This, it is claimed, justified RfR 3. A legal agreement had not been completed by the time of the Hearing, and in its absence the Council reiterated its reasoning behind RfR 4 and 5.

RfR 1

12. The proposal would bring about a significant change to activity around properties on Meadow Way and Lamorna Gardens, amongst others. There is a great deal of interest from local residents in the proposal, and many of them objected on noise and disturbance grounds.

13. **Although the Council's environmental health team did not object to the** proposal, it was not unreasonable for the Council to conclude that the proposed vehicular access would result in significant noise and disturbance and a level of activity beyond that which would reasonably be expected in the rear gardens of 23 Meadow Way and 1 Lamorna Gardens. **Read alongside the Council's officer** report, RfR 1 was not vague to the extent that the applicant was able to understand **the Council's concerns**.
14. The Council should not have been prevented from reaching this conclusion, even if informal pre-application advice had not raised any noise or disturbance concerns with the proposal. The quality and value of the pre-application advice would be a concern, but that would not have constituted unreasonable behaviour leading to unnecessary or wasted expense in the appeal process.
15. The NIA **was submitted as part of the appellant's Hearing Statement and** comprises an objective assessment of the potential effect of the proposal on the living conditions of neighbouring residents with regard to noise and disturbance. The Council did not dispute the findings of the NIA; however, it maintained that the changes to noise and disturbance which would be experienced in the rear gardens of 23 Meadow Way and 1 Lamorna Gardens would be significant and beyond what residents of those properties would reasonably expect. This view was not supported by detailed evidence at the Hearing.
16. Having confirmed that it did not dispute the findings of the NIA, it was unreasonable for the Council to pursue RfR 1 at the Hearing without detailed evidence to justify its position. This resulted in the applicant incurring unnecessary expense in the appeal process when preparing for the Hearing after the submission of the Hearing Statement in respect of RfR 1, and the short period of time spent during the Hearing discussing RfR 1.

RfR 2

17. The planning application was accompanied by various documents relating to ecological matters, including the effect of the proposal on bats. The Ecological Impact Assessment explains: '**A Preliminary Ecological Appraisal (PEA) of the** arable field was initially undertaken in 2021, with an update PEA in November 2022 to include the proposed access area located within the current residential property at 24 Meadow Way. Protected species survey work for bats, dormice, reptiles and great crested newts were undertaken on site throughout the **course of 2022**'.
18. It is not clear why a bat survey was not undertaken at 24 Meadow Way at an appropriate time of the year, following the PEA but before the submission of the planning application. It would have been helpful had the Council agreed an extended period of time with the applicant for the planning application to be determined following the submission of the absent bat survey, but I note the further delays this would have caused to **the Council's decision making** process. It was not unreasonable for the Council to proceed to issue a decision when it did on the information submitted as part of the application, as submission of **the bat survey for 24 Meadow Way would not have altered the Council's other** grounds for refusal.

19. The Council conceded RfR 2 once it had received and considered the bat survey for 24 Meadow Way, some time prior to the Hearing. This avoided the applicant incurring unnecessary or wasted expense in the appeal process in this regard.

RfR 3

20. I have been referred to appeal decisions¹ which reach different conclusions as to whether housing should be permitted on BMVAL in the district. Although one of these decisions is much more recent than the other, they show it is not a simple issue with regard to housing land supply matters, and that every case must be judged on its merits. I have concluded that planning permission should be granted in this case, but that does not mean it was unreasonable for the Council to reach an alternative view, especially taking into account the various objections to the loss of agricultural land received from neighbouring residents and the detailed points made by Aldingbourne Parish Council.
21. I shall comment on the balancing exercise undertaken by the Council below, but I do not find that the Council acted unreasonably in referring to RfR 3 in its decision notice, or that this led to the applicant incurring unnecessary or wasted expense in the appeal process.

RfR 4 and 5

22. The Council was engaged with the applicant in advance of the Hearing to complete a legal agreement which would address RfR 4 and 5. The submissions made on these points by the main parties were limited, demonstrating that they both anticipated a completed legal agreement would be provided before my Appeal Decision was to be issued.
23. It was agreed between the main parties that a legal agreement was necessary to make the proposed development acceptable. As with the absent bat survey referred to by RfR 2, even if a completed legal agreement had been provided before the Council issued its decision, it appears likely that the application would have still been refused due to the views reached by the Council on other matters. It was not unreasonable for the Council to include RfR 4 and 5 in its decision notice and this did not lead to the applicant incurring unnecessary or wasted expense in the appeal process.

Other Matters

24. The balancing exercise undertaken in the Summary section of the **Council's** officer report is basic and lacks detail, but it shows paragraph 11 of the Framework was taken into consideration. It explains that the Council considered significant harm would be caused to the living conditions of neighbouring residents and that the loss of Grade 2 agricultural land would not be outweighed by the proposal. It did not specifically identify how much weight the Council placed on the adverse impacts or the benefits associated with the proposal.
25. **The Council's** Hearing Statement explains that it assigned '**substantial/significant' weight to the** benefits associated with the provision of up to 89 dwellings. The Hearing Statement also clarifies it was the Council's view that the adverse impacts of the proposal outlined in RfR 1 and 3 should

¹ Appeal refs: APP/C3810/W/19/3234972 and APP/C3810/W/22/3309365

attract significant weight individually, which significantly and demonstrably outweighed the benefits of the proposal when considered cumulatively.

26. Had the Council carried out a more detailed balancing exercise in its officer report, it may have reached a different decision. However, the significant weight the Council assigned to the adverse impacts outlined in RfR 1 and 3 suggest it is likely that the Council would have still refused planning permission, even if RfR 2, 4 and 5 had been addressed.
27. The balancing exercise undertaken by the Council was poorly detailed and executed. However, I am satisfied that it was sufficient, in basic terms, to demonstrate that the Council had considered all relevant matters before reaching the conclusion that planning permission should be refused, with regard to paragraph 11 of the Framework.
28. **The Council's behaviour in** refusing the planning application was not unreasonable, **even though it's** Planning Officer had previously informally advised the applicant that the planning application would be recommended for approval. That advice was corrected less than a month later, and over a month before the application was eventually refused.

Conclusion

29. I have found that it was not unreasonable for the Council to conclude that the proposal would cause unacceptable harm to the living conditions of neighbouring residents on the basis of the information submitted with the planning application. Taking the **Council's decision making process and all** reasons for refusal into account, it was not unreasonable for the Council to refuse the planning application for the 5 reasons stated in its decision notice, even on the basis of a poorly worded balancing exercise.
30. It was, however, unreasonable for the Council to pursue RfR 1 following the submission of the NIA as part of the **applicant's** Hearing Statement. That unreasonable behaviour led to the applicant incurring some unnecessary expense in the appeal process when preparing for the Hearing in respect of RfR 1 after the submission of statements, and when spending time discussing RfR 1 at the Hearing.
31. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the Council failing to concede RfR 1 following the submission of the NIA and a partial award of costs is therefore warranted.

Costs Order

32. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Arun District Council shall pay to Gleeson Land, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in: (i) preparing for the Hearing after the submission of **Gleeson Land's Hearing** Statement in respect of the first reason for refusal **stated in the Council's** decision notice only; and (ii) attending and taking part in the Hearing in respect **of the first reason for refusal stated in the Council's decision notice only**; such costs to be assessed in the Senior Courts Costs Office if not agreed.

33. The applicant is now invited to submit to Arun District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

L Douglas

INSPECTOR

Appendix 6:

Appeal Decision – Land West of Tye Lane, Walberton

Appeal Decision

Hearing held on 13 April 2022 and 13 July 2022

Site visit made on 13 April 2022

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2022

Appeal Ref: APP/C3810/W/21/3278130

Land west of Tye Lane, Walberton, West Sussex, BN18 0LU

- 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 David Wilson Homes against the decision of Arun District Council.
 - The application Ref WA/68/20/OUT, dated 29 September 2020, was refused by notice dated 12 January 2021.
 - The development proposed is **described as** 'Outline planning application with all matters reserved, other than means of access, for the construction of up to 155 dwellings (30% affordable homes) and amendment to boundary of garden land to serve adjoining property.'
-

Decision

1. The appeal is allowed, and planning permission is granted for the construction of up to 155 dwellings (30% affordable homes) and amendment to boundary of garden land to serve adjoining property at Land west of Tye Lane, Walberton, West Sussex BN18 0LU in accordance with the terms of the application, Ref WA/68/20/OUT, dated 29 September 2020, and 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 two access points into the site¹. **'Access', in so far as it relates to circulation routes within the site, is a matter reserved for future consideration.** I have assessed the proposal on this basis and treated the drawings in all other respects as being an illustration of how the proposal could ultimately be configured.
3. A revised Site Layout Masterplan (Drg No: 210824/SL/MP 51) was submitted with the appeal and this provides a more detailed illustrative site layout. This is not annotated as being illustrative, but it was confirmed at the hearing that this is how I should treat it. **It is also referred to in the appellant's submissions as being illustrative.** I have therefore proceeded on that basis. I have accepted this drawing as it simply shows another possible site layout rather than changing any aspect of the proposal.

¹ The main access from Tye Lane site entrance and a further pedestrian/cycle/emergency access from Field Close. The provision of a pedestrian/cycle access onto Tye Lane opposite the Linden Homes site would be addressed at the reserved matters stage as part of the 'layout'.

4. The hearing was adjourned on the 13 April 2022 to enable the appellant, Council, Local Highway Authority and National Highways an opportunity to seek to agree a Statement of Common Ground relating to highway matters. This approach was exceptionally followed in this instance as there were circumstances that indicated it would be expedient and fair to do so. In particular, it was agreed by the parties present at the hearing on the 13 April 2022 that the impacts on the Fontwell roundabouts could be mitigated subject to further discussions over the detail².
5. **A revised version of the National Planning Policy Framework (the 'Framework')** has been published since the Council issued its decision. All parties had an opportunity to address this in their submissions. As a result, no party would be prejudiced by me having regard to the new version of the Framework.

Background

6. The Walberton Neighbourhood Plan Review (NP) was made in July 2021 and therefore determining the appeal scheme could not prejudice the outcome of the examination of this document. As a result, there is no risk of prematurity and therefore the Council understandably withdrew its second reason for refusal before the hearing opened.
7. The appellant provided a further drainage statement with the appeal. Subsequent to this, **the Council's Drainage Engineers** removed their objection subject to planning conditions. These planning conditions are set out in the agreed Statement of Common Ground (SOCG). The Council therefore withdrew its fifth reason for refusal before the hearing opened. After reviewing the substantive evidence before me³, I am satisfied this matter can be addressed through suitably worded planning conditions and therefore a conflict with Policy W DM3 of the Arun Local Plan (LP) and Policy VE7 of the NP would not occur.
8. At the hearing the Council reaffirmed that the prior extraction of minerals within the site is not viable for the reasons summarised in Paragraph 7.6 of the SOCG. The Council subsequently agreed that the Addendum Minerals Resource Assessment submitted by the appellant addressed Policy M9b(iii) of the West Sussex Joint Minerals Local Plan (JMLP). Following a further discussion at the hearing, the Council revised its stance and agreed with the appellant that the provision of housing, in the context of the current housing land supply position, represented an overriding need that outweighed the safeguarding of the minerals in the appeal site, especially given the impracticalities of extraction and their poor quality. As a result, the Council withdrew its sixth reason for refusal. Given the evidence before me, it was correct to do so as there would be no conflict with Policy M9 of the JMLP.
9. The Council has confirmed, through the SOCG that the agricultural land within the appeal site is Grade 3a. Although Grade 3a land falls to be considered as the best and most versatile, it is at the lower end of this range. There is also much better agricultural land elsewhere in the district such as the coastal plain. In this context and given the acute housing land supply position in the district, the Council and appellant agree that the need for housing outweighs the need to protect the agricultural land at the appeal site. This is subject to the

² The appellant had also sought to liaise with National Highways on several occasions before the hearing opened but had not received a response.

³ Principally the drainage strategy in the Flood Risk Assessment, informed by groundwater monitoring, and the technical comments provided by consultees

imposition of a condition securing a Soil Resource Strategy and Sustainability Options Appraisal. On this basis, the Council correctly withdrew its seventh reason for refusal before the hearing opened. Accordingly, there would be no conflict with Policy SO DM1 of the LP or Paragraph 174(b) of the National Planning Policy Framework (the 'Framework').

10. The appeal was submitted with further biodiversity evidence, including an **update following a further site visit undertaken by the appellant's ecologist**. This confirmed that the baseline position had not changed since the earlier Preliminary Ecological Appraisal and Phase 1 Habitat Survey and that further badger and Great Crested Newt surveys would be unnecessary. After reviewing this information, the Council withdrew its eighth reason for refusal subject to the imposition of the conditions in the SOCG relating to biodiversity enhancements. Again, this was a prudent cause of action given the evidence submitted. I therefore share the view of the Council and appellant that a conflict with Policy ENV DM5 of the LP would not occur.

Main Issues

11. Given 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;
- The effect of the proposed development on the landscape and the character and appearance of the area;
- Whether a development of the size proposed could be designed to be of a suitable quality;
- Whether the proposal would preserve or enhance the character or appearance of the Walberton Conservation Area and the Walberton Green Conservation Area;
- The effect of the proposed development on the setting of the Walberton Conservation Area and the Walberton Green Conservation Area; and
- The effect of the proposed development on the road network and highway safety;

Reasons

The suitability of the location with reference to the spatial strategy

12. The NP sets out several key aims, including prioritising the use of brownfield sites for housing and avoiding large development sites in the countryside. These aims flow from the vision and objectives of the plan, which include preserving the distinctive rural character of Walberton. To this end, Policy HP1 of the NP states that proposals for development within the Built-Up Area Boundary (BUAB) of Walberton will be supported, and proposals outside the BUAB will be supported where they accord with the countryside policies of the Arun Local Plan. This approach echoes that in Policy SD SP2 of the LP.
13. 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 types of development in the countryside identified in a closed list will be

permitted, such as where it is for agriculture or informal recreation or in accordance with other policies in the LP. The corollary of this is that types of development not listed would be contrary to Policy C SP1.

14. Being a proposal for up to 155 homes in the countryside, the appeal scheme would not be within a BUAB and would not fall under any of the types of development listed in Policy C SP1. It would therefore be at odds with both Policy SD SP2 and C SP1. As a result of not be in accordance with the countryside policies of the LP, the proposal would be contrary to Policy HP1 of the NP. Accordingly, the appeal site is not a suitable location for the appeal scheme when applying the spatial strategy in the development plan. Instead, it would harmfully undermine the objectives of the strategy and the relative certainty that should flow from a planning system that is genuinely plan led.

The effect on the landscape and character and appearance of the area

15. The appeal site encompasses a large field currently in arable cultivation, several paddocks intensively grazed by horses and stables of limited architectural quality. Parts of the site include mature hedgerows and trees. Such features are apparently referred to within the Arun Landscape Study 2006 as being of high landscape value. Furthermore, a view towards mature trees along North Pound is identified as an important vista in the NP.
16. The southern boundary of the appeal site abruptly adjoins stark residential development resulting in a hard suburban edge. This is also the case along most of the **site's** western boundary, although the north-western boundary of the site adjoins the long verdant rear gardens of the properties in Copse Lane. To the east is the large Linden Homes development and a golf course. The former is prominent in views from Tye Lane and dilutes the rural character of this thoroughfare. Thus, the appeal site has development on three side. Moreover, to the north there are several commercial units at Hooe Farm and beyond this the A27. The appeal site is therefore broadly surrounded by development.
17. Therefore, when combining the rural character of the appeal site with the suburban built-up appearance of its immediate surroundings, the area exhibits a semi-rural settlement fringe character. As a result, I share the view of the **appellant that the appeal site is not part of a 'valued' landscape for the purposes of Paragraph 174(a) of the Framework.** Nevertheless, there are landscape features of value including the hedges and trees. Moreover, the largely undeveloped greenfield nature of the appeal site reinforces the distinctive rural character of Walberton as identified in the NP.
18. Constructing up to 155 homes on the appeal site would be inherently urbanising, resulting in a substantial adverse impact on its landscape character. The West Sussex Landscape Character Assessment (LCA)⁴ identifies suburban expansion such as that proposed as a landscape and visual sensitivity. The breaching of established hedgerows would also erode landscape features of identified value as would the urbanising of Tye Lane⁵. These effects would be appreciable from nearby properties, The Street and Tye Lane. The latter would also be urbanised by the presence of an engineered highway access and a

⁴ Regional Landscape Character: Landscape character assessment of West Sussex 2003 – SC8: Ashlings, Halnaker and Fontwell Upper Coastal Plain

⁵ See the West Sussex LCA which refers to winding hedged lanes and the Arun LCA which refers to arable fields, mature trees and hedges as key characteristics of the Avisford Park LCA

- pavement running along its western edge. The proposal would therefore harm the landscape character of the area.
19. However, given the presence of surrounding development the impact would be contained to a localised visual envelope as demonstrated in the Landscape and Visual Impact Assessment submitted by the appellant, the findings of which are unchallenged by the Council. This would be the case even when allowing for the slope of the site. That said, the impact would be substantial from some of these localised views, especially neighbouring properties, although the effect on public views would generally be of moderate magnitude or less. Moreover, when viewed from within the localised envelope, the development would be experienced in a semi-rural settlement fringe landscape with some notable suburban features such as the stark southern boundary. This would all serve to notably moderate the adverse impact on the landscape.
20. Furthermore, the illustrative masterplan demonstrates that the housing could be set into the site away from the boundaries and behind generous landscaped buffers. In addition, the Design and Access Statement indicates, correctly in my view, that housing should not exceed two storeys in height, and should be single storey along the southern boundary to lessen the visual impact of the scheme. This would reduce the prominence of the proposal from Tye Lane and soften its impact from nearby properties. With the above mitigation secured through the reserved matters, and there is no reason to suggest it would not, the perceived urbanising impact on visual amenity would be further reduced.
21. The appeal scheme would be visible from The Street via North Pound. At this point there is a small community garden with a bench that provides a static view towards the appeal site and a group of mature trees. This view allows the distinctive rural character and setting of Walberton to be appreciated through a connection with open countryside. As a result, the vista is identified as a **'distinctive view' in the NP**. The appeal scheme would urbanise this view and in doing so harmfully dilute the ability to experience the presence of countryside from The Street. This would undermine the purpose of identifying this vista as a **'distinctive view' in the NP**. That said, the illustrative masterplan demonstrates that open space could be sited to soften the foreground of the view. Importantly, a vista could be retained up toward the focal trees by creating an informal avenue generously planted with trees. This, taken with the use of single storey properties, would ensure the distinctive view is factored into the proposal. However, the scheme would not properly respect the view when having regard to the purpose behind its identification in the NP.
22. In conclusion, the proposal would have a substantial impact on the landscape character of the site. However, the impact on both the character and visual amenity of the surrounding area would be much more limited if a sensitive design along the lines set out in the illustrative masterplan was pursued. Notable aspects of this being the low building heights, the generous buffers between housing and the site boundaries, the generally high levels of planting and careful treatment of the distinctive view. Overall, the proposal would have a moderate adverse impact on the landscape and the character and appearance of the area.
23. As a result, the appeals scheme would be at odds with Policy HP13 of the NP, which seeks to secure development that contributes towards local character, and Policy LAN DM1 of the LP, which seeks to secure development that

respects the particular characteristics and natural features of the relevant landscape character areas. The proposal would also be at odds with Policy V13 of the NP, which seeks to ensure distinctive views are respected.

Whether the proposal could be designed to be of a suitable quality

24. The Council confirmed at the hearing that in its view the appeal site could not accommodate up to 155 homes in a way that would achieve a suitable design quality. Three concerns led to this view being reached. These being, that an emergency vehicle access could not be achieved, that the proposal would lack permeability, including a cycle and footway from North Pound, and there would be insufficient space for green infrastructure to the northern and western boundaries of the site.
25. It is not entirely clear why the Council is seeking an emergency access as this was not requested by the emergency services or the Local Highway Authority. That said, the revised illustrative masterplan shows that an emergency link could be provided from the centre of the site to Field Close. The detail relating to this can be explored further at the reserved matters stage when internal circulation routes and layout are considered. I have seen nothing of substance to demonstrate that an emergency link from Field Close would be unsafe or desirable. As a result, this matter has been resolved.
26. The original concept masterplan showed blocks of development tight to the northern and western boundaries. The revised masterplan submitted with the appeal demonstrates that the northern blocks need not directly adjoin the northern boundary. This would provide space to reinforce the northern boundary with additional green infrastructure and provide circulation routes. In any event, the proposal would have a density of around 20 dwellings per hectare (dph), which is not high and similar to that in the village (18.8dph), as calculated by the Parish Council. If required, there would be scope to provide more compact forms of development, such as more terraces, if space needed to be found for more landscaping or circulation routes. Accordingly, there is scope to provide adequate levels of green infrastructure and permeability.
27. The development parcel shown in the north-western corner of the appeal site may not have a buffer with the rear gardens of the properties in Copse Lane, but in this instance, there would be no need to. This is because the rear gardens to the west are very large and separated from the appeal site by a mature hedge. If designed sensitively, then dwellings in this area of the site would not inherently harm the living conditions of the occupants of the neighbouring properties in Copse Lane.
28. The scheme would benefit from an access off North Pound as this would improve permeability. Especially as such a route could provide a desire line to The Street for those properties nearest to it. It would similarly provide access into the site from existing properties in and around North Pound. However, the appeal scheme would have western links via Field Close and easterly links via Tye Lane. The latter would include a new pavement. As a result, the absence of a link from North Pound would only add a couple of minutes to the journey times of some of the residents of the scheme. This would not result in an unacceptable layout.
29. The illustrative layout could be improved with housing better framing the roads in coherent building lines, especially the main route through the development,

but this can be addressed at the reserved matters stage, as can the provision of street trees.

30. In conclusion, the masterplan demonstrates several positive design concepts that, if followed through to the reserved matters, would provide the grounding for a scheme of suitable design quality. These include the ability to provide clear and legible perimeter block structure with active edges, permeability through and into the site, generous buffers where required around most of the site and high levels of landscaping and open space provision. Thus, there is nothing of substance to suggest the proposal would be of inherently unsuitable quality with the maximum number of homes proposed. Accordingly, there need not be a conflict with Policies D DM1 or T DM1 of the LP or Policies GA2, HP11 or HP13 of the NP, supported by the Arun District Design Guide, which together seek to secure high quality design.

Whether the proposal would preserve or enhance the conservation areas

31. The Council and appellant agreed at the hearing that the Walberton Conservation Area (WCA) has a rich mix of attractive period buildings and a distinctive and almost intimate linear structure and pattern to its layout focussed on The Street. It therefore has historic and aesthetic value as a repository of period building styles, bygone lifestyles, local character and a traditional village form.
32. Similar conclusions can be reached for the Walberton Green Conservation Area (WGCA) in respect of its historic buildings. However, it is arranged around a crossroads and historic green and therefore provides evidence of a different village form with a more overt and spacious rural character. The rural setting and character of the CAs, which are still possible to experience despite the modern development and traffic, also provides some significance as the historic villages were, and to an extent are, intrinsically linked to the rural landscape.
33. The proposal would have a residual direct effect on the WCA due to the construction of a pavement along the short section of Tye Lane that is in the CA. There would also be additional traffic movements in both the WCA and the WGCA. The Council is not concerned by the former as the alteration would be viewed in the context of existing pavements and I share this view.
34. The Transport Assessment (TA) demonstrates that there would be around 766 vehicle movements from the proposed development across a daily 12-hour period. I do not have substantive evidence before me to suggest different figures should be used, especially as the Council has reviewed them with the Local Highway Authority and are content. The TA confirms that around 84 movements would take place in the AM peak and 89 in the PM peak. This would result in an average of about 1.5 vehicle movements a minute. I share the view of the appellant that this would be a modest but steady stream. However, it must be borne in mind that as things stand it is highly improbable that all these trips would pass through the CAs⁶.
35. The increase in traffic would be onto already established routes that are not especially quiet or tranquil due to the existing steady stream of traffic through the CAs. As a result, it would be difficult to perceive the increase arising from the appeal scheme relative to existing traffic movements. As a result, the

⁶ Around 32% of development traffic is anticipated to travel south along Tye Lane into the CAs with the remainder heading north to the A27.

noise and activity of vehicles would result in only some very limited cumulative harm to the rural character of the CAs and the ability to experience them with a semblance of how they once were before modern development occurred.

36. This effect would be more pronounced if Tye Lane was ultimately closed because of the A27 bypass. In effect, all traffic would pass through the CAs. However, the bypass is not currently a committed scheme and therefore cannot be reasonably expected at this stage. This is because it would be subject to a separate consent regime, which would need to consider the impact on heritage assets amongst other matters⁷.
37. In conclusion, the character and significance of either CA as a whole would not be preserved due to the very limited harm that would be caused by the increase in traffic. The proposal would therefore be at odds with the expectations of the Act⁸ and Policies HER DM3 of the LP and VE4 of the NP. These policies seek to secure development that preserves the character or appearance of conservation areas.

The effect of the proposed development on the setting of the WCA and WGCA

38. Historic maps demonstrate that the two CAs were once separate and distinct settlements. In the 20th Century rapid infilling has occurred, and the two settlements now read as one. This has cumulatively eroded the ability to understand, appreciate and experience the historic form and structure of the old settlements, which is a component of their value and significance.
39. The appeal site is insulated from the CAs by modern development to the extent that no meaningful intervisibility would be possible between the appeal scheme and the CAs, albeit subject to the final design and scale (height and massing) of what is proposed. Nevertheless, the appeal scheme would result in a comparatively large body of houses being constructed on otherwise open land between the CAs and on the approach to them. This would erode the rural setting of the CAs and further dilute the ability to appreciate their historic structure and form. The proposal would also result in development in depth away from The Street, thereby eroding the linear form of the WCA.
40. However, the new housing would be separated from the CAs by open space in **a way that would provide some 'breathing space' and articulation as a new** phase in the history of the settlement. There would also be scope, as the Council suggests, to design the houses in a way that is sympathetic to the historic architecture evident in the CAs. For example, the houses could use local materials, exhibit traditional fenestration design, and include period details such as chimneys and balanced elevations.
41. Moreover, it is likely that some of the new homes would overlook the public open space thereby echoing the interface of housing and green space found in the layout of the WGCA. The approach to the WCA would also be softened by retaining and supplementing the planting along Tye Lane and setting the houses back behind a buffer. That said, the houses would still be visible, at least in the short term before any new tree planting matures, and the access from Tye Lane would be very noticeable.

⁷ Such as the quality of life in the village and noise impacts on future occupants of the appeal scheme

⁸ See Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990

42. Some of the potential design elements identified above could soften some of the impacts of the proposal, but they would not eliminate the fundamental drawback that a large body of homes between the two CAs would erode the rural setting of both. Accordingly, the proposal overall would result in some moderate harm to the setting of the CAs. This would be at odds with Policies HER DM3 of the LP and VE4 of the NP.

The effect of the proposed development on the road network

43. Prior to the Council issuing its decision the appellant had submitted a Highways Response Note dated December 2020. The purpose of this note was to address the comments raised by the Local Highway Authority (LHA) and National Highways (NH). Principally, that the TA needed updating and further modelling was required to understand the impacts of closing the Tye Lane/A27 junction (if the A27 bypass Option 5BV1 came to fruition) and from the scheme's traffic on the Fontwell roundabouts. The first issue was a matter for the Local Highway Authority as it related to local roads, whereas the latter were led by NH given the potential effect on the strategic road network.
44. The Council did not consult the LHA and NH on the Response Note prior to issuing its decision. The Response Note was subsequently submitted with the appeal. The LHA reviewed it and confirmed in writing⁹ and verbally at the hearing that its comments and concerns regarding the need to update the TA had been addressed. The provision of a footpath link along Tye Lane and works to the Tye Lane/The Street junction were particularly important in this regard as it would improve pedestrian access into the village. Such works would be secured through the imposition of planning conditions and through a planning obligation. Substantive evidence is not before me to justify departing from the findings in the TA and Response Note, now confirmed by the LHA, that the site access would be safe and that other local junctions would operate within capacity once the appeal scheme was completed. This was a conclusion reached even when considering **the proposal's** impacts cumulatively with other approved developments.
45. That said, Policy GA5 of the Neighbourhood Plan (NP) states that proposals which significantly increase the level of traffic within Walberton will be resisted particularly in the case of HGV movements. As already mentioned, the proposal would generate 766 vehicle movements in a 12-hour period. This is a significant increase in traffic volumes and therefore a conflict with the policy would occur. However, the TA demonstrates that the road network would be able to accommodate what would be an increase on average, in the very worst-case scenario¹⁰, of just over one vehicle a minute. I have already concluded that this would only have a very limited adverse impact on the ambience and character in the CAs and the village of Walberton. As a result, the conflict with Policy GA5 carries limited weight.
46. Several interested parties have raised concerns that the preferred route of the possible A27 realignment would result in the closure of the A27/Tye Lane junction. If this were to occur then all traffic related to the proposal would pass through Walberton/Walberton Green and the surrounding roads, including West Walberton Lane. This scenario was sensitivity tested in the Response Note. This assessment concluded that that there would be no capacity issues even if

⁹ See Appendix A of the Highways Proof of Evidence

¹⁰ All traffic heading south along Tye Lane

all development traffic were routed through the Tye Lane/The Street junction and the corresponding local roads. Again, the LHA are content with the analysis and findings. I have no substantive evidence before me to justify **departing from the LHA's expert and** independent view as underpinned by technical evidence supplied by the appellant.

47. After the adjournment of the hearing on the 13 April 2022 the appellant, Council and NH have agreed¹¹ that the appeal scheme would have a significant¹² cumulative impact on capacity at the Fontwell roundabouts. In accordance with Paragraph 110d) of the Framework, the application should ensure the impact can be cost effectively mitigated. To this end the appellant has proposed two forms of mitigation¹³ that would involve signalised improvements schemes within the highway at the Fontwell East roundabout. These have been costed at £355,000 to include a 30% contingency. It is prudent to include a sizeable contingency given the unknown risks that are inherent in such projects. NH and the Council confirmed at the hearing that the package of mitigation would be effective and therefore a severe impact would not occur. I have no reason to disagree.
48. The appellant's preference is to provide a financial contribution of £355,000 through a planning obligation. However, I understand NH's understandable reticence to this approach because it has not verified the appellant's costings and a 40-50% contingency has been required on other projects. Moreover, NH may simply not have the capacity to deliver the mitigation in the appropriate timescale. NH have therefore suggested that the mitigation is secured through a negatively worded condition that prevents occupation beyond 104 homes until the mitigation works are completed.
49. The use of a negatively worded condition in this way would be appropriate because there is nothing before me to suggest there is no prospect that the highway works could be undertaken by the developer¹⁴. However, this approach would limit the **developer's flexibility. It may be** that at the point the highway works are required, NH would be in a better position to undertake them. If that is the case then it would make sense for the developer to pay the contribution, assuming NH are content it would be sufficient. Moreover, the payment of a financial contribution should be secured through a planning obligation in this instance as there are not exceptional reasons to do so through a planning condition¹⁵.
50. Accordingly, the submitted planning obligation makes provision for the developer to serve notice, prior to implementation of the development, to ascertain from the Council/NH whether the highway works should be delivered by the developer pursuant to a s278 Agreement or by NH following the payment of a financial contribution. This **approach would protect NH's position** if the costings were too low or delivery not possible within the necessary timescale. But it would also permit some flexibility. The latter is advantageous in this instance as it reduces the risk that development would stall once it has begun, with the corresponding impacts that could have on delivery at a point in time when the housing land supply position is challenging.

¹¹ The appellant has pragmatically adopted the view of NH

¹² 'Significant' in this instance is to be considered as a noteworthy or noticeable impact

¹³ See Appendix B of the A27 Fontwell Interchange Traffic Modelling Position Statement, by Pell Frischmann

¹⁴ See Planning Practice Guide Paragraph 009 Reference ID: 21a-009-20140306

¹⁵ See Planning Practice Guide Paragraph 010 Reference ID: 21a-010-20190723

51. In conclusion, the appeal scheme would not have a harmful or severe impact on highway safety and the road network either individually or cumulatively. As a result, there would be no conflict with Policy T SP1 of the LP. There would, however, be a limited conflict with Policy GA5 of the NP.

Other Considerations

The other concerns of interested parties

52. Substantive evidence is not before me to demonstrate that existing infrastructure would be unable to cope with the number of households proposed, even when considered cumulatively with other strategic sites. A contribution pursuant to the Community Infrastructure Levy could be used to mitigate some impacts where required, such as additional pressure on healthcare facilities and education.
53. The level of car parking would be determined at the reserved matters stage and there is nothing of substance before me to suggest relevant parking standards could not be adhered to. Similarly, the impact on living conditions would be addressed at the reserved matters stage. The proposal would not have an inherently harmful impact in this respect and, although visible from nearby properties, it need not dominate the outlook from them given the space available.
54. I understand that the Council refused an access onto Tye Lane under application WA/95/18/RES, but I have considered the proposal on the evidence before me and found that the access proposed would be acceptable.

The setting of listed buildings

55. Although not a reason for refusal, the committee report identified harm to the setting of four listed buildings¹⁶. During the hearing the Council explained that this was an error and arose from an erroneous interpretation of the comments **of the Council's Conservation Officer. After visiting the site and reviewing the evidence before me, including the appellant's Heritage Statement, I am** satisfied that the proposal would preserve the setting of these listed buildings. This is mainly due to them being away from the appeal site and already experienced in the context of built-up street scenes.

Heritage Balance

56. The limited harm that would occur to the CAs from increased traffic and the moderate harm to their settings would not be severe and would therefore be **'less than substantial' within the meaning of the National Planning Policy Framework (the 'Framework')**. Paragraph 202 of the Framework requires such harm to be weighed against the public benefits of the proposal. In so doing, the Framework explains that great weight¹⁷ should be given to an **asset's** conservation. This does not amount to a direction to refuse proposals that **harm CA's or their** setting, but it provides a strong weighting in favour of preservation (doing no harm).
57. The appeal scheme would deliver up to 155 homes in a location where future residents could access basic everyday services without resorting to private

¹⁶ The Village Pound, Friars Oak and Friars Oak Cottage, Pear Tree Cottage and 15-20 The Street, which are Grade II listed buildings.

¹⁷ Which is tantamount to considerable importance and weight

motorised transport. The travel plan would assist in this. In so doing, the proposal would provide a mix of homes that would benefit housing choice in a scheme with the foundations to be well-designed. There would also be a moderate benefit to the construction industry and the subsequent occupation could provide a boost to the provision and retention of local services and facilities. The new residents could also provide vitality to the community by getting involve in local clubs.

58. However, save for an apparently curtailed bus service, there is little substantive evidence before me to indicate that the services, facilities or clubs in the village are suffering for lack of patronage, and a large number of homes have already been approved in and around Walberton. As a result, my start point is that the delivery of housing would be of only moderate benefit.
59. Nevertheless, it is common ground that the Council are currently unable to demonstrate a five-year housing land supply and the shortfall is acute at around 2.4 years. The delivery of 155 homes would notably boost housing land supply in the district. In this context the delivery of housing would be elevated to a very significant public benefit. In addition, 30% of the proposed dwellings would be affordable housing. There are around 1252 households on the housing register and therefore the delivery of around 47 new affordable homes would be a significant benefit.
60. The appeal scheme is required to provide around 1.27 hectares (ha) of public open space. It would instead, provide around 2.1ha. Given its likely location within the scheme and proximity to existing residents, the open space would benefit more than just the future occupants of the appeal scheme. This would be a moderate public benefit. There would also be a significant uplift in biodiversity, although this has not been quantified. There is also an opportunity to address surface water runoff from the site, which has been a problem in the past. These matters add further moderate weight in favour of the proposal. Cumulatively, the appeal scheme would deliver benefits of a high order.
61. When weighing these matters, the benefits of the proposal would be of a high order and would be sufficient to outweigh the very limited to moderate harm identified to the CAs and their settings. This would be the case even though I have given great weight to their conservation. Accordingly, there would be no conflict with Paragraph 200 of the Framework as harm to designated heritage assets would have clear and convincing justification.

Paragraph 11 of the Framework

62. The Council are currently unable to demonstrate a five-year housing land supply and, as previously mentioned, the shortfall is serious. In such circumstances Paragraph 11 of the National Planning Policy Framework (the '**Framework**') **states 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.**
63. As an adverse impact, the proposal would be at odds with the spatial strategy for housing set out in the NP and LP. However, a rigorous application of this strategy would undermine attempts to remedy the housing deficit. 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. As a result, the

conflict with the spatial strategy carries only limited weight in this instance when based on the evidence before me.

64. In coming to this view, I note that the NP has only been recently made. I am therefore acutely aware of the understandable local frustration allowing the proposal would naturally provoke, especially as developing the appeal site was considered and discounted during the formation of the NP. In this context, Paragraph 14 of the Framework states that the adverse impacts of allowing development that conflicts with a neighbourhood plan is likely to significantly and demonstrably outweigh the benefits of a housing development. However, this is only the case if all four of the listed criteria apply. As the housing supply in the district is below 3 years, Paragraph 14 of the Framework is not engaged. Moreover, discussions at the hearing casted some doubt on whether the housing target in the NP was based on a properly formulated identified housing requirement. The proposal is therefore to be determined in accordance with Paragraph 11 of the Framework despite the NP being recently made.
65. Added to the limited harm from a conflict with the spatial strategy is the limited conflict with Policy GA5 of the NP, moderate harm to the landscape and the very limited to moderate harm to the CAs and their setting. The heritage impact is a matter of great weight. The proposal is therefore at odds with the development plan as a whole and several policies in the Framework¹⁸. Although not resulting in a policy conflict, the loss of agricultural land would also be an adverse impact of the proposal.
66. Nevertheless, for the reasons I have already gone into, the appeal scheme would have benefits of a high order delivering positively against several policies in the Framework¹⁹. Most notably the aim to significantly boost the supply of housing, including delivery of affordable housing, and locating housing to maintain or enhance the vitality of rural communities. Thus, the cumulative adverse impacts of the appeal scheme would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. This indicates that on this occasion, the decision should be taken otherwise than in accordance with the development plan.

Planning Obligations and Conditions

67. Although the absence of a planning obligation did not factor as one of the **Council's reasons for refusal, it is nevertheless seeking one to** secure the provision of affordable housing, open space and highways improvements. A planning obligation was submitted after the hearing.
68. *Affordable Housing* – As already explained, there is an identifiable need to provide affordable housing in the district. To this end Policy AH SP2 of the LP seeks to secure 30% of homes on schemes of 11 homes or more as affordable housing. The planning obligation before me would secure 30% affordable housing, including First Homes. This obligation is necessary to meet the requirements of the development plan, directly related to the proposal and there is no substantive evidence before me to demonstrate it would be unfair in scale and kind. I can therefore take the obligation into account.
69. *Open Space* – Policy OSR DM1 of the LP requires the provision of open space in accordance with Council guidance. This can relate to the quantity or quality of

¹⁸ Including Paragraphs 15, 20, 174(b) and 189

¹⁹ Including Paragraphs 60, 63, 74, 79, 81, 92(a), 98, 105, 130 and 174(d)

provision. The Council's Open Space Supplementary Planning Document (SPD) sets out a requirement for a minimum of 1.27ha of open space on site. The appeal scheme would provide 2.1ha and this would be secured through the submitted planning obligation, as would the maintenance of the POS and the provision of a Local Equipped Area of Play and three Local Areas of Play.

70. This level of provision would exceed the requirement in the SPD, but I have seen no evidence to demonstrate that there is a local surplus in the quantity of open space. Moreover, the provision of 2.1ha of accessible open space is a benefit of the proposal that must be secured to be factored into the planning balance. As a result, the obligation is necessary, directly related to the development and fair and reasonable in scale. I can therefore take the obligation into account.
71. *Highway improvements and travel plan* – I have already explained that it is necessary to secure mitigation at the Fontwell East Roundabout in order to prevent a conflict with Policy T SP1 of the LP and the Framework. Likewise, highway works along Tye Lane and at the Tye Lane/The Street junction are necessary. The mitigation in the form of a financial contribution or works pursuant to a s278 Agreement are directly related to the impact of the development and fair and reasonable in scale. I can therefore take the obligation into account.
72. To promote sustainable transport, it is necessary for a travel plan to be prepared and implemented. As part of this it is necessary for the Developer to pay a monitoring fee to the County Council so the success of the plan can be tracked. This would be secured through the planning obligation, which would be necessary, directly related to the development and fair and reasonable in scale. I can therefore take the obligation into account.
73. Turning to conditions. I have had regard to the advice in the Planning Practice Guide and the conditions suggested by the Council and appellant. I have also made minor changes to the conditions to make them more precise and enforceable, although their aim and meaning has not been altered.
74. In addition to standard commencement conditions, it is necessary to define the **reserved matters and require their approval. I have included 'access' as a reserved matter** in order to deal with internal circulation routes, which will probably include a cycle/pedestrian route to link with the Linden Homes scheme to the east of the appeal site.
75. A drawings condition relating to the position of the accesses added in the interests of certainty. To protect living conditions, it is necessary to address potential land contamination and secure details of construction management (including hours²⁰) and foul drainage. To reduce flood risk and adhere to Policy VE7 of the NP, it is necessary to secure details of surface water drainage and the maintenance and management of any system. To protect highway safety and promote sustainable transport, it is necessary to secure the provision of the highway access and a footway along Tye Lane prior to occupation.
76. To protect as yet unknown archaeology, it is necessary for a scheme of investigation and recording to be secured. To promote sustainable construction, it is necessary for details of decentralised and renewable or low carbon energy

²⁰ Reference to Traffic Regulations Orders has been removed as this would duplicate other legislation

to be approved and implemented. To protect and enhance biodiversity it is necessary to secure the provision and retention of mitigation and enhancement measures through a management plan. To adequately manage foul drainage, it is necessary to secure drainage details and subsequent maintenance and management.

77. In the interest of providing communication infrastructure, it is necessary to secure a strategy for the provision of high-speed broadband. To adhere to the development plan and support the local economy grow, it is necessary to secure an Employment and Skills Plan. To safeguard the soils in the site, it is necessary for the development to be carried out in accordance with a Soils Resource Strategy and Sustainability Options Appraisal.

Conclusion

78. The appeal scheme would not harm highway safety or result in severe residual impacts on the road network. Nevertheless, the harm in the other respects outlined above would result in a conflict with the development plan taken as a whole. However, in this instance material considerations, namely the Framework, indicate that the appeal should be determined otherwise than in accordance with the development plan. Accordingly, the appeal has succeeded.

Graham Chamberlain
INSPECTOR

APPEARANCES

FOR THE APPELLANT

Paul Tucker QC
Peter Cleveland
Richard James
Stephen Adams
Mr Evans
Mark Smith

Kings Chambers
Henry Adams
Archaeology South East
Pell Frischmann
Pell Frischmann
Paul Basham Associates

FOR THE LOCAL PLANNING AUTHORITY

Juan Baeza
Kevin Bown
David Bowie
Stephen Gee
Edward Anderson

Arun District Council
National Highways
National Highways
West Sussex County Council
West Sussex County Council

INTERESTED PARTIES

Andrew Vawer

Walberton Parish Council

DOCUMENTS SUBMITTED DURING AND AFTER THE HEARING

1. Appeal decision APP/C3810/W/21/3273087
2. Arun District Design Guide
3. Drawing of junction improvement to the Tye Lane/A27 junction in respect of the Land East of Tye Lane development
4. Suggested planning condition relating to offsite highway works along Tye Lane
5. Highways Action Plan/Memorandum of Understanding to be followed during the adjournment
6. Addendum to the SOCG containing a list of conditions agreed by the Council and appellant received 20 July 2022
7. Policy M9 of the West Sussex Minerals Local Plan
8. Full list descriptions for The Village Pound, Friars Oak and Friars Oak Cottage, Pear Tree Cottage and 15-20 The Street
9. Signed copy of the Highways Memo of Understanding
10. List of suggested planning conditions
11. Highway technical note dated 27 April by Pell Frischmann
12. Email update from the appellant dated 27/05/22
13. Position statement drafted by Pell Frischmann 01/07/22
14. Email confirming that West Sussex CC has no objections to the proposal subject to conditions and planning obligation dated 07/07/22.
15. National Highways suggesting there is an agreed way forward dated 07/07/22.
16. Final planning obligation received 20 July 2022

Schedule of Conditions

- 1) Details of the access, 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.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall be begun before the expiration of 5 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.
- 4) The development shall be carried in accordance with the following approved plans:
 - Drawing Number LP.01 Rev. P3 (Site Location Plan);
 - Drawing Number 041.0071.001 Rev. A. –
 - Drawing Number 041.0071.004 – Visibility Splay and Junction Improvements at The Street/Tye Lane Junction. –
 - Drawing No. 041.0071.006 – Potential Footway Link on Tye Lane
- 5) Prior to the commencement of development, including any works of demolition, a Landscape and Ecological Management Plan (LEMP) shall be submitted to the Local Planning Authority for approval and will be based on the recommendations within the supporting Ecological Mitigation and Enhancement Statement (Rev. 03) dated 18th September 2020 and the Phase 2 Ecology Surveys (Rev. 03) dated 18th September 2020. All approved details shall then be implemented in full and in accordance with the agreed timings and details and thereafter retained.

The LEMP shall include but not be restricted to:

- The creation of a wildflower meadow along the western, southern and eastern boundaries of the site;
- New species rich native hedgerows and trees to be planted along all boundaries of the site;
- Timings for clearance of trees or scrub to avoid impacts on breeding birds;
- Details of compensatory and additional tree planting along the boundaries of the site;
- Details and locations of bird and bat boxes;
- Details and locations of hedgehog boxes/houses;
- Details and locations of the reptile hibernacula within the reptile receptor area
- Should the detailed layout of the site require the removal of further trees which have the potential to support bats, a climbed tree inspection survey will be required.

- 6) Prior to the commencement of development, including any works of demolition, a site walkover survey should be carried out to investigate whether badgers are using the site. The survey should take place no more than 1 month prior to the commencement of works. If an active sett(s) is found, then no development shall commence until Natural England shall have been consulted and a mitigation strategy shall have submitted to and approval in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved mitigation strategy.
- 7) Prior to the commencement of development, including any works of demolition, a Construction Management Plan shall be 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. The Plan shall include but not be restricted to:
 - The anticipated number, frequency and types of vehicles used during construction,
 - The method of access and routing of vehicles during construction,
 - Full details of the construction compound,
 - Dust mitigation measures,
 - Noise reduction measures,
 - The parking of vehicles by site operatives and visitors,
 - The loading and unloading of plant, materials and waste,
 - The storage of plant and materials used in construction of the development,
 - The erection and maintenance of security hoarding,
 - The provision of effective wheel washing facilities and other works required to mitigate the impact of construction upon the public highway
 - Details of public engagement both prior to and during construction works
- 8) Prior to the commencement of development, including any works of demolition, 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.
- 9) Prior to the commencement of development, including any works of demolition, full details of the proposed surface water drainage scheme/system shall 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. 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 first occupied until the complete surface water drainage scheme/system serving that property has been completed in accordance with the approved details.

- 10) Prior to the commencement of development, including any works of demolition, details shall 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. 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.
- 11) Prior to the commencement of development, including any works of demolition, full details of the maintenance and management of the surface water drainage system, set out in a site-specific maintenance manual, shall be submitted to and approved in writing by the Local Planning Authority. The manual shall include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. The approved surface water drainage system shall thereafter be maintained in accordance with the approved details.
- 12) Prior to the commencement of development, including any works of demolition, an Employment and Skills Plan shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved Employment and Skills Plan.
- 13) No development shall take place 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 to and approved in writing by the Local Planning Authority.
- 14) No part of the development shall be first occupied until as-built drawings of the implemented surface water drainage scheme/system together with a completion report prepared by an independent engineer that confirms that the scheme was built in accordance with the approved drawings and is fit for purpose have been submitted to and approved in writing by the local planning authority.
- 15) No part of the development shall be first occupied until provision has been made within the site in accordance with plans and details to be first submitted to and approved in writing by the Local Planning Authority to prevent surface water draining onto the public highway.
- 16) The construction works, including deliveries to / from the site associated with construction shall, be limited to 08:00 hours and 18:00 hours on Mondays to Fridays inclusive; 08:00 hours and 13:00 hours on Saturdays; not at any time on Sundays or Bank Holidays except without the express authority of the Local Planning Authority.
- 17) 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 approved details shown on approved Drawing No. 041.0071.001 Rev. A

- 18) No part of the development shall be first occupied until footway improvements are provided in accordance with approved Drawing No. 041.0071.004 - Visibility Splay and Junction Improvements at The Street/Tye Lane Junction and Drawing No. 041.0071.006 – Potential Footway Link on Tye Lane
- 19) 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 National Planning Policy Framework) unless it can be demonstrated that a fabric-first approach would achieve an equivalent energy saving. Details of physical works on site, shall be submitted to and approved in writing by the Local Planning Authority before any development in that phase or sub phase 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
- 20) No part of the development shall be first occupied until 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 shall be carried out in accordance with the approved strategy
- 21) No part of the development shall be first occupied until a scheme for the provision of facilities to enable the charging of electric vehicles to serve the approved dwellings shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approved details and the charge points shall thereafter be permanently retained and maintained in good working condition
- 22) The development hereby permitted shall be carried out in accordance with the soil handling measures and the proposed use of on-site soils as set out in the indicative Soils Resource Strategy & Sustainability Options Appraisal, prepared by Henry Adams LLP in June 2021.
- 23) Should any contamination be found during the course of construction, 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; 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 Report 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.

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

The scheme shall be implemented as approved and, prior to commencement of any construction work (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.

- 24) Prior to the commencement of development a scheme for incidental extraction of the safeguarded mineral resources underlying the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include but not be limited to:
- an assessment of the extent, volume and practicability for incidental extraction, which shall be based on detailed ground investigations; and
 - the methodology for which any identified incidental mineral extraction would be carried out, which shall include a detailed programme/phasing of extraction, and details of the proposed destination/use of the mineral

End of Schedule

Appendix 7:

Appeal Decision – Rustington Golf Centre, Golfers Lane, Angmering



Appeal Decisions

Inquiry Held between 6 and 13 September 2022

Site visit made on 7 September 2022

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st October 2022

Appeal A Ref: APP/C3810/W/22/3298192

Rustington Golf Centre, Golfers Lane, Angmering BN16 4NB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Barratt David Wilson Homes Southern Counties against the decision of Arun District Council.
 - The application Ref A/129/21/PL, dated 2 June 2021, was refused by notice dated 5 November 2021.
 - The development proposed is erection of 191 new homes in a mix of 1-4 bedroom dwellings and 1 bedroom apartments, with associated landscaping, parking, open space, play areas, construction of a new access from Golfers Lane, and all other associated works.
-

Appeal B Ref: APP/C3810/W/22/3301932

Rustington Golf Centre, Golfers Lane, Angmering BN16 4NB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Barratt David Wilson Homes Southern Counties against Arun District Council.
 - The application, Ref A/45/22/PL, is dated 7 March 2022.
 - The development proposed is erection of 167 new homes in a mix of 1-4 bedroom properties (2-4 bedroom homes and 1 bedroom apartments), with associated landscaping, parking, open space, play areas, construction of a new vehicular access from Golfers Lane, and all other associated development works.
-

Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for erection of 191 new homes in a mix of 1-4 bedroom dwellings and 1 bedroom apartments, with associated landscaping, parking, open space, play areas, construction of a new access from Golfers Lane, and all other associated works at Rustington Golf Centre, Golfers Lane, Angmering BN16 4NB in accordance with the terms of the application, Ref A/129/21/PL, dated 2 June 2021, subject to the conditions set out in the attached schedule.

Appeal B

2. The appeal is allowed and planning permission is granted for erection of 167 new homes in a mix of 1-4 bedroom properties (2-4 bedroom homes and 1 bedroom apartments), with associated landscaping, parking, open space, play

areas, construction of a new vehicular access from Golfers Lane, and all other associated development works at Rustington Golf Centre, Golfers Lane, Angmering BN16 4NB in accordance with the terms of the application, Ref A/45/22/PL, dated 7 March 2022, subject to the conditions set out in the attached schedule.

Procedural Matters

3. **Following the Council's refusal of** permission for the appeal A scheme, it reached agreement with the appellant on the matters covered by its second to fifth reasons for refusal. These include effects on highway safety, loss of a par 3 golf facility, and effects on trees and biodiversity. Statements of common ground (SoCG) have been provided including topic-specific statements concerning highway safety and arboriculture. **The Council's putative reason for** refusal in respect of appeal B is similar to the first reason for refusal of the appeal A proposal. This forms the basis of the remaining main issue between the main parties.
4. An interested party questioned the admissibility of the SoCG. Rule 14 of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 (**"the Rules"**) requires that the local planning authority and the applicant shall together prepare an agreed statement of common ground and to ensure that the Secretary of State and any statutory party receives a copy of it within 6 weeks of the starting date. The preparation of a SoCG is thus a requirement of the process.
5. A draft general SoCG was provided by the appellant within the prescribed timescale although this had not been agreed between the parties. Topic-specific SoCGs for highways and transport for both appeals were signed on 28 July 2022. The final signed general SoCG covering both appeals was submitted on 5 September 2022. These documents were made available for interested parties to inspect **via the Council's website** as required by the Rules. There is no statutory party involved in the appeals and thus no prejudice in this respect from the late submission of the SoCG.
6. **The Council's** Statement of Case for appeal B was published on its website on 9 August 2022. This made clear that the issues of highways, trees and ecology had been addressed by submissions of Statements of Common Ground and an ecology/bat survey. Thus, the agreement that had been reached between the main parties on these matters had been made publicly available well in advance of the Inquiry. At the **start of the Inquiry, the main parties' opening** statements also made this position clear.
7. For these reasons, no party has been prejudiced by the late submission of the signed SoCG.

Main Issue

8. The main issue in both appeals is the effect of the development on the character and appearance of the area, including consideration of its scale, density and design and its effect on the landscape.

Reasons

Planning Policy

9. The development plan for the area consists of the Arun Local Plan (2018) (LP) and the Angmering Neighbourhood Plan (NP) which was made in 2015. The site is outside the Built-Up Area Boundaries (BUAB) of Rustington and Angmering as defined in those plans. Policy C SP1 of the LP defines such areas as countryside and restricts the types of development that will be permitted in the countryside. The proposals in both appeals do not accord with that policy.
10. There is agreement between the main parties that the Council cannot demonstrate a 5 year supply of deliverable housing sites. It is further agreed that the housing land supply amounts to 2.4 years. On this basis, in accordance with paragraph 11(d) of the National Planning Policy Framework (the Framework) Policy C SP1 is out-of-date. That paragraph provides, where this is the case, for permission to be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

Landscape

11. The site is occupied by a par 3 golf course which forms part of a larger golf course facility. It is adjacent to the A259 road which borders the northern extent of the built up areas of Littlehampton and Rustington. The area to the north of that road is largely open between the **'Body Shop' roundabout**, which is some distance to the west of the site and the junction with the A280 which is to the east. Part of this open area, which separates the urban areas of Rustington and Angmering, and is immediately to the east of the site, is designated as a **'Gap Between Settlements'** in the LP. To the north of the site there are buildings which accommodate the golf centre, a health club, and a leisure facility together with a car park.
12. To the north-east of the site there is another golf course¹. There is a private gated residential area known as Ham Manor Park which lies between that golf course and the built up area of Angmering to the east. This residential area is outside the BUAB for Angmering. There are groups of trees within the site including a distinctive row of Monterey pines which stretches back from the road frontage. There are also trees along that frontage with some gaps permitting views of the golf course.
13. In the West Sussex Landscape Character Assessment, the site is within the South Coast Plain, Littlehampton and Worthing Fringes. In the Arun Landscape Study, it is within the Angmering Coastal Plain Local Landscape Character Area (LCA). The LCA consists of the two golf courses to the west of Angmering, including the site, a narrow strip in agricultural use between Angmering and Littlehampton/Rustington and horticultural fields to the east of Angmering. The Landscape Study notes that there is a heavy urban influence from those settlements. The highly managed nature of the golf course facility and the close proximity of urban development are consistent with the latter description.
14. Having said this, the A259 provides a clear boundary feature between the urban area and the countryside. The proposals would be visually intrusive in terms of extending the urban area to the north of that road.
15. Policy LAN DM1 of the LP requires development within the setting of the South Downs National Park to have special regard to the conservation of that setting.

¹ Ham Manor

The nearest parts of the National Park are about 1 km to the north-east of Angmering. Because of the distance of the National Park from the site, the generally flat topography and landscape features that provide screening, there is no recognisable intervisibility between the site and the National Park. The main parties agree that the development in both appeals would not affect the setting of the National Park.

16. It is also agreed that the site is not within a valued landscape when assessed against the Guidelines for Landscape and Visual Impact Assessment. Notwithstanding this, the site has local value both in terms of providing a recreational facility and in maintaining open space north of the A259.
17. Because Angmering is separated from Rustington by agricultural fields which are protected by the '**Gap Between Settlements**' designation in the LP and given that Ham Manor Park separates the site from the BUAB of Angmering, the development would not result in coalescence of the settlements. The identity of Angmering as a separate settlement would be maintained if the appeals were to be allowed.
18. Concern has been expressed by the Council that the proposals would create a separate enclave which would be unrelated to either Angmering or Rustington. The proposals include the provision of a new footpath along the northern side of the A259 which would link the development to an existing pedestrian crossing to Sainsburys and other local facilities. While the developments would be on the other side of the main road from the rest of the urban area, it would nonetheless have easy access on foot to a range of local services and facilities within the urban area including schools and public transport. It is a matter of agreement between the main parties that the developments would be accessible to local services and facilities in Rustington on foot. The schemes would not, for this reason be isolated but would form an extension to the urban area, albeit north of the A259.
19. Policy LAN DM1 of the LP requires development to respect the characteristics and natural features of the relevant landscape character areas, as well as the historic character and development pattern of settlements, taking into account their distinct identity and setting.
20. I have noted that both proposals would be visually intrusive in the existing generally open landscape north of the A259. The existing trees along the road frontage together with new tree planting would screen the development from view to some extent although the new planting would take time to mature. The development would be visible from the footpath to the north of the site, but from that route it would be seen in the context of the urban area and the golf centre and leisure buildings.
21. I find that both proposals would generally respect the characteristics and natural features of the LCA. However, because they would be separated from the urban area of Rustington by the main road and outside the BUAB of Angmering, they would conflict with the requirements of Policy LAN DM1 to some extent.

Design

22. The nearby areas are characterised by traditional and recent residential developments at a range of densities. There are detached and semi-detached

houses of traditional appearance in nearby parts of Rustington. Ham Manor Park consists in the main of large, detached houses at a low density of about 8 dwellings per hectare (dph) but with some terraced housing at a higher density of about 21 dph near to the Ham Manor golf club. Recent housing developments in Rustington and Angmering provide detached, semi-detached and terraced houses and apartments of up to 3 storeys. Materials used include flint and hanging tile to reflect the local vernacular. Perimeter block layouts are characteristic of recent and approved developments as are landscaped buffer areas and connected open spaces.

23. The mix of dwellings to be provided and their form and layout, including the open space areas would be similar to those of other recent developments in the area. Suitable materials could be secured by means of planning conditions. The proposals would, for these reasons be in keeping with the character and appearance of the area in terms of their design.
24. The densities of recent developments in Rustington and Angmering are generally between 25 and 30 dph. The appeal A scheme, at about 25.6 dph would be at the lower end of that range, while the appeal B scheme would be lower still at about 22.3 dph. The Arun Design Guide² identifies 20-30 dph as an indicative low density which would be appropriate in purely residential areas. The Housing and Economic Land Availability Assessment identified the site as potentially contributing 106 dwellings, but this was an indicative assessment based on a smaller site area than that subject to the appeals. Ham Manor Park is a much lower density, but this is of a different character to the built up areas of Angmering and Rustington.
25. In the context of the urban areas of Rustington and Angmering, the densities of the proposed developments in both appeals would be appropriate. Taking into account the landscaped buffers around the proposed developments the densities would also be appropriate to the setting on the edge of the countryside.
26. Policy HD7 of the NP requires densities to be appropriate, and no higher than the immediate surrounding area unless there is clear justification. Ham Manor Park is of a lower density than the built up area of Angmering, and it is excluded from the BUAB and distinct from the rest of the surrounding area. For these reasons I find that there is justification for the densities of the proposals to exceed those of Ham Manor Park.
27. The heights of the proposed dwellings would be consistent with those of other developments in the area. The site would be contained by the A259, Golfers Lane, and the car park serving the leisure facilities. The western boundary would follow the route of an overhead electricity line. These features, in combination with the proposed open space, would visually contain the development. For these reasons, in my view the scale and density of both schemes would be acceptable.
28. Overall, the incorporation of the row of Monterey pines into the layout of both schemes, combined with the continuous open space around much of the site would provide a distinct sense of place. While the appeal B scheme would provide more open space than in appeal A, in my view both proposals would provide a suitable quality of design in accordance with the Arun Design Guide.

² Arun Design Guide Supplementary Planning Document (January 2021) section G.02

29. Policies D SP1 and D DM1 of the LP require efficient use of land, that development reflects the characteristics of the site and local area, and that form and design quality are considered. Policy HD6 of the NP similarly requires high quality design, reflecting local distinctiveness, and retention of important trees. For the reasons given, the proposals in both appeals would accord with those policies.
30. Policy HD5 of the NP requires new development to be of no more than 2.5 storeys. The appeal A scheme would be within that height limit. In appeal B, there would be two apartment blocks of 3 storeys. These buildings would be positioned on either side of the central open space and would provide focal points, contributing to the townscape. While the appeal B scheme would not fully accord with Policy HD5, the townscape value provided by the apartment buildings as focal points would outweigh the limited conflict with that policy.
31. The western part of the site is identified in the LP as a Biodiversity Opportunity Area. Policy ENV DM3 of the LP requires retention and incorporation of locally valued habitats into development. The retention of existing trees including a group of trees in the western part of the site would accord with this requirement.
32. Policy CLW2 of the NP requires protection of local green spaces as identified in Appendix D of that Plan. Appendix D identifies Ham Manor Golf Club as a designated Local Green Space. Map A7 at Appendix A identifies the Local Green Space at Ham Manor Golf Club as extending across the eastern part of the site as well as across the residential areas at Ham Manor Park. The western part of the site is not shown on that map.
33. The site is not shown as Local Green Space on **Arun District Council's Green Infrastructure Map** or on the LP Policies Map, whereas Ham Manor Golf Club is so shown on those maps. Because there is inconsistency in this respect, it is unclear whether the site forms part of a designated Local Green Space. The main parties agree that there is not a clear reason for refusal on this basis under paragraph 11(d)(i) of the Framework. It is also unclear as to whether or not the proposals would conflict with Policy CLW2.
34. Concern has been expressed that the proposals would create a precedent for further development north of the A259. Any application must be considered on its individual merits and relevant planning policies, however. For this reason, it does not follow that a precedent for further development would be created.
35. I have found that the development in both appeals would be intrusive in terms of extending the urban area north of the A259. However, the development in both appeals would incorporate the existing landscape features within the site and add to them. Taking into account also the existing strong urban influence on the site I conclude on the main issue that the proposals would result in moderate harm to the character and appearance of the area.

Other Matters

36. I have taken into account the representations that have been made by interested parties, including the Member of Parliament.
37. Concerns have been expressed about highway safety on the A259 and the roundabout junction which serves the site. The highway authority had no objection to the proposals in terms of the capacity of the highway network to

accommodate the traffic that would be generated by either development. The authority has agreed in the SoCG that there would be minimal impact on queues and delays on the A259.

38. The highway authority did express concern that further information was required to demonstrate the acceptability of the originally proposed toucan crossing to the west of the Mill Lane roundabout. A Road Safety Audit and speed survey information were required. However, the proposed toucan crossing has been deleted from the proposals and there is full agreement between the appellant and the highway authority that the proposals would have no detrimental effect on highway safety.
39. The SoCG on highways and transportation notes that whilst an additional crossing of the A259 west of Mill Lane would result in a shortening of walking distances to some services, these are limited in number as the majority are located east of the site. The existing crossing at Rustington Retail Park is also conveniently positioned to provide access from the site to the railway station.
40. The public footpath³ which is to the west of the site and leads to an uncontrolled crossing of the A259 is separated from the western boundary of the site by some distance. I saw on my visit that there is no existing path between the western extremity of the site and the existing public footpath. **The highway authority's view is** that the separation of the site from the footpath would not result in increased use of that route, or the uncontrolled crossing and I see no reason to disagree.
41. I note the concerns that have been expressed about the width of the footways on the Mill Lane bridge over the railway. However, for the above reasons and given the lack of objection from the highway authority, both proposals have been demonstrated to be acceptable in terms of highway safety.
42. While I note the concerns that have been expressed about further pressure being placed on medical, dental and educational facilities in the area there is no substantive evidence before me to show that the developments would necessitate contributions towards improvements to those services.
43. Although the proposals would result in loss of the existing par 3 golf course, there would remain a par 70 course, a driving range and other facilities including a junior golf and youth academy. **The appellant's** Golf Course Needs Statement demonstrates that there is a good level of provision of golf course facilities and in particular par 3 golf courses in the area. On this basis the assessment concludes that the existing par 3 course can be considered as surplus to current and future requirements. Interested parties stressed the value of the facilities for young people but the loss of the par 3 course would not unacceptably affect overall provision in the area.
44. The Lead Local Flood Authority had no objection to the proposals. The **Council's drainage engineer** requested further information regarding surface water drainage which can be secured by planning condition. The water company has indicated that it can facilitate foul sewerage disposal to service the proposed developments. Given the responses from consultees the proposals would be acceptable in terms of drainage.

³ FP 2160

45. The SoCG on arboricultural matters states that there is agreement between the main parties with respect to both appeals on matters relating to the effect of the development on trees. The Council does not object to the loss of trees as these are to be replaced by planting of a greater number of trees. The root protection areas of the Monterey pines which are to be retained would not be compromised by the development. For these reasons I am satisfied that there would be no unacceptable effect on existing trees.
46. The submitted Air Quality Assessment demonstrates that there would be no unacceptable air pollution from traffic to and from the site. There are opportunities for sustainable travel and measures to encourage sustainable means of transport such as electric vehicle charging points and travel plans can be required by planning conditions. This would help to minimise potential for adverse pollution from traffic.
47. A Bat Activity Survey Report was submitted. This recommends mitigation measures, which can be secured by condition. The **Council's fifth reason for refusal** concerned the lack of bat emergence surveys and this has now been overcome. There are no other outstanding concerns on the part of the Council with respect to biodiversity. Measures to enhance biodiversity can be secured by planning conditions.

Planning Obligations

48. The submitted Unilateral Undertakings would secure provision of 30% affordable homes which would accord with policy AH SP2 of the LP. This would consist of 67% affordable rented homes, 25% first homes and 8% intermediate homes **which would accord with the Council's** affordable housing policy.
49. The obligations would also secure financial contributions towards improvements to the A27. This is necessary because of the extra traffic that would be generated and given that the A27 forms part of the strategic road network near to the site. The contributions for each appeal proposal have been calculated on a proportionate basis from the number of homes proposed. They would be used to fund necessary improvement works to that route.
50. The obligations also secure a contribution to be used by the highway authority to monitor the Travel Plan. This is necessary in order to encourage use of sustainable modes of transport.
51. I am satisfied that the obligations meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 in that they are necessary, directly related to the development and fairly and reasonably related in scale and kind to it.

Planning Balance

52. Work on the Local Plan Review is currently paused, and preparation of the envisaged Non-Strategic Site Allocation document has been halted. Given that **the Council's housing land supply stands at only 2.4 years** and there is no prospect in sight of that supply reaching 5 years, both proposals would be of significant benefit in helping to address the shortage in housing supply. In October 2021 there were **1,163 households in housing need on the Council's** housing register. The proposed affordable homes would be of significant social benefit in helping to address that need. I give substantial weight to the proposed market housing and further substantial weight to the affordable

housing in both appeals. There would be other benefits in terms of new footpath provision and public open space, together with economic benefits which would also weigh in favour.

53. I have found that both proposals would result in moderate harm to the character and appearance of the area, and I give significant weight to that harm taking into account the conflict with Policy LAN DM1 of the LP. The identified conflict with Policy C SP1 carries limited weight because that policy is out-of-date on the basis of the absence of a 5 year housing land supply. These significant and limited weights are not sufficient to significantly and demonstrably outweigh the substantial and other weights that attach to the benefits of the proposals. On this basis paragraph 11(d) of the Framework indicates that permission should be granted. Although the proposed developments would not accord with the development plan as a whole, paragraph 11(d) of the Framework is an important material consideration which outweighs the conflict with the development plan.

Conditions

54. The parties agreed a suggested list of conditions and I have imposed those conditions with some minor amendments to ensure they meet the tests set out in the Framework. The list is the same for both appeals apart from the references to submitted plans and documents.
55. A 2 year period for commencement is necessary to ensure provision of housing **in accordance with the Council's Interim Housing Assessment**. It is necessary to specify the approved plans to provide certainty.
56. A number of conditions are necessary to safeguard the living conditions of nearby occupiers during construction and the living conditions of the future occupiers of the development. A Construction Management Plan would ensure that activities are managed so as to minimise disturbance. A dust assessment would also be necessary for these reasons. Should any piling work be necessary a condition requiring details to be approved is necessary, as **recommended by the Council's Environmental Protection Officer**. A condition is also necessary to limit the hours of construction work for these reasons.
57. Similarly suitable measures are required in accordance with the submitted Planning Noise Assessment in order to ensure acceptable living conditions for future occupiers of the development. The Planning Noise Assessment provides recommended specifications for windows and glazing and provided the development is in accordance with those recommendations there is no need for a condition requiring submission of further details. The Planning Noise Assessment also concludes that external garden areas would be within acceptable noise limits if they are screened from noise from the A259 by the dwellings. This would be the case and there is no need for a condition requiring further details of mitigation in this respect.
58. It is necessary to require 10% of the energy supply to be from decentralised and renewable or low carbon energy sources, to meet the requirements of Policy ECC SP2 of the LP.
59. It is necessary to include measures to protect and enhance biodiversity. The **suggested condition 5 refers to an 'Ecological Enhancement Plan' dated July**

2021. This plan is not before me and so I have amended this condition to require submission and approval of a scheme and its implementation.

60. In order to ensure the appearance of the development is acceptable it is necessary to secure a detailed landscaping scheme. It is also necessary to require details of the public open space facilities including the play areas and provision for their future maintenance and management to ensure that these facilities are of an acceptable standard and that they are suitably maintained. Conditions 6, 7 and 8 secure these measures. Condition 15 requires approval of details of external facing materials and is necessary to ensure the appearance of the dwellings is acceptable. Condition 18 requires development to be carried out in accordance with the Arboricultural Impact Assessments and Method Statements to ensure that trees are adequately protected.
61. Approval of the scheme of lighting is necessary in order to protect biodiversity and limit light pollution.
62. The Construction Management Plan is also necessary to ensure that vehicles used for construction work do not adversely affect highway conditions. A number of conditions are necessary to ensure adequate highway safety in respect of the completed development and to provide opportunities for sustainable travel. Conditions 9, 12, 13, 21 and 22 require provision of means of access and parking facilities for cars and bicycles, electric vehicle charging facilities and a residential travel plan. Condition 14 is necessary to ensure adequate provision for fire hydrants.
63. The submitted Archaeological Assessment finds that there is potential for archaeological remains on the site. A condition requiring a programme of archaeological work is necessary in order to secure recording of any archaeological remains.
64. It is necessary to require full details of the drainage scheme, including provision for its maintenance and management in order to ensure that adequate and sustainable means of surface water drainage is provided and maintained.
65. The submitted Preliminary Risk Assessment for ground conditions recommends that an intrusive exploratory investigation is carried out to address potential contaminant linkages. The **Council's Environmental** Protection Officer recommended the inclusion of a condition requiring investigation in respect of any land contamination. This would be necessary to ensure safety and acceptable living conditions for future residents.

Conclusion

66. For the reasons given I conclude that both appeals should be allowed.

Nick Palmer

INSPECTOR

APPEARANCES

FOR THE COUNCIL:

Jacqueline Lean, of Counsel, instructed by the solicitor to Arun District Council

She called

David Innes BA (Hons) MRTPI

Director, Blueprint Planning &
Development Ltd

FOR THE APPELLANT:

Zack Simons and Isabella Buono, barristers, instructed by Jessica Sparkes of
Barratt David Wilson Homes

They called

Colin Pullan BA (Hons) DipUD

Head of Urban Design and
Masterplanning, Lambert Smith
Hampton

Abby Stallwood BSc (Hons) DipLM CMLI

Associate Director of Strategic
Landscape, James Blake Associates
Ltd

Nik Smith BA (Hons) MA MRTPI

Planning Director, Nexus Planning

INTERESTED PARTIES

Ed Miller

Secretary of Ferring Conservation
Group

Clive Fennel

Local resident

Shaun Gunner

Leader, Arun District Council

Nikki Hamilton-Street

Chair, Angmering Parish Council and
representative of Andrew Griffith MP

Andy Cooper

District Ward Councillor

Alison Cooper

County Councillor, District Councillor
and Chair of Rustington Parish Council

Derrick Chester

Local resident

Maryann Gillett

Local resident

John Oldfield

Angmering Parish Council

Jamie Bennett

Rustington Parish Councillor and Chair
of Planning Committee

Mr F Grimmett

Local resident

DOCUMENTS SUBMITTED

ID1 Appellant's Opening and List of Appearances

ID2 Opening Statement on behalf of the Local Planning Authority

ID3 Statement of Shaun Gunner

ID4 Statement of Andrew Griffith MP

ID5 Statement of Nikki Hamilton-Street

ID6 Statement of Andy Cooper

ID7 Statement of Alison Cooper 6 September 2022

ID8 Statement of Alison Cooper 8 September 2022

ID9 Statement of John Oldfield

ID10 Statement of Jamie Bennett

ID11 E-mail from Nikki Hamilton-Street to James Hassett and Karl Roberts dated 7 September 2022

ID12 Letter from Sally Cotterill and Andrew Porter

ID13 Letter from Malcolm Griffin

ID14 Letter from Mr and Mrs Cox

ID15 Letter from Geoffrey Hixon

ID16 List of Suggested Conditions

ID17 Unilateral Undertaking (Appeal A)

ID18 Unilateral Undertaking (Appeal B)

ID19 CIL Compliance Statement

ID20 Closing statement on behalf of the Local Planning Authority

ID21 Appellant's closing submissions

CD8.26 Arun Landscape Study

Schedule of Conditions

Appeal A

- 1) The development hereby permitted shall be begun before the expiration of 2 years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following approved plans:

PLN-1-1101 Site Layout Rev G
PLN-1-1102 Colour Site Layout Rev B
PLN-1-1103 Storey Heights Plan Rev B
PLN-1-1104 Dwelling Types Plan Rev B
PLN-1-1105 Tenure Plan Rev C
PLN-1-1106 Parking Plan Rev B
PLN-1-1107 Refuse Plan Rev B
PLN-1-1108 Fire Strategy Plan Rev B
PLN-1-1110 Sales Area Plan Rev B
PLN-1-1111 Location Plan Rev A
PLN-1-1150 Street Scenes Rev A
PLN-1-2101 Alderney Elevations and Plans Rev C
PLN-1-2102 Chester Elevations and Plans Rev C
PLN-1-2103 Denford Elevations and Plans Rev C
PLN-1-2104 Ellerton Elevations and Plans Rev D
PLN-1-2105 Hesketh Elevations and Plans Rev C
PLN-1-2106 Kenley Elevations and Plans Rev C
PLN-1-2107 Lutterworth Elevations and Plans Rev C
PLN-1-2108 Moresby Elevations and Plans Rev C
PLN-1-2109 Norbury Elevations and Plans Rev C
PLN-1-2110 Radleigh Elevations and Plans Rev C
PLN-1-2111 Woodcroft Elevations and Plans Rev C
PLN-1-2112 Type 55 Elevations and Plans Rev C
PLN-1-2113 Type 54 Elevations and Plans Rev C
PLN-1-2114 Type 52 Elevations and Plans Rev C
PLN-1-2115 Type 51 Elevations and Plans Rev C
PLN-1-3000 Type 58 And 59 Elevations and Plans Rev B
PLN-1-3100 Type 58 59 60 61 Elevations and Plans Rev B
PLN-1-3200 Type 58 59 60 61 Elevations and Plans Rev B
PLN-1-3700 Single Garage Elevations and Plans Rev B
PLN-1-3701 Double Garage Elevations and Plans Rev B
PLN-1-3702 Twin Garage Elevations and Plans Rev B
PLN-1-3800 Bin Store Elevations and Plans Rev B
PLN-1-3801 Bin Cycle Store Elevations and Plans Rev B
PLN-1-3802 Substation Elevations and Plans Rev B
PLN-1-3900 Cycle Store Elevations and Plans Rev B
SK01 Landscape Master Plan Rev A
PLN-5021 JBA 20/128-01 Detailed Hard and Soft Landscape Proposals, Sheet 1 Rev B
PLN-5021 JBA 20/128-02 Detailed Hard and Soft Landscape Proposals, Sheet 2 Rev B
PLN-5021 JBA 20/128-03 Detailed Hard and Soft Landscape Proposals, Sheet 3 Rev B

PLN-5021 JBA 20/128-04 Detailed Hard and Soft Landscape Proposals, Sheet 4 Rev B
PLN-5021 JBA 20/128-05 Detailed Hard and Soft Landscape Proposals, Sheet 5 Rev B
PLN-5021 JBA 20/128-06 Detailed Hard and Soft Landscape Proposals, Sheet 6 Rev B
PLN-5021 JBA 20/128-07 Detailed Hard and Soft Landscape Proposals, Sheet 7 Rev B
PLN-5021 JBA 20/128-08 Detailed Hard and Soft Landscape Proposals, Sheet 8 Rev B
POS Areas Breakdown
A351-PLN-1-4001 General Arrangement Sheet 1 Rev A
A351-PLN-1-4002 General Arrangement Sheet 2 Rev A
A351-PLN-1-4011 Longsections Sheet 1 Rev A
A351-PLN-1-4012 Longsections Sheet 2 Rev A
A351-PLN-1-4013 Longsections Sheet 3 Rev A
A351-PLN-1-4014 Longsections Sheet 4 Rev A
A351-PLN-1-4015 Longsections Sheet 5 Rev A
A351-PLN-1-4051 Drainage Layout Sheet 1 Rev B
A351-PLN-1-4052 Drainage Layout Sheet 2 Rev B
A351-PLN-1-4055 Drainage Construction Details Sheet 1 Rev A
A351-PLN-1-4056 Drainage Construction Details Sheet 2 Rev B
A351-PLN-1-4053 Drainage Areas Layout Sheet 1 Rev A
A351-PLN-1-4054 Drainage Areas Layout Sheet 2 Rev A
A351-PLN-1-4061 Engineering Layout Sheet 1 Rev A
A351-PLN-1-4062 Engineering Layout Sheet 2 Rev A
A351-PLN-1-4065 Highway Construction Details Rev A
A351-PLN-1-4071 Materials Layouts Sheet 1 Rev A
A351-PLN-1-4072 Materials Layouts Sheet 2 Rev A
A351-PLN-1-4081 Large Refuse Vehicular Tracking Sheet 1 Rev A
A351-PLN-1-4082 Large Refuse Vehicular Tracking Sheet 2 Rev A
A351-PLN-1-4083 Fire Tender Vehicular Tracking Sheet 1 Rev A
A351-PLN-1-4084 Fire Tender Vehicular Tracking Sheet 2 Rev A
A351-PLN-1-4085 Standard Car Vehicular Tracking Sheet 1 Rev A
A351-PLN-1-4086 Standard Car Vehicular Tracking Sheet 2 Rev A

3) No development shall commence until a Construction Management 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. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:

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

- 4) 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 National Planning Policy Framework) 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 the development, including full details of physical works on the site, shall be submitted to and approved in writing by the Local Planning Authority before any development above damp proof course begins. The development shall be implemented in accordance with the approved details and timetable and retained as operational thereafter.
- 5) No development shall take place above damp proof course level until a scheme of ecological enhancements has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme. The scheme shall include the following measures:
 - a Bat Sensitive Lighting Scheme.
 - Enhancement planting including native scrub, orchard and species rich grassland.
 - The retention of the vegetation along the southern boundary of the site in accordance with the approved landscaping scheme; and
 - provision for bats, birds, reptiles and hedgehogs.
- 6) Notwithstanding the submitted details, no development above damp proof course level shall take place until there has been submitted to, and approved in writing by, the Local Planning Authority, a landscaping scheme including details of hard and soft landscaping, and details of existing trees and hedgerows to be retained, together with measures for their protection during the course of the development. The approved details of the landscaping shall be carried out in the first planting and seeding season, following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 7) Notwithstanding the submitted details, no development above damp proof course level shall take place until details of the proposed public open space and play areas 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 and shall be completed prior the occupation of the final dwelling at the site.
- 8) A Management and Maintenance Plan for the landscaping, open space and play areas at the site shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of a dwelling at the site. The landscaping, open space and play areas shall be managed and maintained in accordance with the approved Plan.
- 9) A scheme for the provision of facilities to enable the charging of electric vehicles to serve the approved dwellings shall be submitted to and approved

in writing by the Local Planning Authority and no dwelling with an electric car charging point shall be occupied until the electric car charging point for that dwelling has been provided and the charge points shall thereafter be retained and maintained in good working condition. Charge points should be Mode 3, 7kw fast chargers as a minimum.

- 10) No demolition/construction activities shall take place other than between 08:00 hours and 18:00 hours (Mondays to Fridays) and between 08:00 hours and 13:00 hours (Saturdays) with no noisy work on Sundays or Bank/Public Holidays.
- 11) No external lighting shall be installed until details have been submitted to and approved in writing by the Local Planning Authority prior to occupation of the development. This submission shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles). The approved scheme shall be installed, fully assessed by a competent individual when operational to ensure no light creep/bleed, maintained and operated in accordance with the approved details.
- 12) No dwelling shall be occupied until the car parking and cycle parking serving the respective dwelling has been constructed in accordance with the approved site plan. Once provided the spaces shall thereafter be retained at all times for their designated purpose.
- 13) No part of the development shall be occupied until the road(s), cycleways, footways, and casual parking areas serving the development have been constructed, surfaced, and drained in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority.
- 14) No development shall take place above damp proof course level until details of fire hydrant provision have been submitted to and approved in writing by the local planning authority. The approved fire hydrants shall be installed in accordance with the approved details prior to occupation of any dwelling and shall thereafter be maintained.
- 15) Notwithstanding the submitted details, no development above damp proof course level shall take place unless and until a schedule of materials and finishes to be used for external walls and roofs of the proposed buildings have been submitted to and approved in writing by the Local Planning Authority. The development shall take place in accordance with the approved details.
- 16) No development shall take place 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 Planning Authority.
- 17) Construction shall not begin until the developer has carried out a dust assessment and prepared a scheme of mitigation measures to protect neighbouring premises from dust produced by activities on site. The assessment should have due regard to current advice and guidance. The

scheme shall adequately consider the impact of site preparation and construction works on existing and proposed dwellings and shall include dust monitoring and regular reporting to the Local Planning Authority. The scheme shall be submitted in writing to the Local Planning Authority for approval. Prior to any construction activities commencing, a verification report shall be submitted to the Local Planning Authority to demonstrate the agreed measures have been implemented. The agreed scheme shall be maintained throughout the construction phase of the development.

- 18) The development shall proceed in accordance with the Arboricultural Impact Assessment and Method Statement Ref JBA 20/128 AR01 Issue A dated 21 September 2021.
- 19) Development shall not 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. 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 building 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.
- 20) Development shall not commence until full details of the maintenance and management of the surface water drainage system are set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The manual shall 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.
- 21) The highway works shown in principle on Plan Reference: A 351-003 rev P2 shall be completed prior to the first occupation of any dwellings at the site.
- 22) No dwelling shall be occupied at the site before a Residential Travel Plan for the site has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Travel Plan.
- 23) The development shall be carried out in accordance with the submitted Planning Noise Assessment Ref 20/0278/R1 dated 9 April 2021.

- 24) Where piling works are necessary, a scheme for noise mitigation shall be submitted to the local planning authority and shall be in accordance with BS5228 (Parts 1 & 4) for noise control. The scheme shall specify the proposed piling method and the reason for its selection. This shall consider the ground of the proposed development site and the proximity of residential properties. Piling shall not commence until written approval has been obtained from the local planning authority.
- 25) Prior to commencement of the development hereby approved, the following components of the scheme to deal with the risks associated with contamination of the site shall be submitted to and approved in writing by the local planning authority:
1. A Site Investigation Scheme, based on the preliminary risk assessment to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 2. Based on the Site Investigation Scheme and the detailed risk assessment, an options appraisal strategy giving full details of the remediation measures required and how they are to be undertaken.
 3. A Verification Report providing details of the data that will be collected in order to demonstrate that the works set out in [2] are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall be implemented as approved. The Verification Report shall demonstrate the effectiveness of the remediation carried out. 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 include a long term monitoring and maintenance plan for monitoring of pollutant linkages, maintenance and arrangements for contingency action, and for the reporting of this in writing to the local planning authority.

Appeal B

- 1) The development hereby permitted shall be begun before the expiration of 2 years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following approved plans:

PLN-1-1101 Site Layout Rev L
PLN-1-1102 Colour Site Layout Rev E
PLN-1-1103 Storey Heights Plan Rev D
PLN-1-1104 Dwelling Types Plan Rev D
PLN-1-1105 Tenure Plan Rev F
PLN-1-1106 Parking Plan Rev D
PLN-1-1107 Refuse Plan Rev D
PLN-1-1108 Fire Strategy Plan Rev D
PLN-1-11010 Sales Area Plan Rev D
PLN-1-1111 Location Plan Rev B
PLN-1-1150 Street Scenes Rev B
PLN-1-2101 Alderney Elevations and Plans Rev E
PLN-1-2102 Kingsley Elevations and Plans Rev E
PLN-1-2103 Denford Elevations and Plans Rev E
PLN-1-2104 Ellerton Elevations and Plans Rev F
PLN-1-2105 Hesketh Elevations and Plans Rev E
PLN-1-2106 Kenley Elevations and Plans Rev E
PLN-1-2107 Lutterworth Elevations and Plans Rev E
PLN-1-2108 Moresby Elevations and Plans Rev E
PLN-1-2109 Norbury Elevations and Plans Rev E
PLN-1-2110 Radleigh Elevations and Plans Rev E
PLN-1-2111 Woodcroft Elevations and Plans Rev E
PLN-1-2112 Type 55 Elevations and Plans Rev E
PLN-1-2113 Type 54 Elevations and Plans Rev E
PLN-1-2114 Type 52 Elevations and Plans Rev E
PLN-1-2115 Type 51 Elevations and Plans Rev E
PLN-1-2116 Alverton Elevations and Plans Rev A
PLN-1-2117 2BF (Affordable) Elevations and Plans Rev A
PLN-1-3300 Private Apartments Elevations and Plans Rev A
PLN-1-3400 Affordable Apartments Elevations and Plans Rev A
PLN-1-3700 Single Garage Elevations and Plans Rev B
PLN-1-3701 Double Garage Elevations and Plans Rev B
PLN-1-3702 Twin Garage Elevations and Plans Rev B
PLN-1-3800 Bin Cycle Store 1 Elevations and Plans Rev C
PLN-1-3801 Bin Cycle Store 2 Elevations and Plans Rev C
PLN-1-3802 Substation Elevations and Plans Rev B
PLN-1-3900 Cycle Store Elevations and Plans Rev C
SK01 Landscape Master Plan Rev B
PLN-5021 JBA 20/128-01 Detailed Hard and Soft Landscape Proposals, Sheet 1 Rev C
PLN-5021 JBA 20/128-02 Detailed Hard and Soft Landscape Proposals, Sheet 2 Rev C
PLN-5021 JBA 20/128-03 Detailed Hard and Soft Landscape Proposals, Sheet 3 Rev C
PLN-5021 JBA 20/128-04 Detailed Hard and Soft Landscape Proposals, Sheet 4 Rev C

PLN-5021 JBA 20/128-05 Detailed Hard and Soft Landscape Proposals, Sheet 5 Rev C

PLN-5021 JBA 20/128-06 Detailed Hard and Soft Landscape Proposals, Sheet 6 Rev C

PLN-5021 JBA 20/128-07 Detailed Hard and Soft Landscape Proposals, Sheet 7 Rev C

PLN-5021 JBA 20/128-08 Detailed Hard and Soft Landscape Proposals, Sheet 8 Rev C

- 3) No development shall commence until a Construction Management 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. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:
 - the anticipated number, frequency and types of vehicles used during construction,
 - the method of access and routing of vehicles during construction,
 - the parking of vehicles by site operatives and visitors,
 - the loading and unloading of plant, materials and waste,
 - the storage of plant and materials used in construction of the development,
 - the erection and maintenance of security hoarding,
 - the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
 - details of public engagement both prior to and during construction works.
- 4) 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 National Planning Policy Framework) 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 the development, including full details of physical works on the site, shall be submitted to and approved in writing by the Local Planning Authority before any development above damp proof course begins. The development shall be implemented in accordance with the approved details and timetable and retained as operational thereafter.
- 5) No development shall take place above damp proof course level until a scheme of ecological enhancements has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme. The scheme shall include the following measures:
 - a Bat Sensitive Lighting Scheme.
 - Enhancement planting including native scrub, orchard and species rich grassland.
 - The retention of the vegetation along the southern boundary of the site in accordance with the approved landscaping scheme; and
 - Provision for bats, birds, reptiles and hedgehogs
- 6) Notwithstanding the submitted details, no development above damp proof course level shall take place until there has been submitted to, and approved in writing by, the Local Planning Authority, a landscaping scheme including

details of hard and soft landscaping, and details of existing trees and hedgerows to be retained, together with measures for their protection during the course of the development. The approved details of the landscaping shall be carried out in the first planting and seeding season, following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

- 7) Notwithstanding the submitted details, no development above damp proof course level shall take place at the site until details of the proposed public open space and play areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall be completed prior to the occupation of the final dwelling at the site.
- 8) A Management and Maintenance Plan for the landscaping, open space and play areas at the site shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of a dwelling at the site. The landscaping, open space and play areas shall be managed and maintained in accordance with the approved Plan.
- 9) A scheme for the provision of facilities to enable the charging of electric vehicles to serve the approved dwellings shall be submitted to and approved in writing by the Local Planning Authority and no dwelling with an electric car charging point shall be occupied until the electric car charging point for that dwelling has been provided and the charge points shall thereafter be retained and maintained in good working condition. Charge points should be Mode 3, 7kw fast chargers as a minimum.
- 10) No demolition/construction activities shall take place other than between 08:00 hours and 18:00 hours (Mondays to Fridays) and between 08:00 hours and 13:00 hours (Saturdays) with no noisy work on Sundays or Bank/Public Holidays.
- 11) No external lighting shall be installed until details have been submitted to and approved in writing by the Local Planning Authority prior to occupation of the development. This submission shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles). The approved scheme shall be installed, fully assessed by a competent individual when operational to ensure no light creep/bleed, maintained and operated in accordance with the approved details.
- 12) No dwelling shall be occupied until the car parking and cycle parking serving the respective dwelling has been constructed in accordance with the approved site plan. Once provided the spaces shall thereafter be retained at all times for their designated purpose.
- 13) No part of the development shall be occupied until the road(s), cycleways, footways, and casual parking areas serving the development have been constructed, surfaced, and drained in accordance with plans and

details to be submitted to and approved in writing by the Local Planning Authority.

- 14) No development shall take place above damp proof course level until details of fire hydrant provision have been submitted to and approved in writing by the local planning authority. The approved fire hydrants shall be installed in accordance with the approved details prior to occupation of any dwelling and shall thereafter be maintained.
- 15) Notwithstanding the submitted details, no development above damp proof course level shall take place unless and until a schedule of materials and finishes to be used for external walls and roofs of the proposed buildings has been submitted to and approved by the Local Planning Authority. The development shall take place in accordance with the approved details.
- 16) No development shall take place 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 by the Local Planning Authority.
- 17) Construction shall not begin until the developer has carried out a dust assessment and prepared a scheme of mitigation measures to protect neighbouring premises from dust produced by activities on site. The assessment should have due regard to current advice and guidance. The scheme shall adequately consider the impact of site preparation and construction works on existing and proposed dwellings and shall include dust monitoring and regular reporting to the Local Planning Authority. The scheme shall be submitted in writing to the Local Planning Authority for approval. Prior to any construction activities commencing, a verification report shall be submitted to the Local Planning Authority to demonstrate the agreed measures have been implemented. The agreed scheme shall be maintained throughout the construction phase of the development.
- 18) The development shall proceed in accordance with the Arboricultural Impact Assessment Ref JBA 20/128 AR01 Issue C and Arboricultural Method Statement Ref JBA 20/128 AR01 both dated 2 August 2022.
- 19) Development shall not 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. 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 building 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.

- 20) Development shall not 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 shall 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.
- 21) The highway works shown in principle on Plan Reference: A 351-003 rev P2 shall be completed prior to the first occupation of any dwellings at the site.
- 22) No dwelling shall be occupied at the site before a Residential Travel Plan for the site has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Travel Plan.
- 23) The development shall be carried out in accordance with the submitted Planning Noise Assessment Ref 20/0278/R1 dated 8 February 2022.
- 24) Where piling works are necessary, a scheme for noise mitigation shall be submitted to the local planning authority and shall be in accordance with BS5228 (Parts 1 & 4) for noise control. The scheme shall specify the proposed piling method and the reason for its selection. This shall consider the ground of the proposed development site and the proximity of residential properties. Piling shall not commence until written approval has been obtained from the local planning authority.
- 25) Prior to commencement of the development hereby approved, the following components of the scheme to deal with the risks associated with contamination of the site shall be submitted to and approved in writing by the local planning authority:
1. A Site Investigation Scheme, based on the preliminary risk assessment to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 2. Based on the Site Investigation Scheme and the detailed risk assessment, an options appraisal strategy giving full details of the remediation measures required and how they are to be undertaken.
 3. A Verification Report providing details of the data that will be collected in order to demonstrate that the works set out in [2] are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall be implemented as approved. The Verification Report shall demonstrate the effectiveness of the remediation carried out. 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 include a long term monitoring and maintenance plan for monitoring of pollutant linkages, maintenance and

arrangements for contingency action, and for the reporting of this in writing to the local planning authority.

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