

Recommendation Report for Planning Permission

REF NO: Y/13/18/PL

LOCATION: Street Buildings
North End Road
Yapton
BN18 0DT

PROPOSAL: Variation of condition 3-approved plans & removal of conditions 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 & 27 following the grant of Y/49/17/OUT.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

This is a Section 73 application to vary 1 condition and remove 18 conditions imposed on outline planning permission (Y/49/17/OUT) for residential development on Land at Street Buildings, North End Road in Yapton, at the Development Control Committee meeting on 15th February 2018.

The applicant is seeking permission for the variation of Condition 3 imposed on planning permission Y/49/17/OUT to refer to all of the submitted plans including the Topographical Site Survey and the Existing Block Plan.

The applicant is also seeking the the removal of the following 18 conditions which were imposed on the outline planning permission Y/49/17/OUT:

- * Condition 9 relating to a detailed scheme of highway works to the A27/Yapton Lane junction;
- * Condition 11 relating to a programme of archaeological work;
- * Condition 12 relating to the details of the implementation, maintenance and management of SuDS;
- * Condition 13 relating to the details of the proposed means of foul water sewerage;
- * Condition 14 measures to avoid or mitigate ecological impacts and provide ecological enhancements;
- * Condition 15 relating to details of the materials and external finishes of the buildings;
- * Condition 16 relating to detailed level survey including existing and resulting ground levels/slab levels;
- * Condition 17 relating to the provision of refuse and recycling bins;
- * Condition 18 requirement that 25% of the dwellings delivered to Lifetime Home standards;
- * Condition 19 relating to the size of the houses;
- * Condition 20 relating to the parking of cars, motorbikes and

cycles;

* Condition 21 relating to a scheme for the location and installation of fire hydrants;

* Condition 22 relating to the energy supply of the development;

* Condition 23 a strategy for provision of the highest available headline speed of broadband provision;

* Condition 24 relating to details of how the scheme will link with surrounding land;

* Condition 25 relating to works to trees or vegetation clearance outside the bird breeding season;

* Condition 26 relating to external lighting; and

* Condition 27 relating to the installation of an electric vehicle charging point to serve each dwelling.

The applicant claims that these 18 conditions fail to meet relevant policy and legal tests.

SITE AREA	1.87 hectares including existing access on to Maypole Lane.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	32 dwellings per hectare (net density)
TOPOGRAPHY	Predominantly flat.
TREES	All boundary trees to be retained/enhanced except where recommended for removal as set out in the Arboricultural Report which accompanied planning application Y/49/17/OUT.
BOUNDARY TREATMENT	The application site has hedgerows and hedgerow trees along the boundaries.
SITE CHARACTERISTICS	The site comprises a horse paddock, which was formerly used as agricultural land before the equestrian uses. There are 4 single storey buildings on the site which are used as stables and ancillary buildings - identified as Buildings A, B, C and D on the Topographical Site Survey and the Existing Block Plan submitted with planning application Y/49/17/OUT.
CHARACTER OF LOCALITY	The area is rural in character located north of Yapton Village. The site is bounded to the north by an open field and beyond by Maypole Lane, residential properties at 'Longacre', 'The Paddocks' and the Maypole Inn. The site is bounded to the south and west by open farmland. To the east the site is bounded by housing including Baytree Cottage, Park Cottages, Yapton Lodge and The Old Cottage and by North End Road.

RELEVANT SITE HISTORY

Y/49/17/OUT	Outline application with some matters reserved for the demolition of all existing structures & redevelopment of the site with up to 45 dwellings (30% affordable (up to 14)) & 0.3 hectares of landscaped open space with vehicular access from	App Cond with S106 15-02-18
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Maypole Lane & pedestrian/cycle access only from North End Road. This application is a Departure from the Development Plan & may affect the setting of a listed building.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Yapton Parish Council

Object to the removal of the above conditions without suitable alternatives agreed that will ensure a truly sustainable development in terms of environment, social and economic role.

The Parish Council accepts the proposed variation to Condition 3. The Parish Council is deeply concerned that the applicant has applied to remove 18 conditions. Conditions 9, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 24, 25 and 26 all guide the scheme towards meeting key environmental criteria that should be accepted requirements for a scheme in such a sensitive and rural location. YPC would strongly object to the removal of any conditions that would not safeguard and enhance the environment in landscape and built environment terms, improve the congested local highway network, ensure adequate drainage and flooding solutions especially in light of Southern Water's objection to the neighbouring Stakers Farm proposal (Y/44/17/OUT). Conditions must enable that the housing meets local need in terms of housing mix and longevity as per the Yapton Neighbourhood Plan.

The Parish Council considers that Conditions 18, 19, 23 and 27 are instrumental to contributing towards meeting the social thread of sustainable development within this proposal, meeting local need. These 4 conditions reflect this need ensuring housing has a mix of type and suitability to enhance and sustain the existing and future residents. The Parish Council has concerns at the applicant's wish to place the development firmly in the last century by not embracing the need for new housing to have high-speed broadband or the infrastructure for electric cars and green energy.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted and issues addressed in the Conclusion section below.

CONSULTATIONS

WSCC Strategic Planning

Highways England

Archaeology Advisor

Engineering Services Manager

Engineers (Drainage)

Southern Water Planning

Ecology Advisor

Environmental Health

Engineers (Drainage)

Ecology Advisor

CONSULTATION RESPONSES RECEIVED:**HIGHWAYS ENGLAND:**

Highways England would be concerned with the removal of Condition 9 which relates to the proposed mitigations at the A27 Yapton Lane junction.

The applicant should be invited to provide evidence regarding:

- a) Why he believes the circumstances of the current application site are sufficiently different from those of the appeal site (Land to the south of Ford Lane, Yapton ref APP/C3810/W/17/3170059/ADC) to warrant a different approach,
- b) The reasons why he believes that the condition a PINS Inspector applied in the Land to the south of Ford Lane, Yapton ref APP/C3810/W/17/3170059/ADC is not valid (notwithstanding what is contained within the submitted statement of opinion). Will he be seeking a challenge into the appeal case condition?

ADC DRAINAGE:

Object.

Condition 12 should not be removed.

The proposed development is within the Lidsey catchment. Where historic problems of groundwater and sewer flooding are prevalent as a result of the sewerage treatment works nearing capacity and significant groundwater intrusion to the sewerage network. Therefore the careful design of surface water drainage schemes is required to ensure no detriment is caused to neighbouring properties or to the development itself (in line with GEN 7 iv, GEN 9, NPPF on flood risk). Specifically GEN7 iv states that "does not have an unacceptable adverse impact on adjoining occupiers, land, uses or property and, where relevant, facilitates the development of adjoining sites" without Condition 12 there is no way to ensure that the site will suitably drain in the future and not cause an increase in flood risk to neighbouring properties.

The proposed development is in an area of high groundwater levels, therefore more site specific and specialist guidance and design is needed than that given in BRE Digest 365.

To imply that a surface water scheme will not require ongoing maintenance is incorrect, maintenance is vital for the continuing operation of SuDS, without it the efficacy of the system decreases and ultimately flood risk increases. BRE 365 states that "long-term maintenance and inspection must be considered during the design and construction process". Ciria C753 has numerous sections dedicated to the maintenance requirements of different types of SuDS systems, each SuDS feature has its own requirements in terms of maintenance. Maintenance should be considered during design, thus the requirement for a pre-commencement condition. Furthermore, the lack of consideration of future maintenance in design would be in direct contradiction to the Construction Design and Management Regulations 2015.

Prior to commencement we require the following to be submitted and approved by us; detailed design of the surface water drainage scheme (in accordance with our supplementary guidance notes - see enclosed), details of how the system will be maintained, who will complete this maintenance, and how this maintenance will be funded. This ensures the design takes account of the maintenance requirements, and that maintenance requirements are understood and planned for.

In summary Condition 12 is necessary, relevant, enforceable, precise and reasonable as justified by GEN7 and GEN 9.

In response to an email from the agent, ADC Drainage made the following comments on 25th June 2018: The consultation comment was provided in response to the application to remove condition 12. ADC Drainage provided a full consultation response to Y/49/17/OUT on the 25th July 2017 which detailed the requirements for ensuring the development is sufficiently drained. As previously detailed, on the 21st June 2018, condition 12 is necessary to ensure flood risk will not be increased elsewhere as a result of the development, this is in line with GEN 7 and NPPF on flood risk. It should be noted that flood risk is

not just from surface water, it is also from groundwater and sewer. All of these sources of flood risk could be increased if the surface water drainage on the development is poorly designed/maintained. AD Drainage does not oppose the proposed method of surface water disposal, in fact infiltration to ground is the method to be investigated first, however further details are required to ensure its adequacy. This includes winter groundwater monitoring and percolating testing, to ensure that the design is not compromised by winter groundwater levels and that the infiltration rates used in the design are realistic. The previous response from ADC Drainage detailed why Condition 12 is necessary. However, for clarity, the requirements of Part H of Schedule 1 to the Building Regulations 2010 and its associated Approved Document H - Drainage and Waste Disposal (2015 Edition) are insufficient to ensure the development does not cause detriment (increase in flood risk) to neighbouring properties, most notably during storm events in excess of 1 in 10 years and also not making allowance for the impact of future climate change. This is recognised in other national guidance such as 'C753 The Suds Manual' and our own supplementary guidance notes (enclosed). These documents cover these requirements in detail. The requirements set out by ADC Drainage are a result of the proposed developments magnitude, its locality within an area of potentially high groundwater, and also being within the Lidsey Sewage Treatment Catchment Area, which is subject to sewer flooding due to groundwater infiltration and surface water inundation. ADC Drainage's requirements are also in line with West Sussex County Council's surface water policy, as Lead Local Flood Authority.

SOUTHERN WATER:

Southern Water's Desk Study modelling for the development indicates that the development flows will increase the risk of additional flooding, therefore currently Southern Water cannot discharge condition 13. However, Southern Water will work with the developer to deliver the capacity required to service the site, even if an interim solution is required (for example an inhibitor controlled system allowing flows to connect when flows are low in the network) until such time a permanent solution is provided, as is our duty to do so under new charging.

The following is Southern Waters stance with regards to sites where there is insufficient capacity currently within the network to accommodate the proposed development.

Southern Water has undertaken a desk study of the impact that the additional foul sewerage flows from the proposed development will have on the existing public sewer network. This initial study indicates that there is an increased risk of flooding unless any required network reinforcement is provided by Southern Water. Any such network reinforcement will be part funded through the New Infrastructure Charge with the remainder funded through Southern Water's Capital Works programme.

Southern Water and the Developer will need to work together in order to review if the delivery of our network reinforcement aligns with the proposed occupation of the development, as it will take time to design and deliver any such reinforcement.

Southern Water hence requests the following condition be applied:

"Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development."

It may be possible for some initial dwellings to connect pending network reinforcement. Southern Water will review and advise on this following consideration of the development programme and the extent of network reinforcement required. Southern Water will carry out detailed network modelling as part of this review which may require existing flows to be monitored. This will enable Southern Water to establish the extent of works required (If any) and to design such works in the most economic manner to satisfy the needs of existing and future customers.

ADC ECOLOGY:

Object to the removal of condition 14, this condition is necessary to determine what avoidance and mitigation measures are going to be put in place to ensure the wildlife and supporting habitats on-site are protected and opportunities for enhancements are secured prior to commencement to ensure no disturbance takes place. Object to the removal of condition 25, undertaking any works to the trees or any

vegetation clearance within the bird nesting season (1st March - 1st October) without a prior survey from an ecologist would potentially breach the Wildlife and Countryside Act (1981). Object to the removal of condition 26 due to the disturbance that may be caused to bats if an appropriate lighting scheme which takes bats into account is not approved. As detailed with Natural England's consultation guidance bats may suffer long term impacts from external lighting which is near any flight paths of commuting routes. To avoid such negative effects the lighting scheme should ensure that there is minimal spread of light beyond what is required and the use of shields or directional lighting should be employed.

ADC ARCHAEOLOGY:

There is good reason to suggest that this site has the potential to contain archaeological interest whose significance would be likely to be lost through development and that it is appropriate that the developer should be required to record and advance understanding of its significance. It is considered that this would be best achieved through the implementation of an evaluation of the site by trial trenching, ahead of development, in order to ensure that any structures or deposits of archaeological interest that it might contain may be identified and suitable measures may then be put in place to ensure appropriate recording ahead of their loss. It is considered that this process would be most effectively, and efficiently, achieved following the imposition of a standard archaeology condition and that condition 11 should therefore not be removed. The site lies on a part of the coastal plain that has been demonstrated to have been relatively densely settled since the neolithic period. The site lies on silty drift (brickearth) deposits beside an east-west tributary of the Binsted stream that flows into the Arun further east. These areas of fertile brickearth subsoil have been demonstrated to have been the most favoured for agriculture and settlement throughout the last four millennia, especially those close to reliable sources of fresh water and the other natural resources associated with them. Many of the major developments in geologically and topographically similar areas that have taken place in recent years have revealed high concentrations of archaeological interest, for example at Ford wastewater treatment works site (2003), Lidsey Landfill site (2005-8), and housing developments at Courtwick Lane, Littlehampton (2013-14), Toddington Lane, Littlehampton (current), North Bersted (2007-10) and Oldlands Farm Bognor Regis (2014). Recently (2016) a site at Burndell Road, Yapton, has revealed rare and extremely significant evidence of earlier neolithic occupation.

ADC ENVIRONMENTAL HEALTH:

No representation submitted.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted and issues addressed in the Conclusion section below.

POLICY CONTEXT

Designations applicable to site:

Outside the Built Up Area Boundary;
Flood Zone 1 (low risk);
Lidsey Treatment Catchment Area;
Special Control of Adverts.

DEVELOPMENT PLAN POLICIES

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

DEV17	Affordable Housing
Yapton neighbourhood plan 2014 Policy BB1	Built-up Area Boundary
Yapton neighbourhood plan 2014 Policy BE2	High speed broadband

Yapton neighbourhood plan 2014 Policy E1	Protection of high value agricultural land
Yapton neighbourhood plan 2014 Policy E11	Minimising the impact of flooding from development
Yapton neighbourhood plan 2014 Policy E3	Protection of natural habitats
Yapton neighbourhood plan 2014 Policy E4	Minimising the environmental impact of development
Yapton neighbourhood plan 2014 Policy E5	Enhancement of biodiversity
Yapton neighbourhood plan 2014 Policy E8	Conservation Areas
Yapton neighbourhood plan 2014 Policy E9	Listed Buildings and Buildings or Structures of Character
Yapton neighbourhood plan 2014 Policy H1	Housing requirement
Yapton neighbourhood plan 2014 Policy H2	Dwelling size
Yapton neighbourhood plan 2014 Policy H3	Dwellings appropriate for the needs of older people
Yapton neighbourhood plan 2014 Policy PK1	Parking standards for new residential development
Yapton neighbourhood plan 2014 Policy SA1	Land north of Yapton CE Primary School

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD1	Open Space & Recreation Standards
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POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

A new Local Plan is in preparation and constitutes a material consideration when determining planning applications. The Arun District Local Plan 2011-2031 (Publication Version) October 2014 and supporting documents were submitted for independent examination on 30 January 2015. The Examination into the submitted plan was suspended whilst Arun District Council addressed matters raised by the Inspector and published modifications to the emerging Local Plan, but it resumed on 17th September 2017 and has now concluded. The Main Modifications to the emerging Arun Local Plan and evidence base were available for public consultation over a six week period which started on Friday 12 January and ended on Friday 23 February 2018. The District Council is awaiting the Inspector's report which is due out in July 2018.

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

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford

little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Regulation 14).

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton. The written Ministerial Statement of 13 December 2016 confirms that relevant policies for the supply of housing in Neighbourhood Plans should not be deemed to be out of date where all of the following circumstances arise;

- The NDP has been part of the development plan for 2 years or less or the Ministerial Statement is less than 2 years old
- The NDP allocates sites for housing
- The Council can demonstrate a three-year supply of deliverable housing sites

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Regulation 14).

Yapton Neighbourhood Plan was made on 5th November 2014.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

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

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

The proposed development is located outside the built up area boundary (BUAB) of Yapton and is therefore considered to be contrary to the relevant Development Plan policies. However, there are significant material considerations that would weigh in favour of the proposals and the policies within the development plan that relate to the supply of housing are out-of-date.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background as detailed in the Conclusion section. These include the National Planning Policy Framework (NPPF) and associated Guidance, the lack of a 5 year housing land supply provision for Arun, the Written Ministerial Statement on Neighbourhood Plans (December 2016), the Secretary of State's decision on the Call-in Inquiry for the Fontwell application; and the CIL Regulations 2010 (as amended) and an appeal decision concerning three live/work units at Sack Lane, Aldingbourne (ref. APP/C3810/W/16/3148035).

The Local Plan Sub-Committee decision in December 2016, followed by the Full Council decision that the Council would invite planning applications on sites identified as being 'deliverable' by the HELAA where they are considered sustainable and will not prejudice the emerging local plan and / or infrastructure delivery.

CONCLUSIONS

The NPPF (paragraphs 203 and 206) and PPG (Paragraphs 001, 002, 003, 004 and 005) have been

taken into consideration and the 6 tests therein have been applied to each condition individually i.e.

- a) necessary;
- b) relevant to planning and to the development to be permitted;
- c) enforceable;
- d) precise; and
- e) reasonable in all other aspects

Although, at first consideration, it may appear that a condition is insignificant the Council, on full consideration, consider that it is of such significance that the Council is satisfied that without it the development would be unacceptable.

The application seeks permission for the variation of Condition 3 and the removal of Conditions 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27 imposed on planning permission Y/49/17/OUT.

CONDITION 3

Condition 3 currently reads:

"This permission relates to the following submitted plans:

- Location Plan
- Indicative Proposed Block Plan Drg: PPC 2
- Access arrangement Plan Drg: 160602 - 05

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Policy GEN7 of the Arun District Local Plan".

The applicant is seeking to vary Condition 3 as the condition and reason as currently worded fails the tests of precision / clarity. The proposed is that Condition 3 is varied to read:

"This permission relates to the following submitted plans:

- Location Plan
- Topographical Site Survey
- Existing Block Plan PPC1
- Indicative Proposed Block Plan PPC 2
- Drg: 160602 - 05 - Access Arrangement Plan

Reason: To specify the application drawings which form part of the permission consistent with best practice in NPPG Paragraph: 022 Reference ID: 21a-022-20140306".

The Council is satisfied that the condition is necessary, in planning terms, to identify the location of the site, the indicative layout and the access arrangements. Where alternative or additional plans or drawings have been approved they will be substituted; that it relates to planning objectives, as set out in the report; relates to the particular development; is enforceable, precise and reasonable in all of the circumstances. The condition should be varied accordingly.

CONDITION 9

Condition 9 was requested by the Highways Agency and required that:

"No development hereby permitted shall take place until a detailed scheme of highway works for

improvement to the A27/Yapton Lane junction has been submitted to and approved in writing by the Local Planning Authority in consultation with Highways England. No more than 23 dwellings of the development hereby permitted shall be occupied until the completion of the approved improvements to the A27 junction with Yapton Lane.

Reason: To ensure that the A27 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety, in accordance with Policy GEN7 of the Arun District Local Plan"

The applicant claims that the condition fails the test of necessity. No such works have been proposed so as to achieve access and it has not been imposed for a definite planning reason as access to and from the site has been approved. The condition is not relevant to planning. As the reason states ensuring that the A27 Trunk Road continues to be an effective part of the national system of routes for traffic is a matter for Highways England and Section 10 of the Highways Act and not the LPA and its adopted development plan policies. The condition is not relevant to the development permitted and has been imposed to address a pre-existing safety concern at the A27 junction which is not created by the proposed residential development. The condition is not enforceable as the condition says it is concerned with an improvement to the A27 Junction which is a matter for Highways England over which the applicant has no control. The condition also requires the consent / authorisation of Highways England and should not have been imposed (NPPG Paragraph ID: 21a-009-20140306). The condition is not precise as it does not clearly state what is required by way of improvements to the A27 / Yapton Lane junction and should not have been used. The condition places an unjustifiable and disproportionate burden on the applicant. This is a condition precedent that does not meet the legal test (the reason does not state precisely and clearly the full reasons why this needs to be a pre-commencement condition) and policy test and should not have been imposed.

The Council is satisfied that the condition is necessary due to the impact of the development on the strategic highways network, and that refusal of the application would be appropriate if the condition was not attached; that it relates to planning objectives, as set out in the report; relates to the particular development; is enforceable, precise and reasonable in all of the circumstances and the condition should not be removed.

CONDITION 11

Condition 11 was requested by the ADC Archaeological Advisor and required that:

"No development shall take place until a programme of archaeological work has been secured and implemented in accordance with a written scheme of investigation which has been submitted to and approved by the LPA.

Reason: The site is of archaeological significance in accordance with Policy GEN7 of the Arun District Local Plan. It is considered necessary for this to be a pre-commencement condition because archaeology can only be investigated before construction commences".

The applicant claims that the condition fails the test of necessity as the condition is not needed to make the development acceptable in planning terms as the site is not of archaeological significance. The condition is also wider in scope than is necessary because there is no evidence that a programme of archaeological work / investigation is required. The condition is not relevant to the development permitted; it is not justified by the nature / impact of the development permitted. The condition is not precise as it does not clearly state what is required by way of a programme of archaeological work / investigation or to which parts of this previously developed site they should relate. The condition places

an unjustifiable and disproportionate burden on the applicant. This is a condition precedent that does not meet the legal test (the reason does not state precisely and clearly the full reasons why this needs to be a pre-commencement condition as archaeology cannot only be investigated before construction commences as asserted) and policy tests and should not have been imposed.

The Council is satisfied that from evidence currently available that the site is of archaeological significance and that this condition is necessary to ensure that the archaeological works are carried out. The Council is also satisfied that refusal of the application would be appropriate if the condition was not attached that it relates to planning objectives, as set out in the report; relates to the particular development; is enforceable, precise and reasonable in all of the circumstances and the condition should not be removed.

CONDITION 12

Condition 12 was requested by ADC Drainage Engineers and required that:

"No development shall take place until details of the implementation, maintenance and management of a sustainable drainage scheme have been submitted to and approved in writing by the LPA. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i) a timetable for the scheme's implementation; and
- ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for the adoption by any public body or statutory undertaker, or any other Arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies GEN7 and GEN9 of the Arun District Council Local Plan".

The applicant claims that the condition fails the test of necessity as the application proposed that disposal of surface water was to be by way of infiltration / soakaways which are to be designed and controlled via BRE Digest 365 or equivalent under the Building Regulations and this was permitted in principle. This is a sustainable drainage system that does not require ongoing management / maintenance or adoption as the condition erroneously assumes and unnecessarily asserts. The condition is not needed to make the development acceptable in planning terms and is wider in scope than is necessary to achieve the desired objective of securing satisfactory surface water drainage for the development permitted. The condition is not relevant to planning as the sustainable drainage system proposed / permitted is a matter controlled under the Building Regulations. The condition is not relevant to the development permitted as it is not justified by the nature / impact of the development permitted. The condition is not enforceable. The condition is not precise as it does not clearly state what is required by way of a sustainable drainage system as an alternative to that proposed / permitted. The condition places an unjustifiable and disproportionate burden on the applicant. This is a condition precedent that does not meet the legal test (the reason does not state precisely and clearly the full reasons why this needs to be a pre-commencement condition) and policy test and should not have been imposed.

The agent claims that the applicant proposed under outline planning application Y/49/17 that surface water drainage be provided by way of soakaways and other ground infiltration methods and that foul drainage be provided by way of a connection to the foul sewer in North End Road in accordance with the requirements in Part H of Schedule 1 to the Building Regulations 2010 and its associated Approved Document H - Drainage and Waste Disposal (2015 Edition). Neither WSCC (as the Lead Flood Authority) nor ADC Drainage Engineers raised any objection to outline planning application Y/49/17/OUT to the proposed SW drainage methods as the low risks of surface water flooding means that the approved

development could be drained through discharge into the ground (infiltration) through the use of infiltration structures such as soakaways and permeable paving (in accordance with the requirements in the Building Regulations). The committee report records that Southern Water raised no objection to the Foul Drainage via a connection to the existing foul sewer network serving this part of Yapton as there is a statutory right to connect to the network and Southern Water Ltd are legally required to ensure that the sewer system has the capacity to accept that connection (also in accordance with the requirements in Building Regulations).

NPPG Paragraph: 005 Reference ID: 21a-005-20140306 states under the heading "Are there any circumstances where planning conditions should not be used?" that "any proposed condition that fails to meet any of the 6 tests should not be used. This applies even if the applicant suggests it or agrees on its terms or it is suggested by the members of a planning committee or a third party. Every condition must always be justified by the local planning authority on its own planning merits on a case by case basis and amongst others states that specific circumstances where conditions should not be used include conditions requiring compliance with other regulatory requirements (eg Building Regulations, Environmental Protection Act) as such conditions will not meet the test of necessity and may not be relevant to planning.

The agent has commented that neither condition 12 or 13 meet the tests of necessity or relevance in the NPPG given the circumstances of this case. Conditions 12 and 13 relate to surface water and foul water drainage and both effectively require compliance with the regulatory requirements in Part H of Schedule 1 to the Building Regulations 2010 and its associated Approved Document H - Drainage and Waste Disposal (2015 Edition) and they do not therefore meet the tests of necessity and relevance and should not have been imposed. Hence their inclusion in the list of conditions proposed for removal in the submitted S73 Application.

The Council is satisfied that the condition is necessary to ensure that the surface water drainage proposals are adequate and meet the Council's requirements. The Council is also satisfied that refusal of the application would be appropriate if the condition was not attached that it relates to planning objectives, as set out in the report; relates to the particular development; is enforceable, precise and reasonable in all of the circumstances; and the condition should not be removed.

CONDITION 13

Condition 13 was requested by Southern Water and required that:

"Construction of the development shall not commence until details of the proposed means of foul water sewerage have been submitted to and approved in writing by the LPA. No dwelling shall be occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies GEN7 and GEN9 of the Arun District Council Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure foul and surface water sewerage disposal is in place before construction commences".

The applicant claims that the condition fails the test of necessity as the application proposes that disposal of foul water was to be by way of a connection to the foul water sewer in North End Road. No further details are required for planning purposes. The condition is not needed to make the development acceptable in planning terms and is wider in scope than is necessary to achieve the desired objective of securing satisfactory foul water drainage for the development permitted. The condition is not relevant to

planning as there is a statutory right to connect to the existing foul water sewer and such matters are controlled under the Water Industry Act 1991. The condition is not justified by the nature / impact of the development permitted. The condition is not enforceable. The condition is not precise as it does not clearly state what is required by way of an alternative to the intended sewer connection. The condition places an unjustifiable and disproportionate burden on the applicant. This is a condition precedent that does not meet the legal test (the reason does not state precisely and clearly the full reasons why this needs to be a pre-commencement condition as the assertion that foul and surface water drainage is in place before construction commences is untenable) and policy tests and should not have been imposed.

The agent has commented that neither condition 12 or 13 meet the tests of necessity or relevance in the NPPG given the circumstances of this case. Conditions 12 and 13 relate to surface water and foul water drainage and both effectively require compliance with the regulatory requirements in Part H of Schedule 1 to the Building Regulations 2010 and its associated Approved Document H - Drainage and Waste Disposal (2015 Edition) and they do not therefore meet the tests of necessity and relevance and should not have been imposed. Hence their inclusion in the list of conditions proposed for removal in the submitted S73 Application.

The Council is satisfied that the condition is necessary to ensure that the foul water drainage proposals are adequate and meet the Council's requirements. The Council is also satisfied that refusal of the application would be appropriate if the condition was not attached that it relates to planning objectives, as set out in the report; relates to the particular development; is enforceable, precise and reasonable in all of the circumstances. Notwithstanding this, it is considered that the condition should be varied in line with the wording proposed by Southern Water. to read: "Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development".

CONDITION 14

Condition 14 was requested by the ADC Ecological Advisor and required that:

"No development shall commence until details the measures to avoid or mitigate ecological impacts and provide ecological enhancements as recommended in the Extended Phase 1 Habitat Survey prepared by Corylus Ecology and submitted with the planning application have been submitted to and approved by the LPA and no dwelling shall be occupied until the approved measures have been undertaken.

Reason: This condition is necessary to ensure the protection of wildlife and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site in line with national guidance and Policy GEN23 and GEN29 of the Arun District Local Plan. It is considered necessary for this to be a pre-commencement condition because of the need to ensure measures are in place to protect wildlife and habitats on site prior to any disturbance".

The applicant claims that the condition fails the test of necessity as it is not needed to make the development acceptable in planning terms and is wider in scope than is necessary to achieve the desired objective of protecting and enhancing ecology on the site. The Extended Phase 1 Habitat Survey submitted with the planning application does not identify any likelihood of protected species being present or habitats for same and does not recommend any measures needed to avoid or mitigate ecological impacts and ecological enhancements recommended can be addressed by way of details submitted as part of the reserved matters of landscaping and layout so the submission of separate details for approval is not needed. The condition is not relevant to the development permitted -ADLP Policy GEN23 Water Environment is only relevant / applicable where there would be a direct or indirect

unacceptable adverse impact on the water environment, notably in relation to rivers, ponds, wetlands, public access in river corridors and water related recreation which is not the case here. The condition is not enforceable. The condition is not precise as it does not clearly state what is required in order to comply. The condition places an unjustifiable and disproportionate burden on the applicant. This is a condition precedent that does not meet the legal test (the reason does not state precisely and clearly the full reasons why this needs to be a pre-commencement condition as the assertion that measures are in place to protect wildlife and habitats on site prior to any disturbance is untenable) and policy test and should not have been imposed.

The Council is satisfied that the condition is necessary to ensure the protection of wildlife, and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site in line with national guidance and Policies GEN23 and GEN29. The Council is satisfied that it needs to be a pre-commencement condition because of the need to ensure that measures are in place to protect wildlife and its habitats on the site prior to commencement. The Council is also satisfied that refusal of the application would be appropriate if the condition was not attached that it relates to planning objectives, as set out in the report; relates to the particular development; is enforceable, precise and reasonable in all of the circumstances; and the condition should not be removed.

CONDITION 15

Condition 15 is a standard condition imposed by the LPA on outline planning permissions that required that:

"The details referred to in condition 1 shall include details of the materials and external finishes of the buildings, surfaces for roads/footpaths, means of enclosure and the parking of vehicles, and the provision of samples of such materials and finishes as required. Development shall be carried out in accordance with the approved details unless otherwise agreed with the Local Planning Authority.

Reason: To enable to the Local Planning Authority to control the development in detail in the interests of amenity in accordance with Policy GEN7 of the Arun District Local Plan".

The applicant claims that the condition fails the test of necessity as the condition is not needed to make the development acceptable in planning terms and is wider in scope than is necessary to achieve the desired objective of controlling the details of the approved development. The condition simply repeats information that must be submitted under the reserved matters of appearance, landscaping and layout and in the case of landscaping that required under condition 5. The condition is not reasonable in all other respects as it places an unjustifiable and disproportionate burden on the applicant.

The Council is satisfied that it is necessary to ensure that there is an appropriate standard of materials and external finishes, surfaces and the other matters referred to in the condition. The Council is also satisfied that refusal of the application would be appropriate if the condition was not attached that it relates to planning objectives, as set out in the report; relates to the particular development; is enforceable, precise and reasonable in all of the circumstances; and the condition should not be removed.

CONDITION 16

Condition 16 is a standard condition imposed by the LPA on planning permissions for residential developments which required that:

"Prior to the commencement of the development hereby approved, a detailed level survey of the site including existing and resulting ground levels and the slab levels of the building the subject of this approval, shall be submitted to and approved by the Local Planning Authority. The development shall proceed only in accordance with the details thus approved and there shall be no subsequent raising of levels without prior written approval of the Local Planning Authority.

Reason: In order to safeguard the amenities of the area and neighbouring residents in accordance with policy GEN7 of the Arun District Local Plan".

The applicant claims that the condition is not needed to make the development acceptable in planning terms and is wider in scope than is necessary to achieve the desired objective of controlling the details of the approved development. A detailed level survey of the site including existing ground levels was submitted with the application (Topographical Site Survey @ Scale 1:500). Ground and slab levels that would result from the approved development would by definition be included in the details to be submitted in accordance with condition 1 as part of the reserved matters of scale and landscaping. The second sentence of the condition is also unnecessary as the development can only lawfully proceed in accordance with the reserved matters when approved and subsequent significant raising of levels would be operational development requiring an application for permission and / or permitted development. The condition is not justified by the site characteristics, its relationship to residential properties, the nature / impact of the approved development or ADLP Policy GEN7. The condition is not enforceable. The condition does not clearly state what is required in order to comply as it does not state what levels are necessary to safeguard residential amenity nor what is meant by "significant". The condition places an unjustifiable and disproportionate burden on the applicant. This is a condition precedent that does not meet the legal test (the reason does not state precisely and clearly the full reasons why this needs to be a pre-commencement condition) and policy test and should not have been imposed.

The Council accepts that as the Applicant has submitted a topographical survey and the land is flat there is no requirement for this condition and agrees to its removal.

CONDITION 17

Condition 17 is a standard condition imposed by the LPA on planning permissions for residential developments which required that:

"No dwelling shall be occupied until refuse and recycling bins have been provided and space has been laid out for their storage in relation to that dwelling in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter these areas shall not be used for any purpose other than the storage of refuse and recycling bins.

Reason: In the interests of the amenity of occupiers of nearby properties in accordance with Arun District Local Plan Policy GEN7 and DEV26".

The applicant claims that the condition fails the test of necessity as the condition is not needed to make the development acceptable in planning terms and is wider in scope than is necessary to achieve the desired objective of providing satisfactory provision for refuse and recycling storage/collection. The laying out of space for the storage of refuse and recycling bins is a matter that should be addressed as part of the reserved matter of layout and the provision of householder refuse and recycling bins is a matter between the Council and future occupiers under other legislation and standard procedures and practice. Policy GEN7 does not require such a condition or address refuse and recycling layout / provision in residential schemes and Policy DEV26 is not relevant to residential development. The condition is not enforceable; it would, in practice, be impossible to detect a contravention or remedy any breach of the

last sentence of the condition which also concerns matters over which the applicant has not control. The condition does not clearly state what is required in order to comply as it does not state what is required to safeguard residential amenity. The condition places an unjustifiable and disproportionate burden on the applicant.

The Council is of the opinion that this condition is necessary to ensure that the necessary provision for waste collection are in place at the time of first occupation of the first dwelling. The Council is also satisfied that refusal of the application would be appropriate if the condition was not attached that it is relates to planning objectives, as set out in the report; relates to the particular development; is enforceable, precise and reasonable in all of the circumstances; and the condition should not be removed.

CONDITION 18

Condition 18 is a condition that has been imposed by the LPA in accordance with Policy H3 of the Yapton Neighbourhood Plan regarding Lifetime Home standards and required that:

"There is a requirement that 25% of 1, 2 and 3 bed dwellings included as part of the development must be delivered to Lifetime Home standards.

Reason: To ensure that part of the development allows for residents to remain in their own homes over the course of their lifetime in accordance with Policy H3 of the Yapton Neighbourhood Plan".

The applicant claims that the condition fails the test of necessity as there is no requirement for such as YNP Policy H3 is a policy for the supply of housing which is demonstrably out of date, the mix of dwellings and their size is a matter for consideration under the reserved matters of layout and scale and the provision of 30% affordable housing under condition 6 provides a mechanism for ensuring such provision in any case as most affordable housing is constructed to meet lifetime homes standards. The condition is not relevant to planning as the majority of the 16 Lifetime Home Standards criteria have now been incorporated into the Building Regulations and it is not appropriate to use conditions to limit the benefits of the planning permission to a particular person or group of people. The condition is not relevant to the development permitted as the mix of dwellings proposed does not form part of the approved development and the development has been permitted to meet district wide need and not just the needs of Yapton. The condition does not clearly state what is required in order to comply and there is confusion with condition 6 as it is not clear whether or not the condition would apply to both market and affordable housing. The condition is not reasonable as it potentially places an unjustifiable and disproportionate burden on the applicant.

The Council is of the opinion that the condition is necessary to comply with the requirements of the development plan, which includes the Yapton Neighbourhood Plan. The Council is satisfied that Policy H3 of the Yapton Neighbourhood Plan is plan relating to design and not to housing supply and therefore, is not out of date due to the absence of a 5 year housing supply. The Council is also satisfied that refusal of the application would be appropriate if the condition was not attached that it is relates to planning objectives, as set out in the report; relates to the particular development; is enforceable, precise and reasonable in all of the circumstances; and the condition should not be removed.

CONDITION 19

Condition 19 is a condition that has been imposed by the LPA in accordance with Policy H2 of the Yapton Neighbourhood Plan regarding local need and required that:

"There is a requirement that the proposed reserved matters submission conform to the following range of dwellings: 1-bed dwellings: 10-15% of all dwellings; 2-bed dwellings: 25-35% of all dwellings; 3-bed dwellings: 45-55% of all dwellings; and 4+-bed dwellings: 5-10% of all dwellings.

Reason: In accordance with Policy H2 of the Yapton Neighbourhood Plan in the interests of ensuring homes are provided to meet local demand".

The applicant claims that the condition fails the test of necessity as there is no requirement for such as YNP Policy H2 is a policy for the supply of housing which is demonstrably out of date and there is no up to date evidence that the mix of dwellings specified would meet local demand and / or need at the date that they will be built so this is a matter that should be considered at the reserved matters stage under layout and scale. The mix of dwellings proposed does not form part of the approved development and the development has been permitted to meet district wide need / demand and not just the needs / demands of Yapton. The condition is not precise as it does not clearly state what is required to comply and there is confusion with condition 6 as it is not clear whether or not the condition would apply to both open market and affordable housing. The condition is not reasonable as it potentially places an unjustifiable and disproportionate burden on the applicant.

The Council is of the opinion that the condition is necessary to comply with the requirements of the development plan, which includes the Yapton Neighbourhood Plan. The Council is satisfied that Policy H3 of the Yapton Neighbourhood Plan is plan relating to design and not to housing supply and. Therefore, is not out of date due to the absence of a 5 year housing supply. The Council is also satisfied that refusal of the application would be appropriate if the condition was not attached that it relates to planning objectives, as set out in the report; relates to the particular development; is enforceable, precise and reasonable in all of the circumstances; and the condition should not be removed.

CONDITION 20

Condition 20 is a standard condition imposed by the LPA on planning permissions for residential developments which required that:

"No dwelling shall be occupied until space for that dwelling has been laid out for the parking of cars, motorbikes and cycles in relation to that dwelling in accordance with a drawing and schedule to be submitted to and approved in writing by the Local Planning Authority. These areas shall thereafter not be used for any purpose other than the parking of cars, motorcycles and cycles.

Reason: In the interests of road safety and to accord with approved policy in accordance with Policy GEN7 of the Arun District Local Plan".

The applicant claims that the condition fails the test of necessity as it would be covered by the reserved matter of layout and conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances. The condition is not enforceable as the future use of such areas for any purpose other than the parking of cars, motorcycles and cycles by future residents is a matter governed by permitted development rights and / or the consideration / determination of a planning application for change of use if required at the appropriate time. The condition is not reasonable as it places an unjustifiable and disproportionate burden on the applicant .

The Council is of the opinion that the condition is necessary to comply with the requirements of the development plan. The Council is also satisfied that the provision of fire hydrants and an adequate water

supply for fire-fighting is not a matter covered by Building Regulations. The Council is also satisfied that refusal of the application would be appropriate if the condition was not attached that it relates to planning objectives, as set out in the report; relates to the particular development; is enforceable, precise and reasonable in all of the circumstances; and the condition should not be removed.

CONDITION 21

Condition 21 is a standard condition imposed by the LPA on planning permissions for residential developments which required that:

"No development hereby permitted shall be commenced until a scheme for the location and installation of fire hydrants has been submitted to and approved in writing by the Local Planning Authority. For the purposes of this condition the scheme shall be in accordance with the Guidance Note: The Provision of Fire Hydrants and an Adequate Water Supply for Fire Fighting as published by West Sussex Fire and Rescue Services (as amended from time to time). No building hereby permitted shall be occupied until the fire hydrant(s) required to serve that building have been installed in accordance with the approved scheme.

Reason: In order to provide adequate infrastructure for emergency services, in accordance with Policy GEN7 of the Arun District Local Plan. It is considered necessary for this to be a pre-commencement condition because of the need to ensure the safety of residents on the site".

The applicant claims that the condition fails the test of necessity and is not relevant to planning as the location / provision of fire hydrants would be covered by the reserved matters of layout and by Building Regulations. The condition places an unjustifiable and disproportionate burden on the applicant. This is a condition precedent that does not meet the legal test (the reason does not state precisely and clearly the full reasons why this needs to be a pre-commencement condition) and policy test and should not have been imposed.

The Council is of the opinion that the condition is necessary to comply with the requirements of the development plan. The Council is also satisfied that the provision of a strategy for the provision of broadband appropriate to safeguard the amenities of the residents. The Council is also satisfied that refusal of the application would be appropriate if the condition was not attached that it relates to planning objectives, as set out in the report; relates to the particular development; is enforceable, precise and reasonable in all of the circumstances; and the condition should not be removed.

CONDITION 22

Condition 22 is a standard condition imposed by the LPA on planning permissions for residential developments which required that:

"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, March 2012). 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 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.

Reason: In order to secure on site renewable energy in accordance with national planning policy, in accordance with Policy GEN7 of the Arun District Local Plan".

The applicant claims that the condition fails the test of necessity and is not relevant to planning as worded; although the NPPF has a core planning principle of support for the transition to a low carbon future, neither the NPPF nor Policy GEN7 prescribe the level of reduction required for any residential development or that this should be achieved on a site over and above that appropriate under the Building Regulations. The condition is not relevant to the development permitted as there is an existing electricity supply from the national grid on site but no gas supply and the intention was to supply the future housing with energy from the national grid. The condition is not enforceable, even if decentralised energy supply equipment was installed on site future residents / occupiers may choose not to maintain that equipment and / or to secure their supply from other sources including the national grid so this is a matter outside of the control of the applicant and it would, in practice, be impossible to detect a contravention or remedy any breach of the condition. The condition is not precise as it does not clearly state what is required in order to comply. "Decentralised Energy" is defined in the NPPF as being "local renewable energy and local low carbon energy usually but not always on a relatively small scale encompassing a divers range of technologies" whereas "Renewable and low carbon energy" (and not "or" as stated in the condition) is defined as being "energy for heating and cooling as well as generating electricity. It is therefore entirely possible that 10% of the intended energy supply from the national grid is already sourced from decentralised and renewable or low carbon energy sources so that on site generation from such sources is not required to comply. The condition is not reasonable in all other respects as it places an unjustifiable and disproportionate burden on the applicant. The second part of the condition is a condition precedent that does not meet the legal test (the reason does not state precisely and clearly the full reasons why this needs to be a pre-commencement condition) and policy test and should not have been imposed.

The Council is of the opinion that the condition is necessary to comply with the requirements of the development plan. The Council is also satisfied that the requirement ensure that at least 10% of the energy supply shall be secured from decentralised and renewable or low carbon energy sources is appropriate to secure on site renewable energy.. The Council is also satisfied that refusal of the application would be appropriate if the condition was not attached that it is relates to planning objectives, as set out in the report; relates to the particular development; is enforceable, precise and reasonable in all of the circumstances; and the condition should not be removed.

CONDITION 23

Condition 23 is a standard condition imposed by the LPA on planning permissions for residential developments which required that:

"Prior to the commencement of 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 shall be carried out in accordance with the approved strategy.

Reason: To safeguard the amenities of residents in accordance with Policy GEN7 of the Arun District Local Plan. It is considered necessary for this to be a pre-commencement condition because the provision of broadband needs to be incorporated into the design for the site".

The applicant claims that the condition fails the test of necessity as it would not have been appropriate to refuse planning permission without the requirements imposed by the condition as it is not needed to make the development acceptable in planning terms. The condition is not enforceable as it is a matter outside the control of the applicant and it would, in practice, be impossible to detect a contravention or remedy any breach of the condition. The wording of the condition is so convoluted and imprecise as to render it impossible to understand what the applicant must do to comply with same. The condition places an unjustifiable and disproportionate burden on the applicant. This is a condition precedent that does not meet the legal test (the reason does not state precisely and clearly the full reasons why this needs to be a pre-commencement condition) and policy test and should not have been imposed.

The Council is of the opinion that the condition is necessary to comply with the requirements of the development plan. The Council is also satisfied that the provision of a strategy for the provision of broadband appropriate to safeguard the amenities of the residents. The Council is also satisfied that refusal of the application would be appropriate if the condition was not attached that it relates to planning objectives, as set out in the report; relates to the particular development; is enforceable, precise and reasonable in all of the circumstances; and the condition should not be removed.

CONDITION 24

Condition 24 is a standard condition imposed by the LPA on planning permissions for residential developments which required that:

"As part of the approval of the reserved matters application, the applicant shall include details of how the scheme will link with surrounding land. The links shown shall then be provided prior to completion of the development and retained in perpetuity.

Reason: To promote sustainable development by encouraging walking and cycling in accordance with policy GEN7 of the Arun District Local Plan and the National Planning Policy Framework".

The applicant claims that the condition fails the test of necessity as it would not have been appropriate to refuse planning permission without the requirements imposed by the condition as it is not needed to make the development acceptable in planning terms as access which formed part of the approved development was found to be in accordance with ADLP Policy GEN7 and NPPF paragraph 32. The condition is not relevant to the development permitted as the access has been approved and none of the reserved matters to be submitted do not by definition relate to such matters. The condition is not enforceable as these matters are outside of the control of the applicant as he does not own or control any adjoining land and it would, in practice, be impossible to detect a contravention or remedy any breach of the condition particularly the requirements that links if provided shall be provided prior to completion and then retained in perpetuity. The condition is not precise as the phrases "links" and "surrounding land" are not defined in terms of meaning or extent so it is not clear what it is the applicant must do to comply. The condition is not reasonable in all other respects as it places an unjustifiable and disproportionate burden on the applicant.

The Council is of the opinion that the condition is necessary to comply with the requirements of the development plan. The Council is also satisfied that the requirement to provide details as to how the development will link with the surrounding area is appropriate to promote sustainable development and

to encourage walking and cycling . The Council is also satisfied that refusal of the application would be appropriate if the condition was not attached that it is relates to planning objectives, as set out in the report; relates to the particular development; is enforceable, precise and reasonable in all of the circumstances; and the condition should not be removed.

CONDITION 25

Condition 25 was requested by the ADC Ecological Advisor and required that:

"Any works to the trees or vegetation clearance on the site should only be undertaken outside of the bird breeding season which takes place between 1st March - 1st October. If works are required within this time an ecologist will need to check the site before any works take place (with 24 hours of any work).

Reason: In the interests of amenity in accordance with policy GEN7 of the Arun District Local Plan".

The applicant claims that the condition fails the test of necessity as it would not have been appropriate to refuse planning permission without the requirements imposed by the condition as there is no definite planning reason for it and it is not needed to make the development acceptable in planning terms. There are no such requirements in any relevant legislation or development plan policy and such matters can, if necessary, be controlled via the reserved matters of landscaping and condition 5. The condition is not relevant to the development permitted as no works to trees or vegetation clearance is necessary as a result of the approved development. The condition is not reasonable in all other respects as it places an unjustifiable and disproportionate burden on the applicant.

The Council is of the opinion that the condition is necessary to comply with the requirements of the development plan. The Council is also satisfied that the condition is necessary to protect the trees and vegetation. The Council is also satisfied that refusal of the application would be appropriate if the condition was not attached that it is relates to planning objectives, as set out in the report; relates to the particular development; is enforceable, precise and reasonable in all of the circumstances.

On consideration of the application to revoke this conditions the Council has concluded that the current condition is not sufficiently robust to provide the necessary protection and therefore propose amending the condition to read:

"Any works to the trees or vegetation clearance on suite should only be undertaken outside of the bird breeding season which takes place between 1st March and 1st October. If it is believed that works are required within this time the written agreement shall be obtained from an ecologist who has inspected the proposed works within 24 hours of the works taking place."

CONDITION 26

Condition 26 was requested by the ADC Ecological Advisor and required that:

"External lighting in association with the development should comply with Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light Limitations for Exterior Lighting Installations for Zone E2.

Reason: In the interests of residential amenity in accordance with Policy GEN7 of the Arun District Local Plan".

The applicant claims that the condition fails the test of necessity as the External Lighting is a matter that can be controlled under the reserved matters of appearance, layout and landscaping and ADLP Policy GEN7 is not applicable to such matters and does not contain any such requirements. The condition is not precise nor enforceable as it is not clear whether or not the condition applies to all external lighting including that provided within residential curtilages so as worded it would, in practice, be impossible to detect a contravention or remedy any breach of the condition. The condition is not reasonable in all other respects as it places an unjustifiable and disproportionate burden on the applicant.

The Council is of the opinion that the condition is necessary to comply with the requirements of the development plan. The Council is also satisfied that the condition is appropriate in the interest of residential amenity. The Council is also satisfied that refusal of the application would be appropriate if the condition was not attached that it relates to planning objectives, as set out in the report; relates to the particular development; is enforceable, precise and reasonable in all of the circumstances; and the condition should not be removed.

CONDITION 27

Condition 27 was requested by the ADC Environmental Health Officer and required that:

"Prior to occupation of any of the dwellings, an electric vehicle charge point shall be installed to serve each dwelling and this shall then be permanently retained and maintained in working condition.

Reason: New petrol and diesel cars/vans will not be sold beyond 2040, and to mitigate against any potential adverse impact of the development on local air quality, in accordance with Policy GEN7 of the Arun District Local Plan, policy QE DM3 (c) of the Arun Local Plan 2011-2031 Publication Version showing Modifications and the National Planning Policy Framework".

The applicant claims that the condition fails the test of necessity as it would not have been appropriate to refuse planning permission without the requirements imposed by the condition as there is no definite planning reason for it and it is not needed to make the development acceptable in planning terms. There is no requirement that an electric vehicle charge point shall be installed to serve each dwelling in any relevant legislation or planning policy including those cited. The condition is not precise or enforceable as the term "electric charging point" is not defined and most electric cars come with or have available, Adapters that enable them to be charged via a domestic plug socket and even if separate ECP were unnecessarily provided to serve each dwelling the requirement that they should be permanently retained and maintained in working condition by future occupiers is a matter outside of the control of the applicant so as worded it would, in practice, be impossible to detect a contravention or remedy any breach of the condition. The condition is not reasonable in all other respects as it places an unjustifiable and disproportionate burden on the applicant.

The Council is of the opinion that the condition is necessary to comply with the requirements of the development plan. The Council is also satisfied that the requirements of the condition are enforceable, as the conditions runs with the land and is not personal to the Applicant. The Council is also satisfied that refusal of the application would be appropriate if the condition was not attached that it relates to planning objectives, as set out in the report; relates to the particular development; is enforceable, precise and reasonable in all of the circumstances; and the condition should not be removed.

CONCLUSION

Therefore, it is recommended that Condition 3 is varied to include a reference to all of the plans that were

submitted with outline planning application Y/49/17/OUT.

It is recommended that Condition 13 is amended to reflect the wording proposed by Southern Water (Y/13/18/PL).

It is recommended that Condition 16, requiring a detailed level survey of the site, is removed as a topographical survey was submitted with the application and will be referred to in Condition 3 as varied.

It is recommended that Condition 25 be retained but amended to make the wording sufficiently robust to provide the necessary protection during the bird breeding season.

However, it is recommended that the following 15 conditions: Conditions 9, 11, 12, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 26 and 27 are retained in full and they are not removed.

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.

SECTION 106 DETAILS

The applicant has provided an executed Section 106 Unilateral Undertaking which makes provision for contributions to be made towards Primary Education (i.e. additional facilities at Yapton C of E Primary School), Secondary Education (additional facilities at St Philip Howard Catholic High School) and Sixth Form Education (classroom infrastructure at St Philip Howard Catholic High School Sixth Form), Libraries (providing additional stock at Arundel Library) and Fire and Rescue Services (the supply and installation of additional fire safety equipment to vulnerable persons homes in West Sussex Fire Rescue Services Southern Area serving Yapton) in agreement with West Sussex County Council.

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 Details of appearance, landscaping, layout, and scale, (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority (LPA) before any development begins and the development shall be carried out as approved.

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

- 2 Application for approval of the reserved matters shall be made to the LPA before the expiration of three years from the date of this permission. The development hereby permitted shall begin before the expiration of one year from the date of approval of the last of the reserved matters to be approved.

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

- 3 This permission relates to the following submitted plans:

- Location Plan
- Topographical Site Survey
- Existing Block Plan PPC1
- Indicative Proposed Block Plan PPC 2
- Drg: 160602 - 05 - Access Arrangement Plan

Reason: To specify the application drawings which form part of the permission consistent with best practice in NPPG Paragraph: 022 Reference ID: 21a-022-20140306.

- 4 The layout details submitted pursuant to Condition 1 shall accord with the Indicative Proposed Block Plan Drg: PPC 2 and shall include:
- i) 1.4 hectares (ha) of residential development comprising up to 45 dwellings on Area A and
 - ii) 0.31 hectares (ha) of landscaped open space on Area B which shall include a minimum 100 sq m area designated as a Local Area of Play (LAP).

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Policy GEN7 of the Arun District Local Plan.

- 5 The landscaping details submitted pursuant to Condition 1 shall include:
- i) a plan showing the existing trees to be retained, together with details of measures for their protection during the course of development;
 - ii) the species, number, sizes and position of new trees, shrubs and hedging to be planted and details of any grassed or other planted areas (other than private gardens), including seeding with an appropriate native British wildflower flora mix;
 - iii) Details of defined boundaries, means of enclosure, proposed use and items of equipment, proposed lighting and other structures to be installed on the landscaped open space, amenity areas (other than private gardens) and the LAP
 - iv) a landscape management plan detailing a programme for the implementation, long term management and maintenance of all landscaped amenity areas (other than private gardens), the 0.31 hectares of landscaped open space and the LAP.
- No dwellings shall be occupied unless and until the landscaping has been implemented in accordance with the approved details and any trees, shrubs or hedging plants which, within a period of five years from the date of planting, 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 otherwise approved in writing by the LPA.

Reason: In the interests of amenity and of the environment of the development in accordance

with Policy GEN7 of the Arun District Local Plan.

- 6 The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the LPA. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2: Glossary of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of the total number of dwellings approved at reserved matters stage of which 75% shall be social rented and 25% intermediate housing;
 - ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no Registered Social Landlord is involved);
 - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
- The affordable housing shall be retained in accordance with the approved scheme.

Reason: To enable the LPA to control the provision of affordable housing on the site in accordance with Policy GEN7 of the Arun District Local Plan.

- 7 No development shall commence until detailed design and construction drawings for the means of access/egress onto Maypole Lane as shown on Access arrangement Plan Drg: 160602 - 05 including passing places in Maypole Lane between the access/egress and its junction with North End Road have been submitted to and approved by the LPA and no dwelling shall be occupied until this access/egress has been constructed in accordance with the approved detailed design and construction drawings.

Reason: In the interests of road safety, in accordance with Policy GEN7 of the Arun District Local Plan.

- 8 No development shall commence until detailed design and construction drawings for the means of access/egress onto North End Road as shown on Access arrangement Plan Drg: 160602 - 05 have been submitted to and approved by the LPA and no dwelling shall be occupied until this access/egress has been constructed in accordance with the approved detailed design and construction drawings.

Reason: In the interests of road safety, in accordance with Policy GEN7 of the Arun District Local Plan.

- 9 No development hereby permitted shall take place until a detailed scheme of highway works for improvement to the A27/Yapton Lane junction has been submitted to and approved in writing by the Local Planning Authority in consultation with Highways England. No more than 23 dwellings of the development hereby permitted shall be occupied until the completion of the approved improvements to the A27 junction with Yapton Lane.

Reason: To ensure that the A27 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety, in accordance with Policy GEN7 of the Arun District Local Plan.

- 10 No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the LPA. The Statement shall provide for (but not necessarily be limited to):
- i) Vehicle parking for site operatives and visitors, and on-site turning space;
 - ii) Loading and unloading of plant and materials;
 - iii) Storage of construction plant and materials;
 - iv) Erection and maintenance of security hoarding, including decorative displays and facilities for public viewing as appropriate;
 - v) Wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) The location of any site huts/cabins/offices;
 - viii) Routing of construction vehicles to and from the development site;
 - ix) Details of any temporary traffic management works required to construct any of the works;
 - x) Details of signage on the approaches to the site warning of the presence of construction vehicles and associated activities on or close to the public highway;
 - xi) Details of the Construction Design Management Co-ordinator and site foreman, including contact details (and out-of-hours contact details);
 - xii) Evidence of community involvement and/or public consultation prior to any works being carried out; and
 - xiii) Details of the hours of operation of all operational and construction vehicles on the site.
- 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 Statement as approved shall be adhered to at all times throughout the construction period.

Reason: In the interests of highway safety and the amenities of the area, in accordance with Policy GEN7 of the Arun District Local Plan.

- 11 No development shall take place until a programme of archaeological work has been secured and implemented in accordance with a written scheme of investigation which has been submitted to and approved by the LPA.

Reason: The site is of archaeological significance in accordance with Policy GEN7 of the Arun District Local Plan. It is considered necessary for this to be a pre-commencement condition because archaeology can only be investigated before construction commences.

- 12 No development shall take place until details of the implementation, maintenance and management of a sustainable drainage scheme have been submitted to and approved in writing by the LPA. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
- i) a timetable for the scheme's implementation; and
 - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for the adoption by any public body or statutory undertaker, or any other Arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies GEN7 and GEN9 of the Arun District Council Local Plan.

- 13 Occupation of the development is to be phased and implemented to align with the delivery by

Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies GEN7 and GEN9 of the Arun District Council Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure foul and surface water sewerage disposal is in place before construction commences.

- 14 No development shall commence until details the measures to avoid or mitigate ecological impacts and provide ecological enhancements as recommended in the Extended Phase 1 Habitat Survey prepared by Corylus Ecology and submitted with the planning application have been submitted to and approved by the LPA and no dwelling shall be occupied until the approved measures have been undertaken.

Reason: This condition is necessary to ensure the protection of wildlife and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site in line with national guidance and Policy GEN23 and GEN29 of the Arun District Local Plan. It is considered necessary for this to be a pre-commencement condition because of the need to ensure measures are in place to protect wildlife and habitats on site prior to any disturbance.

- 15 The details referred to in condition 1 shall include details of the materials and external finishes of the buildings, surfaces for roads/footpaths, means of enclosure and the parking of vehicles, and the provision of samples of such materials and finishes as required. Development shall be carried out in accordance with the approved details unless otherwise agreed with the Local Planning Authority.

Reason: To enable to the Local Planning Authority to control the development in detail in the interests of amenity in accordance with Policy GEN7 of the Arun District Local Plan.

- 16 No dwelling shall be occupied until refuse and recycling bins have been provided and space has been laid out for their storage in relation to that dwelling in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter these areas shall not be used for any purpose other than the storage of refuse and recycling bins.

Reason: In the interests of the amenity of occupiers of nearby properties in accordance with Arun District Local Plan Policy GEN7 and DEV26

- 17 There is a requirement that 25% of 1, 2 and 3 bed dwellings included as part of the development must be delivered to Lifetime Home standards.

Reason: To ensure that part of the development allows for residents to remain in their own homes over the course of their lifetime in accordance with Policy H3 of the Yapton Neighbourhood Plan.

- 18 There is a requirement that the proposed reserved matters submission conform to the following range of dwellings: 1-bed dwellings: 10-15% of all dwellings; 2-bed dwellings: 25-35% of all dwellings; 3-bed dwellings: 45-55% of all dwellings; and 4+-bed dwellings: 5-10% of all dwellings.

Reason: In accordance with Policy H2 of the Yapton Neighbourhood Plan in the interests of ensuring homes are provided to meet local demand.

- 19 No dwelling shall be occupied until space for that dwelling has been laid out for the parking of cars, motorbikes and cycles in relation to that dwelling in accordance with a drawing and schedule to be submitted to and approved in writing by the Local Planning Authority. These

areas shall thereafter not be used for any purpose other than the parking of cars, motorcycles and cycles.

Reason: In the interests of road safety and to accord with approved policy in accordance with Policy GEN7 of the Arun District Local Plan.

- 20 No development hereby permitted shall be commenced until a scheme for the location and installation of fire hydrants has been submitted to and approved in writing by the Local Planning Authority. For the purposes of this condition the scheme shall be in accordance with the Guidance Note: The Provision of Fire Hydrants and an Adequate Water Supply for Fire Fighting as published by West Sussex Fire and Rescue Services (as amended from time to time). No building hereby permitted shall be occupied until the fire hydrant(s) required to serve that building have been installed in accordance with the approved scheme.

Reason: In order to provide adequate infrastructure for emergency services, in accordance with Policy GEN7 of the Arun District Local Plan. It is considered necessary for this to be a pre-commencement condition because of the need to ensure the safety of residents on the site.

- 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 National Planning Policy Framework, March 2012). 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 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.

Reason: In order to secure on site renewable energy in accordance with national planning policy, in accordance with Policy GEN7 of the Arun District Local Plan.

- 22 Prior to the commencement of 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 shall be carried out in accordance with the approved strategy.

Reason: To safeguard the amenities of residents in accordance with Policy 7 of the Arun District Local Plan. It is considered necessary for this to be a pre-commencement condition because the provision of broadband needs to be incorporated into the design for the site.

- 23 As part of the approval of the reserved matters application, the applicant shall include details of how the scheme will link with surrounding land. The links shown shall then be provided prior to completion of the development and retained in perpetuity.

Reason: To promote sustainable development by encouraging walking and cycling in accordance with policy GEN7 of the Arun District Local Plan and the National Planning Policy

Framework.

- 24 Any works to the trees or vegetation clearance eon suite should only be undertaken outside of the bird breeding season which takes place between 1st March and 1st October. If it is believed that works are required within this time the written agreement shall be obtained from an ecologist who has inspected the proposed works within 24 hours of the works taking place.
- Reason: In the interests of amenity in accordance with policy GEN7 of the Arun District Local Plan.
- 25 External lighting in association with the development should comply with Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light Limitations for Exterior Lighting Installations for Zone E2.
- Reason: In the interests of residential amenity in accordance with Policy GEN7 of the Arun District Local Plan.
- 26 Prior to occupation of any of the dwellings, an electric vehicle charge point shall be installed to serve each dwelling and this shall then be permanently retained and maintained in working condition.
- Reason: New petrol and diesel cars/vans will not be sold beyond 2040, and to mitigate against any potential adverse impact of the development on local air quality, in accordance with Policy GEN7 of the Arun District Local Plan, policy QE DM3 (c) of the Arun Local Plan 2011-2031 Publication Version showing Modifications and the National Planning Policy Framework.
- 27 INFORMATIVE: Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.
- 28 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 assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 29 INFORMATIVE: Land uses such as general hardstanding that may be subject to oil/petrol spillages should be drained by means of oil trap gullies or petrol / oil interceptors.
- 30 INFORMATIVE: Due to surface water inundation issues in the Lidsey Catchment the applicant is advised to adopt, where appropriate, the measures in the table "Practical measures to reduce the potential impact of development". The applicant should look to protect the public sewerage system from inundation and infiltration, which contribute to flooding in unfavourable conditions.
- 31 INFORMATIVE: The applicant is advised to enter into a legal agreement with West Sussex County Council, as Highway Authority, to cover the off-site highway works. The applicant is requested to contact The Implementation Team Leader (01243 642105) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.

- 32 INFORMATIVE: The applicant is advised to enter into a Section 59 Agreement under the 1980 Highways Act, to cover the increase in extraordinary traffic that would result from construction vehicles and to enable the recovery of costs of any potential damage that may result to the public highway as a direct consequence of the construction traffic. The Applicant is advised to contact the Highway Officer (01243 642105) in order to commence this process.
- 33 INFORMATIVE: This development involves work to the public highway (strategic road network) that can only be undertaken within the scope of a legal Agreement or Agreements between the applicant and Highways England (as the strategic highway company appointed by the Secretary of State for Transport). Planning permission in itself does not permit these works.

It is the applicant's responsibility to ensure that before commencement of any works to the public highway, any necessary Agreements under the Highways Act 1980 are also obtained (and at no cost to Highways England). Works to the highway will normally require an agreement or agreements, under Section 278 of the Highways Act, with Highways England.

Advice on this matter with regards the strategic road network can be obtained from the Spatial Planning Team, Highways England, Bridge House, Walnut Tree Close, Guildford, Surrey, GU1 4LZ. Email: planningse@highwaysengland.co.uk Tel. 0300 123 5000.