

The Applicant has provided an independent legal opinion from Mr Martin Edwards of Cornerstone Barristers to support the application. Counsel has noted the recent adoption of the Arun Local Plan and how, as a matter of law, section 38(5) of the Planning and Compulsory Purchase Act 2004 means that, in the event that there is any conflict between any policy in the Yapton Neighbourhood Plan and a policy in the Local Plan, it is the policy in the Local Plan (being the most recently adopted development plan document) that must be followed. The proper interpretation of a development plan policy is a matter of law. In counsel's opinion, the application does not conflict with the relevant policies in the Local Plan. Furthermore, the Yapton Neighbourhood Plan policy H1 rightly recognised that it would have to be viewed in the light of the minimum housing requirement that was to be identified in the Local Plan. That has now taken place. Counsel's view is that it follows that the application does not conflict with the Local Plan or the Yapton Neighbourhood Plan and is policy compliant. Therefore, in accordance with section 38(6), the application should be approved in the absence of any compelling material considerations indicate otherwise.

In any event, even if there had been any policy conflict, which recent applications and appeals demonstrate could only be in relation to housing supply and settlement boundaries, counsel advises that these recent grants of planning permission are all highly material considerations weighing in favour of the application. Furthermore, statements made by the Secretary of State and the inspector in the two recent appeal decisions, clearly demonstrate that these policies were out of date and could only be accorded limited weight. In the light of the recent revisions to the NPPF, particularly paragraph 11, the policies in the recently adopted Local Plan should similarly be considered out of date and accorded limited weight. However, it is important to note that both appeal decisions were made before the Local Plan was adopted and counsel advises that, in the light of the adoption of the Local Plan, those policy conflicts no longer apply, and that the application is policy compliant. Counsel also points out that the inspector in the January 2018 decision specifically rejected the idea of delaying development pending the revision to the Neighbourhood Plan. In fact, paragraph 49 of the NPPF makes it clear that it would be wrong to refuse this application on the ground of prematurity.

Counsel concludes that the Council is adopting a pragmatic and positive approach to tackling the housing land supply shortfall by recommending this application for approval and also notes that it is in line with the agreement recorded by the Local Plan Inspector in his Examination Report and also paragraph 12.1.6 of the Local Plan.