

Recommendation Report for Planning Permission

REF NO: P/97/20/PL

LOCATION: Land To North Of
Summer Lane
Pagham
PO21 4NG

PROPOSAL: Residential development of 36 No. dwellings (net increase of 15 over current consent P/70/19/RES) including affordable housing (additional 5 units) with associated access, parking & landscaping. This site is in CIL Zone 4 but is zero rated as more than 11 dwellings.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

The application seeks full permission for 36 dwellings however, the site area has permission for 21 dwellings as part of the larger permission for 90 dwellings and this has permission been implemented. Whilst there is an alteration to the overall mix, the applicant is seeking an extra 15 dwellings.

The access arrangements remain the same except there is an increase in the number of culverted crossings over the ditch on Summer Lane. The western parcel of the P/79/19/RES site originally proposed 5 such crossings but as a result of the proposal there would be 9. All internal site road arrangements remain as before. The western most access point is for emergency use only and has collapsible bollards between plots 89 and 90.

The 36 dwellings are two storey in height and consist of 31 x 3 bedrooms and 5 x 2 bedrooms. The approved mix on the site was for 20 x 3 bedrooms and 1 x 4 bedroom. The new houses are similar in design to those on the approved scheme but with a greater number of semi-detached dwellings. Materials consist of brick, render, cladding, tiles & slates and could be confirmed through a condition.

The site plan indicates sheds in the rear gardens of those houses not having a garage which are likely to be cycle stores but no details are provided a condition would be required to ensure approval of such details. A condition would be required regarding bin stores/storage spaces as these are not shown. The layout also includes a substation in broadly the same position as on the approved scheme.

Parking provision is made up of single garages (2), side driveways, frontage parking spaces, remote on-road spaces

and road side visitor spaces. The allocated car parking provision for the 36 dwellings is 72 (this has been adjusted by 2 x 0.5 (1) to account for the 2 garages) and there are 8 visitor spaces. All garage spaces are at least 6m by 3m.

There is no open space proposed in the site area. The wider site benefits from a large area of new Public Open Space (POS) south of Summer Lane totalling 1.62ha and there are open space areas associated with the SuDS features along the western side of the whole site.

SITE AREA	1.2 hectares.
RESIDENTIAL DEVELOPMENT DENSITY	30 dwellings per hectare (dph).
TOPOGRAPHY	Appears flat but has a slightly declining gradient from east to west.
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	The entirety of the red line site area is in a wider open extent of land that has a permission for dwellings. The only existing boundary is to the east with residential properties Meadow Sweet & Rosefield Barn (plus the latter's adjoining land extending to the north) which comprises fencing and hedgerows.
SITE CHARACTERISTICS	The site is currently part of a building site and consists of cleared open land with some open storage of construction materials/equipment. The site shares a boundary with the dwellings known as Meadow Sweet and Rosefield plus part of Rosefield's associated land stretching northwards. The site fronts to the south onto Summer Lane which in this location is an unadopted road and public footpath/bridleway (FP100).
CHARACTER OF LOCALITY	Despite its relatively close proximity to Pagham the site has a rural feel owing to the large expanse of open countryside to the west. The wider site sits on the very west edge of the settlement, the extent of which generally follows the line of Pagham Road. The only exception is Mill Farm Park Home Estate which lies to the north. These mobile homes are single storey but have a view southwards over the site. Dwellings to the east along Summer Lane are detached properties of individual style and appearance. They are predominantly one and a half storeys where close to the site but with some bungalows further east. Meadow Sweet has its second floor partially in the roof whilst Rosefield House is single storey.

RELEVANT SITE HISTORY

P/29/21/DOC	Approval of details reserved by condition imposed under ref P/58/15/OUT relating to Condition No 14 - highway works.	
P/70/19/RES	Approval of reserved matters following outline consent P/58/15/OUT for 90 No. dwellings. Also seeking to address the terms of planning conditions 6 (Phasing), 8 (ecology), 9 (Surface Water), 12 (Vehicular Access), 15 (Parking), 18 (Travel Plan), 20 (Landscape Management), 24 (Parking Control), 25 (Dwelling Parking) and 26 (Materials).	ApproveConditionally 28-02-20
P/140/16/OUT	Outline application for access only - mixed use development comprising of up to 400 dwellings, a care home with up to 70 beds, a Local Centre comprising up to 2000sqm of A1/A2/A3/D1/sui generis floorspace, provision of land for a 1FE primary school (with sufficient space to ensure that it is expandable to 2FE), provision of land for a scout hut, safeguarding of land to help link the site to the Pagham Harbour Cycle Route & other community uses including public open space & allotments with some matters reserved.	App Cond with S106 22-11-18
P/58/15/OUT	Outline application with some matters reserved for the erection of 90 No. dwellings with associated access & open space. This is a Departure from the Development Plan.	App Cond with S106 30-09-16

The site is entirely in an existing development which has permission for 90 dwellings by virtue of P58/15/OUT and P/70/19/RES. These permissions were in accordance with the residential allocation in the then emerging Pagham Neighbourhood Development Plan (2015). This Plan was withdrawn by the Parish Council on the 29th July 2019.

P/140/16/OUT concerns land to the south of Summer Lane and is included in the list as it is referred to elsewhere in this report.

REPRESENTATIONS

Pagham Parish Council object for the following reasons:

- (A) Application is a cynical attempt to increase profits from the site and exceeds the Parish's support for development on this site;
- (B) Likely house prices will do little to help those in Pagham looking to purchase small family homes;
- (C) The change in mix only reduced the number of 4 bed homes by 1;
- (D) Inadequate education provision in the local area for increased children;

- (E) Education contributions will not make any difference as Rose Green School is already as large as is recommended by WSCC and a new primary school will not be forthcoming until the North of Hook Lane strategic site is developed;
- (F) Insufficient capacity at the Pagham WwTW and will result in greater discharge into Pagham Harbour or tanking to other Treatment Works. Request condition to prevent occupation before connection to the Southern Water network is achieved;
- (G) Surface water drainage system needs further assessment to ensure it is capable of accommodating additional houses;
- (H) Harm to Pagham Harbour;
- (I) ADC has a financial interest in development owing to its interest in the affordable housing and this creates a conflict of interest; and
- (J) Need clarification over the S.106 arrangements.

Pagham Parish Council requested ADC give serious considerations to the points made by Mr P Collins in his representation dated 04/03/21.

29 letters of objection (as at 09/03/21) raising the following concerns:

- (1) Increased traffic leading to road congestion;
- (2) Increased road safety issues;
- (3) New residents will need to travel long distances to find work;
- (4) Need confirmation of the extent of highway works on Summer Lane;
- (5) Insufficient parking;
- (6) Should not proceed until all road infrastructure projects in the area have been completed;
- (7) Insufficient foul sewer capacity therefore more risk of waste flowing into the Pagham Rife or that waste will be tanked from the site adding to traffic;
- (8) Increased surface water flooding. The Rife is currently full & overflowing;
- (9) Increased density and occupancy levels;
- (10) Change from bungalows to two storey houses;
- (11) Affordable housing sited next to existing dwelling (Meadow Sweet);
- (12) The development permitted by P/58/15/OUT & P/70/19/RES is unlawful and in breach of several conditions;
- (13) ADC refuse to investigate & address complaints;
- (14) Should be described as a fresh full application for 105 dwellings and be considered as such;
- (15) Application is for 36 dwellings and does not rely on previous permissions so can be considered afresh;
- (16) Not clear which of the submitted plans/documents are relied upon;
- (17) Need for an Appropriate Assessment;
- (18) Landowner does not own Summer Lane despite this being in the red edge;
- (19) It is illegal to drive a mechanically propelled vehicle on a footpath i.e. this part of Summer Lane;
- (20) Site is currently open space (albeit not public open space) and the proposals fail to demonstrate that this open space is surplus to the requirements for open space in Pagham;
- (21) Proposal is in conflict with the NPPF, several Development Plan policies and SPD's,
- (22) Site is subject of a complaint to LGO and legal advice is being sought with a view to legal action;
- (23) Should application be refused and succeed at appeal then the Government should acknowledge that housing needs take precedence over environmental issues;
- (24) Drew Smith did not undertake pre-application community consultation;
- (25) Need for proper publicity and consideration of this proposal;
- (26) Developer is reneging on previously agreed contracts;
- (27) Loss of agricultural land;
- (28) Harm to wildlife;
- (29) Significant harm to Pagham Harbour SPA/Ramsar Site;

- (30) Appropriate Assessment (AA) is not in accordance with the procedure specified by the PPG or by Natural England and omits certain relevant details;
- (31) Increased air pollution;
- (32) Harm to Rural Character;
- (33) App description incorrectly omits P/58/15/OUT;
- (34) Plans do not include Summer Lane and so do not demonstrate access to the highway;
- (35) No Design & Access Statement has been provided;
- (36) Drew Smith do not own Summer Lane so an incorrect ownership certificate has been provided/Notice needs to be served on all owners;
- (37) The Original s.106 & approved Deed of Variation (DoV) cannot be altered through this application;
- (38) No provision for open space or other required leisure provision contributions;
- (39) The design quality of the scheme is much poorer than the approved scheme and presents a much more urban & cramped appearance to this sensitive site on the edge of Pagham;
- (40) Culverting of Summer Lane ditch increasing risk of flooding; and
- (41) Reduction in landscaping.

COMMENTS ON REPRESENTATIONS RECEIVED:

In respect to the Parish Council response, items (G), (H) & (J) will be considered in the conclusions section with the following offered in respect of the other concerns:

- (A) The applicant has provided a copy of a letter originally sent to the Parish on 16/09/20 which clearly states that "Under the terms of our land acquisition there is a legal obligation to seek permission for additional dwellings, and we are contractually bound to follow this course of action";
- (B) Noted but this is not a material planning consideration;
- (C) Noted. It does however also increase the number of 2 bed homes;
- (D) The application if approved, will give rise to additional contributions to be spent on improving education infrastructure;
- (E) The requirements of the relevant development plan policies are to seek contributions for infrastructure. It is the County Council's responsibility to ensure that sufficient education infrastructure is in place to serve new residential populations;
- (F) Southern Water state that "Our investigations indicate that Southern Water can facilitate foul sewerage disposal to service the proposed development". There is therefore no need for a condition; and
- (I) The Council has agreed to purchase the Affordable Housing units that have been identified in the existing planning permission. The provider of affordable housing is not a matter that impacts upon the determination of any application including this.

In respect of the resident objections, items (1), (2), (3), (5), (8), (9), (10), in part (21), (27), (28), (29), (31), (32), (38), (39), (40) & (41) will be considered in the conclusions section with the following offered in respect of the other concerns:

- (4) The highway works are approved by P/58/15/OUT and as indicatively shown on drawing 120843/A/11 Rev C which formed part of that permission. These do not strictly relate to this new application but it is accepted that pedestrian & vehicular access to/from the site will be subject to the highway works. Full details of the works have been subject to a s278 Highway works agreement with WSCC Highways;
- (6) A refusal on these grounds would not be sustainable as there are no development plan policies to support it;
- (11) A terrace of 3 affordable rented dwellings are shown to the immediate north west of the existing property. However, the tenure of a house does not mean that there will be additional harm over and above what would need to be assessed if this was an open market dwelling;
- (12) The Councils position is that these are valid & lawful planning permissions and have been

implemented;

(13) The Council is aware of three previous enforcement cases and one current one (relating to mud on the road which is being investigated). Two of the previous cases were closed as there was no breach. The third resulted in a Temporary Stop Notice which was lifted following the discharge of the drainage condition on P/70/19/RES;

(14) The application is clear that it is for 36 dwellings and represents a net gain of 15 above the existing permission;

(15) It is agreed this application should be considered afresh. It is important to recognise that if this permission was to be refused then the developer would be able to implement the 21 approved dwellings;

(16) The application relies on the documents listed under the Statements tab of the application files on the Council's website;

(17) This has been prepared and has been sent to Natural England for their comment/agreement;

(18) This is not a planning issue and unless it can be proven beyond reasonable doubt that someone else is the owner of the land then is not grounds to invalidate the application;

(19) This is not a material planning consideration and is for enforcement through other legislation/law;

(20) The site is part of a construction site on which there is existing permission for 44 dwellings (21 in the application area). There are no adopted planning policies requiring applicants to demonstrate land is surplus to the requirements for open space in Pagham;

(21) The site does lie in a Green Infrastructure Corridor and the development has not been designed to protect and enhance existing Green Infrastructure assets and the connections between them, therefore there is conflict with this policy;

(22) & (23) Noted;

(24) Whilst it is good practice there is no requirement for developers to undertake such consultation;

(25) The application has been advertised correctly with a newspaper advert, Parish Council consultation and site notices;

(30) Noted however the AA has been reviewed by Natural England who raise no concerns;

(33) Noted;

(34) The plans do not include access to the highway (other than in respect of the emergency access at the western end) however it is quite clear that the proposals fit in the existing approved layout which has access to Summer Lane and so it is clear that the application, if approved, would have access from the highway;

(35) It is acknowledged that this is a validation requirement;

(36) This matter has been raised with Drew Smith; and

(37) Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

HIGHWAYS ENGLAND - no objection provided ADC collects an appropriate proportional contribution of £850 per new dwelling site towards mitigation of the A27 Whyke Hill junction.

NATURAL ENGLAND - no objection but stated that the Local Planning Authority should carry out an Appropriate Assessment to assess the impact of increased recreational disturbance arising from the proposal on the Pagham Harbour Special Protection Area (SPA) & Ramsar Site.

NHS - no objection. 15 dwellings would necessitate a contribution of £18,346 for the infrastructure needs of the Grove House / GP premises supporting the Pagham sites expansion. Or, for 36 dwellings, the contribution would be £46,149 for the same projects.

SOUTHERN WATER - no objection in respect of foul drainage - state "Our investigations indicate that Southern Water can facilitate foul sewerage disposal to service the proposed development". Request a condition to secure details of the means of foul and surface water sewerage disposal. States that due to the proximity of the site (430m) to the Pagham Wastewater Treatment Works (WwTW), the developer needs to provide an odour assessment to a specification pre-agreed with Southern Water.

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

WSCC HIGHWAYS - no objection and recommend conditions to secure car/cycle parking. State that:

- The Addendum Transport Note considers transport implications of the additional 15 dwellings;
- It is recognised that no changes are proposed to approved off-site highway works, internal road layout or access by non-motorised modes;
- All of the layout changes from a highway perspective are relatively minor;
- ADC should check the parking provision for compliance;
- The ATN makes use of the accepted per dwelling vehicle trip rate used as part of outline consent;
- Based on this trip rate, at peak times the additional units will result in 8 two way vehicle movements in both the AM and PM peak hours;
- The units will generate movements at other times, however the impact is considered during the peak hours when the highway network is most sensitive to change;
- Given the very low number of vehicle movements, there is no requirement for the development to make any formal assessment on the local highway network; and
- In light of the very low increase in vehicle movements, it is not considered that there would be any highway grounds that could be deemed severe or unacceptable.

WSCC FIRE & RESCUE - no objection. Request conditions to secure provision of a fire hydrant.

WSCC SURFACE WATER DRAINAGE - object as WSCC Culvert policy is not in favour of culverting existing open watercourses and current proposal results in around 50m of current open watercourse being culverted. Ditch capacity is not an issue as it is being increased to accommodate the proposed culverts and it would appear that, in fact, ecology is not seen to be an issue due to the ecological mitigation (as per advice of Council's Ecologist). It would be difficult to object to this proposal. States the developer should be asked to provide further local improvements in the existing ditch network to further mitigate the effects of this culverting.

ADC DRAINAGE ENGINEERS - initially raised holding objection based on increasing number of culverted ditch crossing points leading to a deterioration in the condition of the watercourse, ecological detriment and an increase in flood risk. Stated that as construction on this part of the site has already commenced, full details of the drainage need to be submitted and approved prior to determination of the current application as otherwise it would be difficult to monitor/enforce compliance.

ADC HOUSING STRATEGY & ENABLING MANAGER - no objection. 36 dwellings would require 12 affordable homes comprising 9 Affordable Rented and 3 Shared Ownership. 15 dwellings would require 5 affordable homes comprising 4 Affordable Rented and 1 Shared Ownership.

ADC ENVIRONMENTAL HEALTH - no objection and request conditions relating to construction hours, construction management plan, new lighting, internal noise levels, noise from the lift shaft, electric vehicle charging, air quality and contaminated land.

ADC LANDSCAPE OFFICER - no objection and states landscaping plans are sufficient such that no landscaping conditions are required. Requests that contributions are secured by S.106 (these are set out in full on the website).

ADC STRATEGIC PROJECTS & DEVELOPMENT - No objection subject to legal agreement to secure contributions by S.106 (these are set out in full on the website).

COUNCILS ECOLOGIST - no objection. States that are happy that the mitigation proposed within the site area is suitable and can be enforced through a condition. Also comments that the increased number of culverts has been mitigated by the Ecological Mitigation Strategy which states that:

"The additional loss of retained/created ditch habitat along the northern edge of Summer Lane from a re-plan where the drive access points are increased from five to nine is not considered significant as the mitigation strategy devised for the original scheme has provided greater than wet grassland creation in a SUDS strategy along the north western edge of the western parcel of the site (circa 2500m²). The creation of this new habitat is detailed in the ecological mitigation strategy and Landscape Plans for the scheme"

COUNCILS ARCHAEOLOGIST - no objection. The site was evaluated in 2016 in fulfilment of condition 17 on P/58/125/OUT and no archaeological remains were uncovered - no need to carry out further investigations.

COMMENTS ON CONSULTATION RESPONSES:

All noted unless indicated below:

NATURAL ENGLAND - ADC prepared an Appropriate Assessment which was sent to Natural England for consideration. The Assessment concluded the proposal would not have adverse effect on the integrity of the Pagham Harbour SPA/Ramsar Site. Natural England responded on 17/02/21 to state they agree with ADC's assessment provided the permission secure the mitigation measures through conditions and a planning obligation.

SOUTHERN WATER - The request for an odour assessment was put to the developer who responded on 13/11/20 to say that "Given that the proposed dwellings are no closer to the WWTW than the already consented dwellings we do not propose to provide such odour assessment." This matter is considered further in the reports conclusions.

WSCC SURFACE WATER DRAINAGE / ADC DRAINAGE ENGINEERS - The Engineers holding objection on grounds of insufficient details of drainage remains in place and Engineers have been requested to advise whether they wish to propose new drainage conditions on a without prejudice basis but no response has been provided. The developer advised that construction is only proceeding on the site in respect of clearing the land and the new site roads which are the same as for the approved scheme. The developer will not at this time be starting construction on the area of the site subject to this application.

Further Drainage advice confirmed the developer has agreed compensation measures and it is advised that these elements when considered together, make it difficult to resist the additional culverted crossings from a drainage standpoint.

ADC ENVIRONMENTAL HEALTH - Conditions could be imposed to ensure acceptable internal noise levels of the dwellings and to investigate contamination at the site. Such conditions were not previously imposed on the development and as the site lies in the wider development site, it is not considered reasonable to now impose these.

POLICY CONTEXT

Designations applicable to site:

Within the Built Up Area Boundary;
 CIL Zone 4;
 Within 2km of Bognor Reef SSSI;
 Within 2km of Pagham Harbour SSSI;
 Pagham Harbour Zone B;
 Within 50-60m of a designated Biodiversity Opportunity Area;
 Area of Special Control of Adverts;
 Current Flood Zone 1; and
 Part Future Flood Zone 3a (2111).

DEVELOPMENT PLAN POLICIES

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

DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM1	ENV DM1 Designated Sites of Biodiversity or geographical imp
ENVDM2	ENV DM2 Pagham Harbour
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
HERDM6	HER DM6 Sites of Archaeological Interest
LANDM1	LAN DM1 Protection of landscape character
GISP1	GI SP1 Green Infrastructure and Development
INFSP1	INF SP1 Infrastructure provision and implementation
AHSP2	AH SP2 Affordable Housing
HSP1	HSP1 Housing allocation the housing requirement
HDM1	H DM1 Housing mix
HWBSP1	HWB SP1 Health and Wellbeing
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
QEDM3	QE DM3 Air Pollution
QEDM4	QE DM4 Contaminated Land
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP1A	SD SP1a Strategic Approach
SDSP2	SD SP2 Built-up Area Boundary
TDM1	T DM1 Sustainable Travel and Public Rights of Way

TSP1	T SP1 Transport and Development
WDM1	W DM1 Water supply and quality
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
WMDM1	WM DM1 Waste Management
TELDM1	TEL DM1 Telecommunications

PLANNING POLICY GUIDANCE:

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

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
SPD12	Open Space, Playing Pitches & Indoor & Built Sports Facilities
PDS	Pagham Parish Council's Village Design Statement by PaghamPC

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

There is no current Pagham Neighbourhood Plan.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

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

(2) In dealing with an application for planning permission the authority shall have regard to -

- (a) the provisions of the development plan, so far as material to the application,
- (aza) a post-examination draft neighbourhood development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

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

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

Strictly speaking, the proposal conflicts with Arun Local Plan policies SO DM1, OSR DM1, GI SP1, ECC SP1, ECC SP2, HWB SP1, QE SP1, W DM2 & WM DM1 and with policy W23 of the West Sussex Waste

and Minerals Plans. There are further subjective conflicts with policies LAN DM1, D DM1 and D SP1. In addition, where no legal agreement is signed then there will be conflicts with policies AH SP2, OSR DM1, ENV DM1, ENV DM2 and INF SP1.

OTHER MATERIAL CONSIDERATIONS

It is material that planning permission exists for development of the site area for 21 homes as a part of the wider area of land approved for 90 homes by P/58/15/OUT and P/70/19/RES. This permission has been implemented and the site area of this application cleared. Should this application fail then the developers will still be able to develop the site with residential dwellings - just for a lesser number.

CONCLUSIONS

PRINCIPLE:

The site is in the built up area boundary where development is acceptable in principle in accordance with policy SD SP2 of the Arun Local Plan (ALP) and provided it is in accordance with other policies of the Local Plan covering such issues as agriculture, highway safety/parking, archaeology, housing mix, character & design, residential amenity, space standards, waste management, air pollution, flooding & surface water drainage, foul drainage, climate change, biodiversity, impact on European wildlife sites, affordable housing, public open space & play and supporting infrastructure.

Policy SD SP1 of the ALP reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF). The Policy also states that this presumption will not be applicable where development requires an Appropriate Assessment (AA) or where consideration of the need for one is being undertaken. This proposal has been subject to an AA and so the presumption set out in the ALP does not apply.

This policy conflicts with the NPPF (para 77) which states the presumption in favour of sustainable development does apply if an AA has concluded that the proposal will not adversely affect the integrity of the habitats site. An AA has been carried out and this concludes that the application will not have an Adverse Effect on the Integrity of the European protected sites. Therefore the NPPF presumption does apply.

NPPF para 118(d) is relevant and states "Planning policies and decisions should: promote and support the development of under-utilised land .. , especially if this would help to meet identified needs for housing". Para 123 states where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site. Higher densities will be encouraged for city/town centres and other locations that are well served by public transport.

The Council is unable to demonstrate a 5 year NPPF compliant Housing Land Supply (HLS) with the current supply at 3.3 years (as per the 2019/20 Annual Monitoring Report). For this reason, it is necessary to give due weight to proposals that seek to maximise the potential of sites, particularly those already with permission in the BUAB.

This site forms part of the residential allocation that was in the then emerging Pagham Neighbourhood Development Plan (2015). This Plan was not withdrawn by the Parish Council until 29th July 2019.

There are no in principle objections to further development of the site but in order to demonstrate compliance with policies SD SP1 & SD SP2, it is necessary to consider all policy requirements and assess whether the proposal represents sustainable development. These issues are explored further in

the rest of this report.

AGRICULTURAL LAND:

This site forms part of a wider residential development which had previously been proposed as a residential allocation in the now withdrawn Pagham Neighbourhood Development Plan. The approved development (which includes the site area) is being implemented therefore there is no realistic possibility of the land returning to an agricultural use.

The application site is no longer in agricultural use and, regardless of whether this application is granted permission, it will not return to agricultural use. It is considered the need for the additional 15 houses alongside those already approved to boost the Council's severe housing land supply shortfall is such that the loss of any agricultural land can be outweighed.

HIGHWAYS SAFETY & PARKING:

There are no changes to the off-site highway works proposed by P/58/15/OUT which consist of the addition of no waiting yellow lining along the initial part of Summer Lane, the widening to 4.8m of parts of Summer Lane along the site frontage (and where not possible, the addition of double yellow lining), a layby parking area on the opposite side adjacent to the new Public Open Space, a tactile paving crossing point between one of the two POS entrances & the northern side of Summer Lane and new footway along the Summer Lane frontage and extending east to the junction of Summer Lane and Pagham Road. These works had been agreed with WSCC Highways and were being implemented. However, changes have been proposed to mitigate the concerns of local residents and a Discharge of Conditions application (P/29/21/DOC) has been submitted to agree these.

ALP policy T SP1 seeks to ensure development: provides safe access on to the highway network; contributes to highway improvements & promotes sustainable transport. Policy T DM1 requires development be located in easy access of established non-car transport modes/routes, contribute to the improvement of such routes & facilities and contribute towards the provision of a joined-up cycle network and Public Rights of Way network. Paras 108 and 109 of the NPPF are relevant.

WSCC Highways do not object to the proposals. They consider that the layout changes are relatively minor and that the increase in vehicle movements associated with the additional 15 dwellings will be very low (8 new two way vehicle movements in both the AM and PM peak periods).

The layout is not materially different to that approved by P/70/19/RES but does in any case comply with the requirements of policy T SP1. In respect of T DM1, occupiers of the site will be able to walk west on a Public Right of Way (PRoW) for exercise/to reach places to the west or east along the new footway and up to Pagham Road. They can walk through the new large POS area to the south of Summer Lane to reach the play area at Pagham Village Hall and then onto Pagham Road.

In addition, the S.106 Agreement attached to P/58/15/OUT requires that the LPA take steps to investigate whether it is possible to secure a footpath route from the eastern parcel of the wider site into the Spinnaker View site to the north via a new bridge over the drainage ditch. This is dependant upon consents and licences being gained but if implemented would provide alternative access to Pagham Road to access shops & services. Although this specific application proposal does not provide for any improvements to non-car transport routes, the parent site does already secure these.

There is no technical evidence to support the assertion that the proposal will result in harmful traffic congestion or an increase in road safety issues. The future presence of a footway along Summer Lane could in fact improve road safety by separating pedestrians from the road surface.

In respect of 36 dwellings, the Arun Parking Standards SPD (2020) sets out a need for 72 allocated spaces and 7 visitor spaces. Following revisions, the proposed provision is 72 allocated spaces and 8 visitor spaces. Five of these 8 visitor spaces were shown on the approved layout in this part of the wider site therefore the net gain in visitor spaces is only 3. However, this provision does meet the requirements of the extra 15 dwellings which is 3 extra spaces.

The only slight conflict is in respect of plot 52 which has a garage and a parking space. As garages are treated as 0.5 of a space, the provision for plot 52 is only 1.5 (note that the overall shortfall is made up by plot 81 which has a garage and 2 spaces so 2.5 spaces). On its own this conflict is very minor and would not justify a refusal however must be considered in combination with the other concerns set out in the report.

The visitor spaces shown in the layout are up against the eastern boundary of the site in a linear form. As such, they are not dotted around the layout. However, there are other visitor spaces in the wider layout and the site area as a whole is not so big that people will find it arduous to walk to/from these spaces. They benefit from good surveillance from the houses opposite.

Some of the allocated parking spaces are remote from the houses they are associated with (plots 57-59) and that the additional visitor parking spaces up the eastern boundary are at the expense of landscaping and hard up against the curtilage of an existing residential property. These matters will be considered further in respect of design and residential amenity.

It is material that the access arrangements and estate road layout are the same as before but in any case it is not considered that there are any significant singular conflicts with the relevant development plan policies.

ARCHAEOLOGY:

The site does not lie in a designated archaeological notification area but has been subject to an archaeological investigation associated with the previous application.

The applicant has not provided new archaeological reports however it is not considered there is any conflict with policy HER DM6 as the previous investigation did not uncover any archaeology and the Councils Archaeologist does not consider it necessary to carry out further investigations.

HOUSING MIX:

ALP policy HDM1 provides for a mix of housing to meet local needs and requires all housing development should provide a mix of dwelling types and sizes to address the nature of local housing needs and market demand. The policy does not prescribe a specific housing mix that must be met by individual applications, with the policy stating that each must be considered on its own merits. The policy preamble (12.2.4) acknowledges that the final mix will be negotiated on a site by site basis, having regard to the most up to date Strategic Housing Market Assessment (SHMA).

The 2012 SHMA identified a suggested broad mix of market housing by size for the District:

- 1-bed dwellings: 5-10% of all dwellings;
- 2-bed dwellings: 40-45% of all dwellings;
- 3-bed dwellings: 35-40% of all dwellings; and
- 4+ bed dwellings: 10-15% of all dwellings.

The development comprises the following mix as expressed as the number and % of market & affordable combined (36):

- 5 x 2-bed dwellings (14%).
- 31 x 3-bed dwellings (86%).

It is clear from this analysis that there is conflict with the SHMA due to there being no 1 or 4 bed dwellings. It has to be recognised that this site is part of a wider development which has planning permission. In addition, the approved housing mix for the 21 permitted dwellings was 20 x 3 bed and 1 x 4 bed. The effect of the application is to increase the number of smaller 2 & 3 bed dwellings which may be more affordable and more suitable to the needs of the population. The Parish Council comment that small family homes are needed in the Pagham area.

Notwithstanding the conflict with the SHMA, policy H DM1 allows for a flexible site-by-site approach and it is considered that the proposed mix on this part of the wider development site is acceptable and that no objection should be raised on this matter.

CHARACTER, DENSITY & DESIGN:

The application proposes 36 dwellings in the western half of an already permitted scheme a net increase of 15 dwellings. When comparing the proposed and approved layouts, it is clear the general layout, block structure, site road layout and fringe landscaping up the eastern side all remain the same. Whilst there are changes to the location of different house types, proposed types (A, C & G) were all present elsewhere on the western parcel of the approved layout. However, there are changes to density and to building height.

The density of this part of the western parcel increases from 17.5 dph to 30 dph but the density change in respect of the whole site area of P/58/15/OUT is an increase of 2.65. In terms of building heights, 10 of the dwellings in the approved layout were one storey bungalows. These are replaced with two storey dwellings.

The other change from single to two storey concerns the part of the site to the north west of Meadow Sweet where there was to be a bungalow and is now proposed a 3 dwelling terrace of two storey houses.

ALP policy D DM1 requires the Council seek to make the best possible use of land by reflecting or improving upon the character of the site and the surrounding area. In terms of density, D DM1 requires housing make efficient use of land while providing a mix of dwelling types and maintaining character and local distinctiveness.

ALP policy LAN DM1 states: "Development throughout the plan area should respect the particular characteristics and natural features of the relevant landscape character areas and seek, wherever possible, to reinforce or repair the character of those areas." Paras 130, 127 and 122 of the NPPF are relevant.

The National Design Guide (NDG) has full weight as a material consideration in the determination of this application. This states achieving a well-designed place comes about through making the right choices at all levels, including the layout (or masterplan), the form and scale of buildings, their appearance, landscape, materials and their detailing. It sets out ten characteristics of beautiful. The applicant does not specifically respond to these characteristics in their submission.

The Arun Design Guide was adopted on 25th January 2021 and is a material consideration in determining applications. The Design Guide suggests a density of 15-25 for detached/semi-detached

houses in village locations and states that density should decrease with distance from the centre of a settlement, to ensure that development relates sensitively to its setting and addresses the edges of the site in a positive way. It states this is particularly important to development which is adjacent to the settlement particularly where these are open fields.

The Pagham Village Design Statement (PVDS) was adopted by the Pagham Parish Council in 2007 and is a material consideration. It is considered it has minimal weight given it is over 10 years old and predates the ALP, the NPPF and the aforementioned Design Guidance. The site falls in the "Pagham Road" character area and this sets out development criteria relevant to this site/proposal. The proposal conflicts with (4) & (9) as the density is being increased and this together with the increase in scale along the edges of the site will have an effect on local character.

Although it is right given that this is a full application to consider this proposal afresh, it is material that the application site has permission for 21 dwellings and that as described above, much of the layout remains the same as the approved scheme. To consider everything afresh would not be reasonable and instead, it is proposed to focus on the change in density, increased building heights, the increase in semi-detached dwellings, and the associated changes to layout & street scene in respect of parking spaces, vehicle crossovers and soft landscaping.

ALP policies seek to maximise site densities in accessible locations and where character is not harmed. The Arun Design Guide provides more specific guidance and states density should decrease the further away from a settlement and particularly where adjacent to open land. There is clear conflict with this guidance with the site bordering open agricultural land to the west.

There is currently open agricultural land to the south. This has outline permission (P/140/16/OUT) for a large residential development and although there is not yet an approved layout, the Reserved Matters must be prepared in accordance with a Design Code which itself is to be prepared to take account of some of the illustrative plans provided with the Outline. These suggested that green infrastructure will be provided along the Summer Lane frontage and would therefore leave this area open.

The officer report for P/70/19/RES noted most of the eastern parcel appeared quite dense whilst the western parcel was more spacious. The effect of this proposal will be to bring the density of the western parcel more into line with the eastern area resulting in a much less spacious form of development. Plot sizes will be less generous resulting in a much more cramped development. It is not considered this is appropriate due to the western parcel being in an edge of settlement location and it is considered this harms the character of this area despite the fact that the site already has a residential permission.

Whilst it is acknowledged the approved scheme did have two storey dwellings on the frontage & on the western edge, the single storey dwellings in these areas helped reduce the density and visual impact of the overall development particularly when viewed from afar. The single storey dwellings helped to respect the character of existing dwellings to the east end of Summer Lane. In contrast, the proposal to remove all the single storey dwellings in favour of two storeys increases the visibility of the development in the wider landscape and give rise to additional harm to the character of Summer Lane.

The approved scheme had 2 pairs of semi's with the rest all detached whereas the proposal has 16 pairs, a terrace of 3 and 1 detached house. This results in a greater built footprint and completely changes the character of the site area. Alongside the increased need for parking spaces in the site, this increase in built footprint results in significantly less space for landscaping & private gardens. The changes to the layout and the need for additional visitor parking resulted in the need for a strip of visitor parking spaces up the eastern edge of the site adjacent to an existing residential property where previously there was predominantly landscaping.

There will be a significant reduction in the amount of 'green' gaps between the dwellings in the street scenes particularly in respect of the southern and western edges. The combination of semi-detached and two storeys along Summer Lane will create a much more oppressive form of development for persons using Summer Lane for recreation. The increased need for vehicle crossovers over the existing ditch will further urbanise a country lane location and increase the harm to local character. The number of street trees proposed is less than the number on the approved scheme.

The Council has a concern with the remoteness of allocated parking spaces for plots 57-59 as these are further along the road than the houses. This may result in on-street parking outside the houses due to convenience. This unusual arrangement is the result of the additional dwellings in the layout.

The design and appearance of the houses will match those of the rest of the development, both in style, detailing and through the choice of materials. The applicant supplied an updated landscaping scheme which have been assessed by the Councils Landscape Officer who considers it to be sufficient such that no additional landscaping conditions are required. It is clear that landscaping has been diminished from the approved scheme and the Councils Officer has assessed the scheme on its merits rather than in comparison with the approved scheme. This lack of objection does not prevent the Local Planning Authority raising its own concerns with landscaping.

Overall, the scheme is much poorer in design terms than the approved resulting in an overdevelopment of the site and there will be harm to the character of the area and Summer Lane streetscene. The proposal conflicts with ALP policies D SP1, D DM1, LAN DM1, NPPF advice on design & character, the National Design Guide, the Arun District Design Guide and Pagham Village Design Statement.

There are other indicators of overdevelopment and these are explored elsewhere in this report.

RESIDENTIAL AMENITY:

Arun Local Plan policy D DM1 requires the Council have regard to certain aspects when considering new development. Policy QE SP1 states the Council will ensure that development does not have a significantly negative impact upon residential amenity. It is necessary to have regard to para 127 (f) of the NPPF which states that planning policies and decisions should ensure that developments create places that have a high standard of amenity for existing and future users.

The Council now has an adopted Design Guide which sets out guidance on garden depths and interface distances between houses:

- Back to Back: min. 21m between habitable rooms of properties or to existing buildings;
- Back to Side: min. 14m between habitable rooms and side gable of adjacent property;
- Front to Front: min. 16m between habitable rooms of properties facing each other; and
- Back to Boundary: min. 12m between habitable rooms and site boundary to existing landscaping.

There are no standards given for either front to side, side to side or front to back.

There is no direct back to back/back to side/front to side relationship with Meadow Sweet therefore it is not necessary to assess against the above standards. The flank of plot 59 does show a window facing east into the gardens of Meadow Sweet/Rosefield but this is a landing window and can be obscure glazed and fixed shut through a condition to ensure no harm to future occupiers. The same is true of the first floor flank window in plot 47 which faces the front garden of Meadow Sweet.

There is no change to the situation concerning distances to Rosefield House. It is noted the 8 visitor spaces are up against the boundary with the rear garden of this dwelling. It is not considered this will give

rise to adverse amenity issues as these spaces are for visitors not residential occupiers so will be subject to occasional parking and not the running of engines associated with vehicle maintenance. The amount of landscaping on this boundary has been reduced and offers less mitigation.

The layout has been checked in respect of the relationships between future occupiers and it there are only a few conflicts with the Design Guide. These being:

- Rear of plot 95 to rear of plot 100 is only 20m
- Side of plot 97 to rear of plot 98 is less than 14m
- Rear of plot 88 to side of plot 90 is only 13.5m
- Rear of plot 82 to side of plot 105 is only 13.5m

In the first two cases, the houses do not directly face each other so there is no direct overlooking. The second two cases are considered to be minor shortfalls in that the requirement is 14.5m. It is not considered these deficiencies are significant on their own to warrant a refusal as the Design Guide is intended as guidance and not policy that needs to be rigidly adhered to. However, in combination with the concerns set out elsewhere these deficiencies are a further indicator of overdevelopment and contribute to the harm to the character of the area. There is conflict with ALP policies D DM1, QE SP1 and the Arun District Design Guide.

INTERNAL & EXTERNAL SPACE STANDARDS:

ALP policy D DM2 states: "The planning authority will require internal spaces to be of an appropriate size to meet the requirements of all occupants and their changing needs. Nationally Described Space Standards will provide guidance". It is therefore necessary to assess the proposal against the internal space standards set out in the Governments Technical Housing Standards (Nationally Described Space Standard) to determine if the buildings are suitable for residential use.

The site plan gives the floor space of each of the dwellings and a sample of these have been checked against the respective floor plans for accuracy with no concerns. All type A and C plots meet the requirements (79/93m² vs 79/93m²). Type G plots exceed the requirements (98 or 100m² vs 93m²).

The Arun Design Guide sets out standards for garden sizes as follows:

- Private Rear Garden: min. 10.5m depth; and
- Private Front Garden: min. 2m depth.

The layout has been checked and not all gardens are 10.5m deep. The gardens to plots 51, 81, 82 & 98 are around 9m whilst plot 52 has only an 8.5m deep garden. The rear gardens of some of these plots are quite wide thus ensuring a decent standard of amenity. These widths are: 51 (9m) and 82 (8.5m). In respect of plot 98, this has a triangular shaped gardens so the depth measurement has been taken as an average thus the maximum length does meet the standards. Its width is an average of 7m. Other plots not specifically referred to all meet or exceed the 10.5m standard.

Plots 52 and 81 clearly fall short. In combination with the concerns set out elsewhere these deficiencies are a further indicator of overdevelopment and contribute to the harm to the character of the area. There is conflict with ALP policies D DM1 and the Arun District Design Guide.

WASTE & WASTE MANAGEMENT:

ALP policy WM DM1 states that new residential development, will be permitted provided it is designed to ensure that kerbside collection is possible for municipal waste vehicles.

The site plan and road layout are unaltered from the approved scheme but the submitted plans demonstrate a refuse vehicle can enter and exit the site in a forward gear. Refuse is to be stored in bins in gardens and there are collection points throughout the layout which are for use on days when bins are to be emptied and are a temporary location in which the bins can be "parked".

WSSC Highways raised no concerns to the ability of refuse vehicles to access and leave the site in a forward gear and the proposal is considered to comply with policy WM DM1 in this respect.

Policy WM DM1 states development anticipated to cost over £300,000 must identify the volume and type of materials to be demolished and/or excavated as part of the development. The proposal should also identify opportunities for the re-use & recovery of materials on site to minimise off-site disposal of waste. This is supported by policy W23 of the West Sussex Waste Local Plan (2014) which seeks to minimise waste and maximise recycling.

The applicant provides no response to this and so there is conflict with this policy. It is material that this site is part of a wider site which has been implemented and the area of the particular application site has been cleared. It is not considered a refusal on the grounds of these policies is sustainable.

AIR POLLUTION:

ALP policy QE DM3 states that major development proposals must assess the likely impacts of the development on air quality and mitigate any negative impacts. The Environmental Health officer has requested that air quality be considered in determining the application and has specifically requested that the scheme incorporate electric vehicle charge points. The developer will be required to provide electric vehicle charge points in accordance with the Council's current standards.

As such there is no conflict with the development plan in respect of this matter.

ALP Policy QE SP1 states that the location of existing industrial and commercial uses, including waste management uses, must be taken into consideration when assessing proposals for development sensitive to noise, light, odour and outputs to air.

This is relevant as Southern Water state due to the proximity of the site (430m) to the Pagham WwTW. It is accepted the dwellings are no closer to the WWTW than those approved. Whilst the number of dwellings potentially affected will increase by 15, there is no change to the fact that residential dwellings could be affected and it is material that Southern Water did not raise this as an objection to P/58/15/OUT or P/70/19/RES.

FLOODING & SURFACE WATER DRAINAGE:

The vast majority of the site is not in an area at risk from current or future flooding. The exception is a miniscule (approx. 4m²) part of the western edge of the site which is indicated on Council mapping to be part of the future (year 2111) Flood Zone 3a area. This area of future flood risk covers roads/front gardens in the site and does not affect any of the houses. It does affect additional land on the western edge of the wider approved site.

ALP policy W DM2 refers to the sequential test, Flood Risk Assessments and mitigation. Policy ECC SP1 states development must be located & appropriately designed to adapt to impacts arising from climate change such as the increased probability of tidal and fluvial flooding.

Government guidance states a sequential site assessment is required where a site is at high risk of

current or future flooding. Para 158 of the NPPF states the sequential approach should be used in areas known to be at risk now or in future from any form of flooding. Para 155 NPPF states the development 'should be made safe for its lifetime without increasing flood risk elsewhere.' Para 33 (Reference ID: 7-033-20140306) of the associated Planning Practice Guidance states it should not normally be necessary to apply the sequential test to development in proposals in flood zone 1 (and with a low probability of flooding from rivers or the sea) unless the flood risk assessment indicates there may be flooding issues now or in the future (for example by climate change).

The applicant provided a Drainage Statement which includes a brief commentary on flood risk (stating the site lies in Flood Zone 1). There is no sequential site assessment and technically there is conflict (albeit very minor) with policy W DM2 . It is material that the land benefits from a permission for roads, open space, landscaping & dwellings which is being implemented. Should this development be prevented on flood risk grounds the site will still be developed with housing with no changes to the parts of the site in the future flood risk designation.

Policy W DM3 relates to Sustainable Urban Drainage Systems. The policy specifies the information to be provided to support applications to discharge drainage conditions. The Councils drainage engineers have not raised any in principle objections but requested full details of the drainage for the relevant site area before it is installed as otherwise it will be difficult to monitor compliance. The developer confirmed that drainage will not be installed for the affected part of the site other than where under roads as these reflect the approved layout. The Engineers have not provided further advice on this matter and have not formally lifted their objection.

It is material that despite the increase in the number of houses, the character of the site remains the same i.e. it will be a mix of houses, garages, gardens, parking spaces and other hard surfaces. Whilst, there will be an increase in the amount of impermeable space, the drainage plan shows the same arrangement for the site as for the approved areas - i.e. drainage pipes under roads and permeable paving to parking spaces. There are SuDS areas shown on the wider approved scheme including to the west of the proposed site and these are unaffected by the proposal.

It is acknowledged there are concerns regarding the proposal to increase the number of culverts in the ditch along Summer Lane. The use of culverts is not encouraged as they can become blocked and require regular maintenance. The principle of culverting was accepted on the approved scheme and it was the Councils Engineers preference that culverts be used over the developers proposal for bridges.

It is noted that WSCC say culverting is against their policy however, such policy is not part of the development plan and there are no policies in the ALP to preclude the use of culverts. It would not be sustainable to refuse the application on these grounds. The Councils Engineers accepted the culverts on the basis of the general drainage compensatory improvements that the developer agreed to and the confirmation of no ecological concerns.

Subject to the agreement of the full detail of the drainage scheme for this part of the wider site through a relevant condition, it is not considered that there would be any conflict with policy W DM3.

FOUL DRAINAGE:

ALP policy W DM1 states all major developments must demonstrate adequate drainage capacity exists. Southern Water raised no objections and request a standard foul drainage condition. They do not request any phasing of the occupation of the dwellings whilst network reinforcement is carried out. They do not state that the connections are dependant on any improvements to the Treatment Plants (whether Pagham or Sidlesham).

Representations of local residents and the Parish Council are noted. In the absence of objection from the Councils consultee, a refusal on these grounds would not be sustainable. It is material that 21 of the 36 dwellings can be built due to being part of the approved scheme. As such, there is no conflict with policy W DM1.

ENERGY AND CLIMATE CHANGE:

ALP policy ECC SP2 requires that new residential and commercial development be energy efficient and incorporate decentralised, renewable and low carbon energy supply systems. ECC SP1 requires new development be designed to adapt to impacts arising from climate change.

The application is not accompanied by details of measures to respond to climate change. It is appropriate to reserve such details to planning conditions and whilst there is conflict at the present time, this will be resolved by condition should permission be granted. It is material that the approved reserved matters scheme (P/70/19/RES) took the same approach and imposed a condition.

BIODIVERSITY:

The site is within 2km of the Bognor Reef SSSI, within 2km of the Pagham Harbour SSSI, within 5km of the Pagham Harbour SPA/Ramsar Site and within 50-60m of a Biodiversity Opportunity Area (as designated by the ALP). The harm to Pagham Harbour is considered separately in the following section. The site itself is currently a building site and as such has very low potential for wildlife use.

ALP policy ENV DM5 seek t o achieve a net gain in biodiversity and protect existing habitats on site. Para 175 of the NPPF is relevant.

The layout shows 40 new street trees. Notwithstanding this is a lesser number than on the approved scheme these new trees have biodiversity value. The submission includes an Ecological Mitigation Strategy Addendum Report (October 2020) which includes an impact assessment and an additional mitigation strategy assessment. The document concludes that no additional significant impacts are predicted and that no additional mitigation measures are necessary as the existing ecological mitigation strategy is still valid.

The Councils ecologist assessed the submission and advises no objection on the basis of the mitigation measures set out in the original scheme. The ecologist considered the increase in the number of culverts is acceptable as the mitigation strategy for the original scheme provided greater than sufficient wet grassland creation as part of the SuDS strategy along the western edge of the site.

It is not considered there is any harm to the nearby SSSI's. In respect of the nearby Biodiversity Opportunity Area, it is noted that ALP policy ENV DM3 states new development must retain & incorporate locally valued and important habitats; and be designed to minimise disturbance to habitats. As the site has been cleared and in any case is not in this designation, it is not considered that conflict with this policy is demonstrated. There may be a greater impact on the designated area from the increased occupation of the site (additional 15 dwellings) but in the absence of objection from the Councils ecologist it would not be sustainable to refuse the application on these grounds.

Whilst the application area does not provide a biodiversity gain, it does demonstrate this when considered as a part of the wider development. There is no harm to wildlife species in the site and so the proposal is in accordance with the NPPF para 175 and with ALP policy ENV DM5.

PAGHAM HARBOUR

ALP policy ENV DM2 states that in the designated Zone B (0-5km), all new residential development which is likely to have an impact on Pagham Harbour will be required to make developer contributions or create easily accessible new green spaces for recreation within or adjacent to the development site.

The outline permission for this site (P/58/15/OUT) satisfied the second point by proposing the land to the south of Summer Lane as an Area of Natural Open Green Space (ANOGS). That permission was also subject to a S.106 requirement for the payment of the Pagham Harbour contribution.

The decision of the European Court of Justice in "People Over Wind" concluded it was not appropriate for Local Planning Authorities to take account of mitigation measures intended to avoid or reduce the harmful effects of the plan or project at the screening stage of the Habitats Regulation Assessment (HRA) process.

Natural England advised that subject to the appropriate financial contribution to the agreed Pagham Joint Scheme of Mitigation being secured, the proposal mitigates against potential recreational impacts of the development. They state this approach may need to be formally checked & confirmed by ADC via an Appropriate Assessment (AA) and ADC should determine if an AA is required.

The Council obtained a Shadow Habitats Regulation Assessment from the developer to assist with the preparation of the AA. An AA was prepared and submitted to Natural England for comment. The Assessment concluded the proposal would not have adverse effect on the integrity of the Pagham Harbour SPA/Ramsar Site. Natural England stated they agree with ADC's assessment provided the permission secures mitigation measures through conditions/planning obligation. Notwithstanding concerns of interested parties, it is clear Natural England had no concerns with how the AA was prepared.

A contribution to the Pagham Joint Scheme of Mitigation of £1,275 per new residential unit was agreed by the Councils Cabinet on 20 July 2015 and this was subsequently reduced to £871 as of the 10th April 2017. This would need to be secured through a Section 106 Legal Agreement with any other mitigation measures secured by conditions. However, at the current time, there is no signed Agreement and so the proposal is currently in conflict with ALP policy ENV DM2.

SECTION 106 ARRANGEMENTS & CIL:

The Council agreed its CIL Charging Schedule on 15/01/20 and agreed that it would come into effect on the 1st of April 2020. As such, where a planning application is eligible for CIL, it would not be possible to secure financial contributions for off-site infrastructure projects through a Section 106. Notwithstanding, S.106 can still be used for affordable housing, the Pagham Harbour contribution and any on-site mitigation.

The proposal is for 15 dwellings more than already approved and it is only the impact of the additional dwellings that needs to be taken into account in calculating S.106 requirements. However, the application is for 36 dwellings and is a stand-alone application that will be subject to infrastructure requirements for the whole application. This would more easily have been resolved had this proposal come in as a fresh application for 105 dwellings across the whole site as then it would have just been necessary to agree a Deed of Variation (DoV) to the original Agreement.

At the present time, there is no agreement on how the necessary contributions should be secured (i.e. singular S.106 or S.106 and separate DoV).

AFFORDABLE HOUSING:

Developments over 11 residential units require a minimum provision of 30% affordable housing on site as per ALP policy AH SP2. The policy also states that the Council will negotiate the affordable housing tenure mix on development sites from an initial position of 75% rent and 25% intermediate housing. Further, that affordable housing units will be permitted in small clusters throughout development schemes and should be visually indistinguishable from market housing with large groupings of single tenure dwellings or property types avoided.

The requirement for this proposal is 12 homes if the S.106 is on the basis of 36 dwellings or 5 homes if it on the basis of 15 dwellings. The Councils Affordable Housing Manager states that these should be a mix between affordable rented and shared ownership as per the ALP policy.

The proposed layout plan allocates 5 of the dwellings (2 x 3 bed & 3 x 2 bed) as affordable rented dwellings and would thus meet the requirements if this is calculated on the basis of 15 dwellings but does not meet the required tenure mix. The 5 proposed affordable homes are located in the form of a pair of semis and a 3 dwelling terrace adjacent. They are in a clear cluster but it is a small cluster and this is allowed by the Policy. They are tenure blind as there are other instances of house types A and C as market housing in the layout.

In view of the mix not being policy compliant, no agreement to the required S.106 approach and as such, no signed agreement, the proposal is conflict with ALP policy AH SP2 and related national planning policy framework guidance.

PUBLIC OPEN SPACE & PLAY:

ALP policy OSR DM1 requires that housing developments provide sufficient public open space.. In addition, policy HWB SP1 seeks to ensure that new development is designed to maximise the impact it can make to promoting healthy communities and reducing health inequalities.

The Councils supplementary planning document (SPD) "Open Space, Playing Pitches, Indoor and Built Sports Facilities" (January 2020) sets out specific requirements for on-site public open space (POS) and play provision.

A proposal of 36 dwellings generates a requirement for 2,534m² of onsite Public Open Space (POS) and an additional 434m² of on-site Children's Play. The scheme also generates the need for off site POS and play contributions (subject to there being a local need for improvements).

There is no space in the site area for any additional POS or Play and to provide such would reduce the number of proposed houses with the result that the total number of new dwellings would generate no requirements for on-site space at all (noting that the SPD requires no on-site open space if the number of new dwellings is less than 15).

The wider site offers POS and Play both on the area of green space to the south of Summer Lane and elsewhere within the site layout. It is considered that this is an acceptable approach. As there is no agreement to the required S.106 approach and as such, no signed agreement, the proposal is conflict with ALP policies OSR DM1, HWB SP1 and with the Open Space SPD.

OTHER SUPPORTING INFRASTRUCTURE:

The Council received requests from Highways England and the NHS for contributions and in both cases these have been provided in a form that is applicable to either 15 or 36 dwellings. The response of WSCC in respect of education, libraries and fire & rescue is still outstanding and there is no detail on these likely contributions however, there would still be a requirement for these. Highways England and

the NHS are specific as to the projects that the contributions would be spent on.

If these contributions were to be secured through a S.106 Legal Agreement the proposal would be considered to fully comply with ALP policy INF SP1. There is no agreement to the required S.106 approach and as such, no signed agreement, there is conflict with the policy.

SUSTAINABLE DEVELOPMENT & NPPF PRESUMPTION:

Policy SD SP1 "Sustainable Development" states that the Council will take a positive approach that effects the presumption in favour of sustainable development contained in the NPPF. Paragraph 8 of the NPPF states that in order to achieve sustainable development; economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

Para 11 of the NPPF then sets out the application of the 'presumption' for sustainable development which is triggered where the Council's policies most important for determining the application are out-of-date.

To be able to benefit from the presumption, the proposal must be assessed as being sustainable development and this assessment should consider environmental, social and economic factors. As noted above under "Principle", in accordance with para 77 of the NPPF, the presumption applies even though the proposal has been subject to a Habitats Regulations assessment.

On balance the proposal does meet the economic, social and environmental aspects of sustainable development and the presumption in favour of sustainable development would be engaged. The Presumption states that permission should be granted unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole. This is discussed in the final section of this report below.

SUMMARY & RECOMMENDATION:

The principle of development on site is acceptable having regard to the fact that the site is in the settlement boundary as defined by the ALP and it is also material that the site sits within a wider permitted residential development site which has been implemented.

This report has identified a number of concerns arising from the increase in the number of dwellings with these being:

- increased site density;
- increased scale of the houses;
- change from detached to semi-detached house types;
- greater amount of parking spaces in the streetscene;
- some under provision of allocated parking spaces;
- remoteness of some allocated parking spaces;
- reduced landscaping & less street trees;
- some undersized rear gardens;
- increased culverting of Summer Lane; and
- insufficient interface distances between buildings.

It is considered that these in combination demonstrate that an additional 15 dwellings in this part of the site represents overdevelopment and that the impact of this will be to harm the character of this edge of settlement location in particular the Summer Lane streetscene and the views of the site from nearby public footpaths.

There is harm arising in that there is no agreed S.106 and no means to secure Pagham Harbour Mitigation measures, the additional affordable housing provision or other infrastructure requirements.

This assessment concludes the adverse impacts of granting this planning permission significantly and demonstrably outweigh the benefits and it is recommended the application be refused for the reasons below.

HUMAN RIGHTS ACT

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

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

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

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

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

RECOMMENDATION

REFUSE

- 1 The proposal is an over-intensive use of the site and an unsatisfactory form of development resulting in significant and demonstrable harm to the semi-rural character of this edge of settlement location. This is borne out by increased site density, increased scale of the houses, change from detached to semi-detached house types, greater amount of parking spaces in the streetscene, overall under provision of allocated parking spaces, remoteness of some allocated parking spaces, reduced landscaping, size of some gardens, increased urbanisation of Summer Lane and interface distances between buildings. The proposal conflicts with Arun Local Plan policies D SP1, D DM1, LAN DM1, the National Planning Policy Framework (2019) and the National and Arun Design Guides.
- 2 In the absence of a signed Section 106 agreement and in respect of the proposed tenure mix, the development fails to ensure the provision of affordable housing to meets the needs of the district and therefore conflicts with policy AH SP2 of the Arun Local Plan and paragraphs 62-64 of the National Planning Policy Framework (2019).
- 3 In the absence of a signed Section 106 agreement, the development makes no provision for contributions to off-site public open space, to off-site children's play space, to off-site playing

pitches, to off-site built sports & leisure facilities and to education/library/fire & rescue/medical infrastructure improvements, and is thereby contrary to the aims and objectives of the National Planning Policy Framework (2019), policies INF SP1, HWB SP1 & OSR DM1 of the Arun Local Plan and the Council's supplementary planning document "Open Space, Playing Pitches, Indoor and Built Sports Facilities" (January 2020).

- 4 In the absence of a signed Section 106 agreement, the development makes no provision for contributions towards the agreed Pagham Joint Scheme of Mitigation and will result in increased residential disturbance to the Pagham Harbour SPA/Ramsar site leading to the risk of harm to the conservation objectives of the site and the proposal is therefore in conflict with Arun Local Plan policies ENV DM1, ENV DM2 and with the National Planning Policy Framework (2019).
- 5 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application, clearly setting out the reasons for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.
- 6 INFORMATIVE: The Council does not consider that the developer would be able to implement this planning permission if it is subsequently allowed on appeal or granted by a resubmission due to it being within the area approved by an earlier planning permission which has already been commenced.