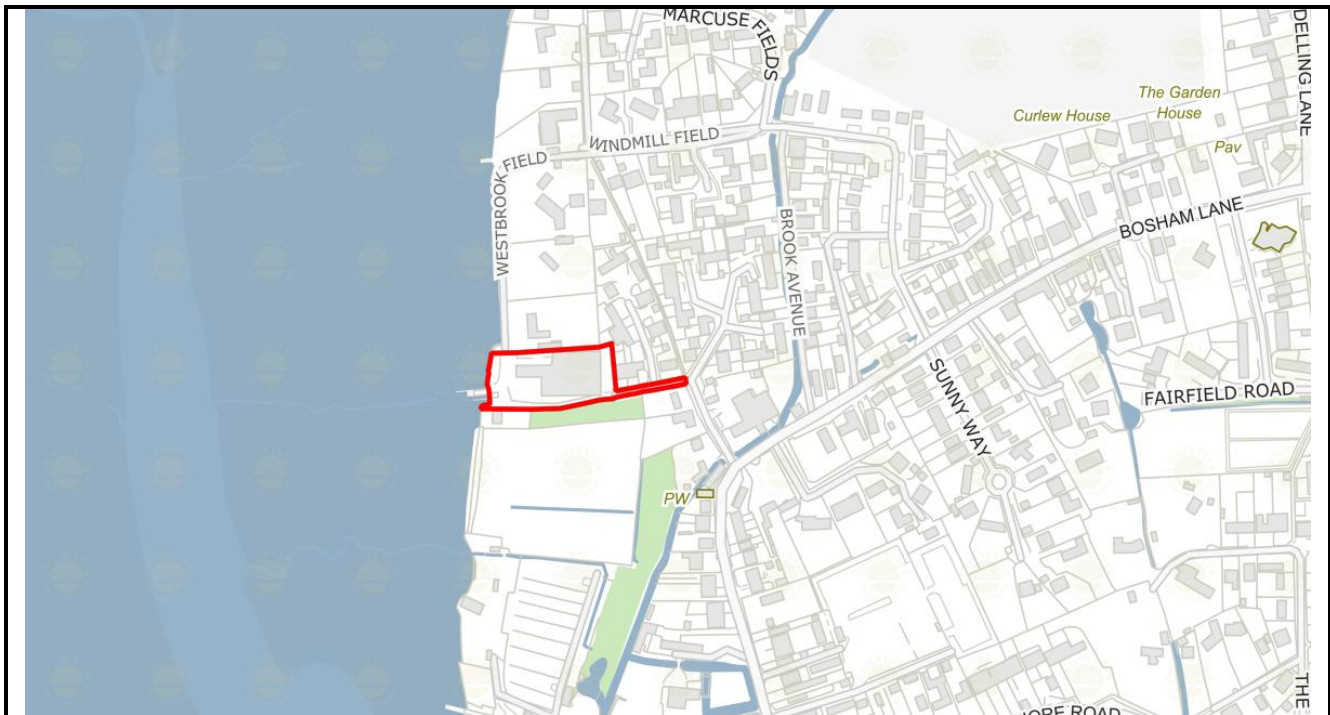



Parish: Bosham	Ward: Harbour Villages
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BO/21/00620/FUL

Proposal	Development comprising the demolition of existing B2 use shipyard buildings and structures and the erection of 3no. replacement C3 dwellings with access, parking, landscaping and associated works.		
Site	Burnes Shipyard Westbrook Field Bosham PO18 8JN		
Map Ref	(E) 480388 (N) 104217		
Applicant	Paul Peta Properties Ltd	Agent	Mr Paul White

DEFER FOR S106 THEN PERMIT



	NOT TO SCALE	Note: Do not scale from map. For information only. Reproduced from the Ordnance Survey Mapping with the permission of the controller of Her Majesty's Stationery Office, Crown Copyright. License No. 100018803
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1.0 Reason for Committee Referral

1.1 Red Card: Cllr Moss - Exceptional level of public interest

1.2 Parish Objection - Officer recommends Permit

1.3 The application was deferred by the Planning Committee on 6 April 2022 for further negotiation concerning the following:

- Landscaping
- The importation of materials required to raise the height of the ground, including amount, vehicle numbers and routing
- Updated Nitrogen Mitigation proposal

1.4 These matters are referred to in the report in bold text.

1.5 The application was deferred by the Planning Committee on the 12 July 2023 for the following reasons:

- **A committee site visit; and**
- **The submission of further information relating to the viability of redeveloping the site.**

2.0 The Site and Surroundings

2.1 The application site, known as Burnes Shipyard, is located to the north of Windward Road, within the Parish of Bosham. The site occupies a waterfront location, with slipway access onto the foreshore and Chichester Harbour Area of Outstanding Natural Beauty (AONB) to the west. The site lies adjacent to the northern edge of the Bosham Conservation Area, with there being some views of the site from within the conservation area, particularly from the south.

2.2 The site is occupied by a variety of commercial buildings, including warehouse buildings and a two-storey office building. The structures vary in design, include flat and pitched roof structures, all approximately two storeys in height and occupying most of the site. The site has been redundant for more than twenty years, with the buildings in a poor state of repair with the site enclosed with safety fencing. Vehicle access to the site is via Windward Road, which mostly serves a neighbouring housing development (of 16 units) and there is currently a five-bar gated access into the site. A Public Right of Way (PRoW) runs along the southern and western boundaries of the site, providing access to the foreshore.

2.3 The character of the area is predominantly residential, with the site lying adjacent to the northern part of the Bosham Settlement Boundary, which includes an early 2000's housing development immediately to the east, and an earlier development beyond. The site lies to the north of Bosham Lane, which travels south towards Bosham Quay.

3.0 The Proposal

- 3.1 The application seeks full planning permission for the demolition of the redundant shipyard buildings, and the construction of three replacement 4-bed dwellings, with associated access, parking and landscaping.

4.0 History

09/00193/FUL	REF	Redevelopment of Burnes Shipyard to include 22 residential units together with associated access, car parking and associated infrastructure.
09/00195/TPA	PER	Repollard (down to previous pollard points) on 21 no. Lombardy Poplar trees (marked on plan as 9,10,13 - 17,19, 21-33). Fell 1 no. Lombardy Poplar tree (marked on plan as no 18). Crown raise up to 8m (above ground level) on 1 no. Beech tree (T1) (marked on plan as 11) Raise crown to give 1m clearance from adjoining building on 1 no. Monterey Cypress tree (marked on plan as 20). All the trees are within G1 of BO/89/00062/TPO and BO/08/00168/TPO.
10/00714/TPA	PER	Various tree works - crown lifting upto 6m and removing any ascending branches to leave clear stems between 5 and 6 metres above ground level and cutting ivy on 14 no. Hybrid Poplar trees (marked on the plan as 36 - 41 and 43 - 50). Reduce by 50% (where previously pollarded), remove major deadwood below this point on 1 no. Lombardy Poplar tree (marked on plan as 42). All 15 no. trees are within Group, G2 subject to BO/89/00062/TPO.
13/01846/FUL	REF	Demolition of existing buildings and structures, erection of employment floor space (Use Class B1) and four dwelling houses (Use Class C3), with associated car parking and hard and soft landscaping works, including formation of a new footpath across Mill Meadow and associated works.
19/00295/EIA	EIANR	Screening opinion - Proposed development comprising 3 dwelling houses and associated works including the demolition of existing buildings.

5.0 Constraints

Listed Building	NO
Conservation Area	NO (adjacent to Bosham CA)
Rural Area	NO
AONB	YES
Tree Preservation Order	YES
EA Flood Zone	
- Flood Zone 2	YES (partial)
- Flood Zone 3	YES (partial)

6.0 Representations and Consultations

6.1 Parish Council

Further comments 12.07.2022

We maintain our objection to the application. The revised plans merely seek to increase vegetation and graduate the rise of the land from the shore. It is difficult to image the substantial trees illustrated will be able to survive and grow to any meaningful height if they are planted on a bund largely made up of hardcore from the original buildings. We agree with CHC view that the LVIA submitted in support of this application is over generous toward the planning applicant and does not reflect reality. Also, CHC have queried the assertion that this site is nil use land and believe it should be categorised as agricultural, its original use. Further advice should be taken for clarification on both these points.

Further comments 09.02.2022

Bosham Parish Council maintains its object to this application. This site is outside of the Bosham Settlement Boundary, borders the Conservation area, the whole being set within the Chichester Harbour AONB. As we understand it, it remains designated as a marine/industrial/employment site and therefore, we must object on those grounds. Development in the Rest of the Plan Area (outside of the Settlement Boundary) is restricted to that which requires a countryside location or meets an essential local rural need. As this application is for market dwelling houses, it does not meet the test for the 'essential' need within this countryside location.

It is now ten years since the site was marketed as a marine/industrial site and throughout the pandemic of the last two years there has been a significant uptick in the use of smaller craft in the harbour, and particularly in the safe creeks in Bosham. 3.2.01 of Chichester Harbour Conservancy's Planning Principals states The Conservancy understands that the prosperity of marine businesses is cyclical. Once sites are lost from marine-related use, it is extremely unlikely that they will be replaced by new ones. It is therefore vital that sufficient marine site capacity is retained for the long-term viability of the Harbours marine infrastructure and the boats and businesses that depend on them. The Conservancy is sympathetic to applications for alternative industrial uses where these do not harm the AONB and where reversion to marine industrial use is possible. In the past Bosham had at least 5 boatyards. All except Burnes Shipyard have been developed into market housing.

With regard to the substitute plans, we appreciate the footprints have been reduced but the height issue has not been addressed. The ridges of all three houses remain at the same height, between 2m and 2.2m higher than the neighbouring properties on the shoreline.

This site has been left to decay for at least 20 years, attracting antisocial behaviour, an eyesore on the harbours edge and misery for neighbours, whilst various planning applications have been lodged for private housing. We fully appreciate residents desire to see the site cleared, as does the Parish Council, but that is not a reason, in planning terms to grant permission.

Original comments 08.04.2021

Bosham Parish Council object to this application. This site is outside of the Bosham Settlement Boundary, borders the Conservation area, the whole being set within the Chichester Harbour AONB. As we understand it, it remains designated as an industrial/employment area and therefore we must object on those grounds. Although we accept the need for the derelict site to be improved, we object to the application in its present form. To overcome the tidal flooding problem, it is proposed to raise the height of the land and build upon that, thus making overall heights excessive when compared to neighbouring properties. When viewed from the water the proposed houses will create a built height some 4.00m higher than the northern neighbour, Burneside, and 3.50m higher than Shipyard House to the south. The applicants own figures show an increase in height above that of the existing shipyard buildings of 7.00m. Further, the arrangement of the houses on the site when viewed from the water, two on the western end of the site and the third behind filling in the gap between the two, will create a bulk and massing which would be out of character with the remaining water frontage, particularly when taking into account the open fields of the conservation area immediately to the south. We consider the architectural style of the houses inappropriate for this sensitive setting. The visual impact on the wider environment would be considerable.

It is intended to connect the foul water drain the Southern Water sewer. The foul water infrastructure serving the village is already failing and it is hard to believe another three connections will not exacerbate the unacceptable current level of CSO discharges of untreated effluent into the harbour.

We are unable to locate the Lighting drawing 21009814 cited in the Lighting Assessment. The elevation drawings of plot A and B show a considerable amount of glazing facing the harbour and we are concerned about the degree of possible light spillage having a negative impact upon the harbour and its wildlife.

Also of concern is the surrounding land which forms part of the shipyard site but is not included within the built areas. There is no indication of who will be responsible for its management

6.2 Chichester Harbour Conservancy (summarised)

Further comment 19.07.2022

OBJECTION

Reasons:

1. This application contravenes the Joint Chichester Harbour AONB SPD, and AONB guidance AONB PP01, PP02, PP04, and PP09. The adopted guidance requires a clear demonstration that no harm is caused to the AONB. This has failed to be adequately demonstrated.
2. The proposal lies within an area of the AONB designated as countryside, although being outside the settlement boundary it is undeniably 'brown field land' having previously been a boatyard industrial site. The redevelopment of this site should take fully into account and address the requirements covered in relevant planning advice and guidance dealing with planning issues impacting on the AONB. The proposal is not compliant with current AONB Planning Principles and the Joint AONB Supplementary Planning Document.
3. The proposal proports a redevelopment scheme which removes the poor-quality and time neglected former boatyard structures, but in doing so fails to provide an exemplar yet traditional alternative development fitting for this visually prominent coastal picturesque location on the fringe of Bosham village and within the heart of the AONB protected national landscape environment setting.
4. The current second amended plans submission with a stepped domestic garden contour to the western plots still does not significantly address the concerns as raised at the earlier consideration stages and therefore still fails to adequately consider the sites redevelopment opportunities within the AONB protected national landscape. The proposal remains as being non-compliant with AONB Planning Principles PP01, PP02, PP04 and PP09.
5. The proposal for this industrial site would remove the prospect for replacement marine engineering, associated marine enterprise, or new industrial employment uses from the site that benefits from a coastal shoreline boundary. The loss of this site from employment use without a current and clear up-to-date and focused marketing justification or the sequential consideration of a robust case against any other employment land uses in preference to a residential housing development is considered to harm the economic opportunity of the site, the community and village of Bosham, and the local area in general.

Further comments 04.03.2022

The proposal for three elevated detached two-storey dwelling houses would fail to preserve and enhance the character and visual appearance of the Area of Outstanding Natural Beauty (AONB) in this location by the imposition of buildings with a design and scale that are not reflective of the context of this edge of village location bordering the Conservation Area and with clear views from the parish church which forms a characteristic vista associated with the village of Bosham. The absence of an AONB Visual Impact Appraisal Statement to clearly demonstrate the harm or lack of harm through suitable mitigation of the proposal is regretful. The proposal is not compliant with current AONB Planning Principles and the Joint AONB Supplementary Planning Document, and in particular:

- The proposal fails to preserve and enhance the visual landscape character of the AONB (PP01)
- Visual impact on a strategic landscape vista from Bosham Church and Conservation Area (PP01)
- Design, style, architectural appearance is not reflective of surroundings (PP03/PP04)
- Building composition, scale, bulk of the proposed three dwellings has undue prominence (PP04)
- Combination of buildings creating a street scene of excessive building bulk and profile (PP03/PP04)

The proposal for this industrial site would remove the prospect for replacement marine engineering, associated marine enterprise, or new industrial employment uses from the site that benefits from a coastal shoreline boundary. The loss of this site from employment use without a current and clear marketing justification or the sequential consideration of a robust case against any other employment land uses in preference to a residential housing development is considered to harm the economic opportunity of the site, the village of Bosham, and the local area in general. This is contrary to AONB Planning Principle PP02: Safeguarding Marine Enterprise, specifically:

- Loss of employment generating site to the local economy of Bosham and surroundings (PP02)

The proposal lies within an area of the AONB designated as countryside, although being outside the settlement boundary it is obviously considered to be 'brown field land' having previously been subject to development (the boatyard). The redevelopment of this site should take fully into account and address the requirements covered in relevant planning advice and guidance dealing with planning issues impacting on the AONB. The proposal is not compliant with current AONB Planning Principles and the Joint AONB Supplementary Planning Document, and in particular:

- Lack of residential land use justification within the AONB countryside designation (PP04)
- Wastewater sewerage systems capacity is not demonstrated or proven (PP04)
- Potential resultant recreational disturbance to wildlife within the AONB protected landscape (PP04)
- Requirement to secure contributions towards Solent Bird Aware Protocol not achieved (PP04)
- Lack of clear demonstration of reducing light sources from glazed & open areas of the site (PP09)

A cautious safeguarding 'on balance' assessment approach to register an objection to the proposal was made by the Chichester Harbour Conservancy Planning Committee based upon all relevant considerations when this proposal in its original form was considered in April 2021. The current amended plans submission proposal represents a slightly modified scheme without addressing the fundamental criteria highlighted when the original proposal that was considered. The current amended plans submission does not significantly address the concerns as raised at that time (notwithstanding the objection rebuttal document submitted), and still fails to adequately consider the sites redevelopment opportunities within the AONB protected national landscape. The proposal remains as being non-compliant with AONB Planning Principles PP01, PP02, PP03, PP04 and PP09.

Original comments 13.04.2021

Objection. The proposal would fail to preserve and enhance the character and visual appearance of the Area of Outstanding Natural Beauty (AONB) in this location by the imposition of buildings with a design and scale that are not reflective of the context of this edge of village location bordering the Conservation Area and with clear views from the parish church which forms a characteristic vista associated with the village of Bosham.

The proposal for this industrial site would remove the prospect for replacement marine engineering, associated marine enterprise, or new industrial employment uses from the site that benefits from a coastal shoreline boundary. This is contrary to AONB Planning Principle PP02: Safeguarding Marine Enterprise. The loss of this site from employment use to residential housing would harm the economic opportunity of the site and area in general.

The proposal would be contrary to the relevant planning principles (PP01 - PP04 and PP09). The response goes on to discuss aspects of the scheme in greater details, acknowledging the proposal would 'redevelop and poor quality and time-neglected former boatyard, but raises concerns with but in doing so fails to provide an exemplar alternative development fitting for this picturesque location on the fringe of Bosham village and within the heart of the AONB protected national landscape environment setting'.

6.3 Environment Agency (summarised)

No objection - subject to the six suggested conditions relation to securing the proposed flood mitigation measures and finished floor levels, and in respects of additional contaminated land requirements, verification report and surface water drainage details to be agreed by the LPA.

6.4 Natural England (summarised)

Further comments 19.05.2022

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 6th May 2021.

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Further comments 06.05.2021

No objection - subject to appropriate [nitrogen neutrality] mitigation being secured

Original Comments 08.04.2021

Natural England is not able to fully assess the potential impacts of this proposal on statutory nature conservation sites or protected landscapes or, provide detailed advice on the application

6.5 Southern Water (summarised)

No objection. A formal application for a connection to the public foul sewer will need to be made by the applicant or developer. Advises on the hierarchy of surface water disposal as set out within Part H3 of the Building Regulations.

6.6 WSCC Local Highway Authority (summarised)

Further Comments 04.08.2022

The Local Highways Authority is aware that for flood protection reasons the levels of the site will need to be raised for the development. This will require the bringing in of a significant amount of soil material.

The applicant has estimated that this will require in the region of 40 x two-way HGV movements. While it would be beneficial to fully establish / agree the number of HGV trips anticipated per day (and agree over how long this process will take) which will be required to bring in this material prior to determination, the Local Highways Authority is satisfied that such matters can be fully detailed and secured as part of a detailed construction management plan. If it is considered that an extraordinary quantum of HGV movements will be required to implement the scheme, the construction management plan can include an intention that the applicants enter into a Section 59 agreement of the 1980 Highways Act. This would enable the Local Highways Authority to recover the costs of any potential damage that may result to the public highway as a direct consequence of the construction traffic.

Since providing comments dated 26/03/2021 the Local Planning Authority should be aware that given the recent changes to the Building Regulations Approved Document S (Infrastructure for the Charging of Electric Vehicles), it may be that the provision of EV charging is now covered under separate legislation to planning. Therefore, WSCC as Highway Authority have no comment to make upon the EV charging provision as a result of this planning application. However, the planning case officer should check whether the development is being built under the old Building Control regulations, in place prior to June 15th, 2022, and if they are, it may be appropriate to secure EV charging provision through the planning process.

Original Comments 26.03.2021

This application is for the demolition of existing B2 shipyard buildings and erection of 3 x 4-bedroom dwellings. The site is located on Windward Road, a privately maintained road, consequently these comments are for advice only.

The nearest publicly maintained highway is at the junction with Moreton Road, an unclassified road subject to a speed limit of 30mph. Given that Public Right of Way 230/1

runs along Windward Road, WSCC as Highway Authority have consulted PROW and they may wish to provide separate consultation comments on the planning application.

Visibility at the junction with Moreton Road appears sufficient for the anticipated road speeds in this location. The addition of three dwellings is not anticipated to result in a material intensification of use of the junction over the potential for the existing B2 use of the site.

The proposed plans demonstrate a double garage for each dwelling which provide a minimum of 6 x 6m internal space. WSCC parking guidance sets out that each garage space can only be counted as 0.5 parking spaces given the increasing use of garages for ancillary storage rather than for parking. The WSCC Parking Demand Calculator anticipates that each dwelling would require 3 parking spaces.

There appears to be sufficient space on each site for this provision to be accommodated and for vehicles to turn within the site. The site is located within walking distance of bus stops and local facilities provided within Bosham village. Cycling is a viable option within the vicinity and secure and covered cycle storage can be accommodated within the proposed double garages. Details of this can be secured by condition.

In the interests of sustainability and as result of the Government's 'Road to Zero' strategy for at least 50% of new car sales to be ultra-low emission by 2030, electric vehicle (EV) charging points should be provided for all new homes. Active EV charging points should be provided for the development in accordance with current EV sales rates within West Sussex (Appendix B of WSCC Guidance on Parking at New Developments) and Chichester Local Plan policy. Ducting should be provided to all remaining parking spaces to provide 'passive' provision for these to be upgraded in future. Details of this can be secured via condition and a suitably worded condition is advised below.

Conclusion

The LHA does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 109), and that there are no transport grounds to resist the proposal.

Several conditions were recommended, including car parking spaces as per details, cycle parking and electric vehicle charging.

6.7 CDC Economic Development

Further comments 22.07.2022

Following our initial comments made in September 2021, we now understand that this site has not been in commercial use for nearly 30 years, when it stopped being used for commercial purposes. Therefore, we now accept that this site has been abandoned and while we would support the economic re-use of this site, we do understand that there is no policy basis under which we can justify the retention of this site for economic purposes.

Original comments

The Economic Development Service does not support this application.

The loss of this employment and commercial space would be significant to the overall offer of this village location and the district. Any introduction of non-commercial use in this location needs careful consideration. Although it is very disappointing that the site has not been developed, the reality is there will be a small number of commercially viable developments on this site, given its constraints. Nonetheless, a full range of alternative commercial operations should be explored and presented before any change of use to residential is considered.

Furthermore, in line with Appendix E of the Chichester Local Plan 2014-2029, marketing evidence is required for applications seeking a change of use. Applications “need to be accompanied by robust and credible evidence that adequate marketing has occurred in order to support the argument that the property/land is no longer required.” Furthermore, para. E.6: information relating to the loss of employment land and use, states:

“In addition to the general criteria above, where a planning application may lead to the loss of an existing site currently in business use class (B1-B8) or similar sui generis uses to alternative uses (without satisfactory provision for replacement land/floorspace or relocation of existing businesses) supporting information will also be required to demonstrate that:

- The site/premises has been vacant for some time and has not been made deliberately unviable;
- The site/premises has been actively marketed for business or similar uses at a realistic rent/price for a minimum of 2 years or a reasonable period based on the current economic climate;
- Alternative employment uses for the site/premises have been fully explored; where an existing firm is relocating elsewhere within the District, maintaining or increasing employment numbers will be acceptable; and
- For proposals involving a net loss of 2,000m² or more employment floorspace, the loss of the site will not result in an under-supply of available employment floorspace in the local area.”

As far as we can ascertain there has been no extensive marketing campaign or investigation into alternative commercial uses for the site. The loss of this commercial space to residential use will be permanent and reduces the economic base of the village/district for commercial and employment space. This is one of few sites which could improve access to the water for a range of commercial, tourism or community uses, all of which should be fully explored.

6.8 CDC Housing Enabling Officer (summarised)

No objection to proposed housing mix. The number of units will not attract an affordable housing contribution.

6.9 CDC Conservation and Design

Further comments 03.03.2022

The revised proposals reduce the mass of the three properties by trimming the extent of roof profiles and other extensions. Overall, this reduces their impact in views from the

conservation area and is welcomed. The properties would still be visible from within the conservation area. However, this impact must be set against the existing situation, where derelict and manifestly poor-quality buildings on a brownfield site provide a clearly harmful contribution to the setting of the conservation area. The prominence of the design has been reduced by the latest proposals and given the good quality design, the poor existing situation I find that the proposals will have a positive effect on the setting of the Bosham Conservation Area.

Original comments

The site is a long redundant shipyard composed of dilapidated commercial buildings that lies adjacent to the northern boundary of the Bosham Conservation Area.

The key judgement in terms of heritage assets in this application is whether the proposals constitute an improvement to the setting of the Bosham Conservation Area. The present boatyard whilst of some functional historic relationship with the wider area is correctly identified in the Bosham Conservation Area Appraisal as "an eyesore on the edge of the Conservation Area" (2011). This assessment is valid, and the condition of the buildings has deteriorated still further in the intervening ten years, exacerbating the harm caused in this prominent location within the setting of the conservation area.

The proposals are subject to significant flooding considerations and the housing is significantly taller than it otherwise would be to accommodate this. The properties would be taller and more prominent than other nearby housing and this does assign a level of visual prominence to the development. The design is contemporary and doesn't have any particular relationship with the surrounding housing stock which is standard post war estate building.

The building types around the site, including Spindrift Mews and Moreton Road do not form a coherent part of the setting of the Bosham Conservation and any insistence that new development on the shipyard should mimic this type of development would in my view be likely to cause clear harm to the setting of the conservation area. It would also be a poor attempt at pastiche to somehow reimagine an interpretation of more historic housing types from the historic core of the conservation area on this site. As such, I find that the highly contemporary design creates welcome demarcation with other nearby housing stock.

The height and prominence of the proposals are a concern and they do introduce taller and more prominent structures close to the edge of the Conservation Area. The site would be readily visible from within the conservation area. However, this impact must be set against the existing situation, where derelict and manifestly poor-quality buildings on a brownfield site provide a clearly harmful contribution to the setting of the conservation area. The design of the buildings, whilst prominent is well considered and makes a welcome break with the design of other nearby housing. On balance, given the good quality design, the poor existing situation and taking into account the prominence of the proposals I find that the proposals will have a neutral impact on the setting of the Bosham Conservation Area and will not cause harm (less than substantial or otherwise) to that setting.

6.10 CDC Archaeology Officer (summarised)

I agree with the conclusions of the desk-based assessment with regard to the potential of this site to contain deposits of archaeological interest and for development of it to impact on them. I agree that there are no archaeological grounds for refusal and that the potential impact should be mitigated through a suitable programme of archaeological investigation of the site prior to, and if appropriate during, its development and that this should be secured via the imposition of a suitable condition, e.g., a version of standard condition PC19.

6.11 CDC Environmental Strategy (summarised)

The Preliminary Bat Roost Assessment concluded a negligible potential to support roosting bats overall and therefore did not recommend any further surveys. However, as a precaution for bats, any tile removal should be undertaken by hand. If any bats are discovered during the work, all works should be stopped, and a bat ecologist be consulted. If a bat roost is found, works must not proceed until Natural England has been consulted on the requirement of a protected species license.

Additionally, the lighting scheme for the site will need to take into consideration the presence of bats in the local area. The scheme should minimise potential impacts to any bats using the trees, hedgerows and buildings, especially around the northern boundary of the property, by avoiding unnecessary artificial light spill through the use of directional light sources and shielding.

We require that a bat box is installed on the building / tree onsite facing south/south westerly positioned 3-5m above ground.

The treeline to the north of the site are used by bats for commuting and foraging and will need to be retained and enhanced for bats. This will include having a buffer strip around the treeline (5m) and during construction fencing should be used to ensure this area is undisturbed. Any gaps should also be filled in using native hedge species to improve connectivity. Conditions should be used to ensure this.

Precautions should be put in place for hedgehogs and the site will need to be searched carefully before works begin. If any small mammals including hedgehogs are found they should be relocated away from the construction area into surrounding suitable habitats

Any brush piles, compost and debris piles on site could provide shelter areas and hibernation potential for hedgehogs. These piles must be removed outside of the hibernation period mid-October to mid-March inclusive. The piles must undergo soft demolition. A hedgehog nesting box should be installed within the site to provide future nesting areas for hedgehogs.

Additionally, we require that gaps are included at the bottom of the fences to allow movement of small mammals across the site and two hedgehog nesting boxes included on the site.

To ensure the site remains unsuitable for reptiles, continued management of the site must take place to ensure reptile habitat does not develop onsite. If this is not possible then a precautionary approach should be taken within the site with regards to reptiles which

involves any removal of scrub, grassland or ruderal vegetation to be done sensitively and done with a two phased cut.

Due to the risk of disturbance to overwintering birds, construction works must avoid the winter months (October - Feb) to ensure they are not disturbed by any increase in noise and dust. Due to requirement to avoid the winter months because of the over wintering birds, there may be a need to undertake vegetation clearance during the bird nesting season (1st March -1st October). If works are required during this time an ecologist will need to check to ensure there are no nesting birds present on the site before any works take place (max 24 hours prior to any works commencing).

Since the site lies within the Zone of Influence for Chichester Harbour, as contribution to the Bird Aware: Solent Mitigation Scheme will be required to mitigate the increased recreational pressure at the Harbour. Further information will be required on the proposed occupation rates to calculate the contribution based

Enhancements should be provided in accordance with those proposed within section 6 of the Ecological Impact Assessment for the mitigation for the habitats of the site.

We require a number of enhancements are incorporated within the scheme and shown with the landscaping strategy. These include;

- Any trees removed should be replace at a ratio of 2:1
- Wildflower meadow planting used
- Filling any gaps in tree lines or hedgerows with native species
- Bat and bird boxes installed on the site
- Grassland areas managed to benefit reptiles
- Log piles onsite
- We require that gaps are included at the bottom of the fences to allow movement of small mammals across the site
- Two hedgehog nesting boxes included on the site

6.12 CDC Environmental Protection (summarised)

A preliminary geoenvironmental and geotechnical assessment has been submitted by the applicants produced by TEC dated Jan 2019. The report has been undertaken in accordance with accepted guidance and includes a desk study, site walkover, conceptual model, and site investigation work. A risk assessment is detailed in section 8 and a refined conceptual model is presented in section 9. Section 11 presents conclusions from the site investigation and further recommended intrusive works are listed at 11.4.16. We agree with the conclusions of the report and recommend the following conditions are applied:

- Additional site investigation should be undertaken at the site as detailed at section 11.4.16 of the TEC report dated Jan 2019 in order to fully risk assess the site
- Following the additional site investigation work a remediation strategy should be developed and condition PC22 should be applied.
- In order to verify the remediation work undertaken a verification report should be submitted and it is recommended condition PO14 is applied.

It is noted that asbestos containing materials have been found within the made ground and on the surface of the site (both fibres and hard cement-like materials). The

remediation strategy should detail the method of making safe and disposing of such material.

As the proposed development is located away from major roads and on the edge of the village, background noise levels and current air quality are considered likely to be good. It is considered that a good standard of thermal construction will enable both internal noise levels and air quality to be acceptable for future occupants and no additional design requirements will be necessary. The development is considered unlikely to impact local air quality and no further air quality assessment is required.

In order to mitigate the impact of the development the following should be incorporated (in accordance with the requirements of the WSCC parking standards):

- Secure, covered cycle storage facilities
- Electric vehicle recharging facilities.

A lighting statement has been submitted produced by D W Windsor Lighting consultants. The proposed external lights are considered acceptable and accord with the principle of minimising light pollution at the site. A condition should be applied to require the proposed lights to be put in place at the site.

6.13 CDC Costal and Drainage

The site is partly within tidal flood zone 2 / 3 (significant risk). Therefore, you will have to be satisfied that the sequential and exception tests have been met / passed.

We are satisfied that the proposal will not increase flood risk elsewhere.

With predicted sea level rise it is essential that any new dwellings are resistant to flooding. The FRA is proposing "Finished floor levels shall be set no lower than 5.45 metres above Ordnance Datum (AOD)", this will exceed the 2115 1 in 200yr event so will make the properties suitably resistant to flooding.

We note the Environment Agency have been consulted and raised no objection subject to a number of conditions. We fully support the inclusion of condition 1, and subject to this and satisfactory surface water drainage we have no objection the proposed use, scale or location based on flood risk grounds.

The proposal is to drain the development using an existing outfall into a tidal waterbody (Chichester Harbour). This approach is acceptable in principle and should adequately drain the development.

The applicant will need to ensure / demonstrate that the condition of the existing outfall is sufficient, and a flap valve will almost certainly be required if one is not already present. If you are minded to approve the application, then to ensure the development is satisfactorily drained we recommend the following condition is applied:

Development shall not commence until the full details of the proposed surface water drainage scheme have been submitted to, and approved in writing by, the Local Planning Authority. The design should follow the hierarchy of preference for different types of

surface water drainage disposal systems, as set out in Approved Document H of the Building Regulations and the SuDS Manual produced by CIRIA. Winter groundwater monitoring, to establish the highest annual ground water levels, and winter percolation testing, to BRE 365 or a similar approved method, will be required to support the design of any infiltration drainage. No building shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed scheme"

6.14 Planning agent comments

Further comments

Officers agree the site has a nil planning use. The site is no longer considered to be an existing employment site, requiring the protection of Policy 26 of the Local Plan. As the site has a nil use, the marketing requirements of Policy 26 do not apply to this application. Namely, there is no requirement to provide evidence that the site has been actively marketed prior to applying for planning permission. In addition, the Planning Inspector for a previous Appeal on the site accepted that the site is unviable for alternative marine uses – that decision was based upon both the marketing of the site and a viability study. A further viability study has been provided in support of this current planning application, to further support the Inspector’s view that the site is unviable for commercial purposes.

The site has continued to deteriorate over the last 30 years, with a rise in antisocial behaviour taking place within the buildings. There have been previous attempts to redevelop the site, which have been unsuccessful. This scheme, which has evolved through detailed negotiation with Officers, would result in a high-quality contemporary design approach, which seeks to reflect elements of the industrial form of the current building. The owners of the site acknowledge the Committee’s comments, however, are committed to this scheme and layout and would like the Committee to make their decision based on the scheme before them.

The Committee was made aware that the landowner had been made of an offer of £100,000 by the Bosham Conservation Group for the purchase of the site, details of which are on the Planning Portal. It is our view that the offer is below the current value of the land.

It is hoped the opportunity to visit the site will assist the Committee in its determination of this application.

Original comments

The site is located outside but immediately adjacent to the settlement policy boundary and conservation area of Bosham. It is located amongst existing residential properties and the whole area is within the harbour AONB.

It is a previously developed site with a prominent harbourside frontage. It is occupied by over 2000m² of dilapidated B2 industrial buildings and up until around 1990 they were used for boat building and maintenance. The last use for car repairs ceased in 1993.

To safeguard existing sites and their contribution to the local economy, Local Plan policy requires marketing and viability evidence to demonstrate that an employment site is no longer required or suitable for continued employment use.

Since its last use 29 years ago, it hasn't provided any employment whatsoever. An appeal inspector in 2014 said for viability reasons, there was no justification to retain the site for potential future marine related uses even for open boat storage. It isn't an existing employment site, isn't designated as an industrial/employment site in the Local Plan or the Bosham Neighbourhood Plan. It isn't listed as an employment site in the 2013 Employment Land Review Update.

Any resumption of the former activities would likely be regarded as a non-conforming use in a residential area in any event. And in 2015, Bosham parish council recognised the site was suitable for housing and included it as a preferred housing allocation in its own Submission draft Neighbourhood Plan.

As a result of illegal trespass and despite security fencing it has now become a focus for antisocial behaviour. The dilapidated buildings are a prominent eyesore detrimental to the visual amenity of the AONB landscape. The site is crying out for a new use that would be compatible with its neighbours.

The 3 proposed dwellings would be compatible and improve the visual appearance of the AONB. Compared to the floor area of the existing buildings the dwellings would have a footprint reduction of 66%.

To mitigate flood risk, the finished floor levels of the dwellings have been raised and will be of the order of 0.7m-2.97m higher than the nearest residential dwellings. No objections are raised by the Environment Agency or the Council's own flood and drainage officer.

The conservation and design officer comments the proposal does introduce higher and more prominent structures close to the edge of the Conservation Area. However, set against the existing derelict buildings on the site which cause harm to the setting of the conservation area and the good quality design of the proposed dwellings, it is considered to have a neutral impact and avoids harm to the setting of the Bosham Conservation Area. Support for the proposal amongst local residents outweighs objections by a factor of around 2 to 1

6.15 Third party objection comments

Eighty-four third party representations of objection have been received, during the subsequent consultation period concerning the following matters:

- The application has misapplied the sequential test
- The existing buildings should be demolished
- There is no reason why the site cannot be used for small boating at minimal cost
- The design of the buildings
- It would be a mistake to approve the development
- The site should be re-purposed for community uses
- There are few examples of antisocial behaviours
- Policy 196 of the NPPF is relevant
- Interest in the site for community uses

- Marine uses are entirely viable
- It's outside of the settlement boundary
- Loss of views
- Harm to the AONB
- The dwellings are incongruous
- Deliberate deterioration of the site
- There is no need for these houses
- The quality of the footpaths would be damaged
- A section 215 order could secure the removal of the buildings
- There will be several hundred lorries required
- High water levels
- The lack of community benefit
- Loss of local employment
- Visual impact
- Prominent form of development
- Light pollution
- Overdevelopment
- The executive style houses will be expensive
- Does not provide affordable housing
- Burnes shipyard should be kept as a community asset
- The site should be taken into public ownership and returned to a public use
- Parking concerns on Windward Road

Four representations of support have been received, during the subsequent consultation period concerning the following matters:

- The use of the site for boat storage would be unviable, despite likely demand
- for such a use
- The slipway is private, not available for public use currently
- There has been no attempt to start a marine business for 20 plus years – which speaks for itself
- If there were to be serious tidal flooding, the whole of Bosham would be affected, not just Burnes
- The site is an eyesore

Nine third party representations of objection have been received concerning the following matters:

- Concerns with the scale of the properties
- The view from the harbour would be adversely impacted
- Retention of PRow
- It should be turned into a living museum
- Opportunity to give back to the community
- Shame to see the loss of the shipyard
- Noncompliance with marketing requirements
- Concerns with the conclusion of the viability report
- Flood risk
- Setting a precedent
- A clear up order should be issued to clear the site

- The existing buildings are reparable
- Road access for the site is no more difficult than other marinas within the district
- The findings of the previous appeal are relevant
- Concerns with the quality of the design
- Impact upon the conservation area
- The redevelopment of the site should allow for poor development
- Parking issues along Windward Road

Twenty-three third party representations of support have been received concerning the following matters:

- Support subject to retaining PRow
- Sensible proposal to redevelop the site
- Clear that commercial uses have not materialised, residential is the only option with this scheme being suitable
- The applicants have engaged with the community, addressing their concerns
- There is no prospect of a marine industry, after so many years of abandonment
- Long overdue for redevelopment
- The site has been an eyesore long enough
- The number of houses will result in modest traffic generation and have limited impact
- Issues of antisocial behaviour on the site, residential would resolve this
- The changing nature of the shipbuilding industry, including the use of fibreglass resulted in the closure of smaller shipyards. The loss of which hasn't reduced the number of boats on the water.
- The size and scale of the buildings are in keeping
- Quality materials
- Appropriate flood defences
- How long can the council allow the shipyard to continue to decay
- The surrounding area is now residential, where additional dwellings would be appropriate
- The residential use as opposed to a commercial use will result in better amenity for neighbouring properties
- The scheme is a suitable compromise, well designed and a vast improvement upon the current arrangements
- The reduced profile of the amended plans is even more appropriate
- Will provide much needed flood defences

7.0 Planning Policy

The Development Plan

- 7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029, the CDC Site Allocation Development Plan Document and all made neighbourhood plans. The Bosham Neighbourhood Plan was made on the 19 July 2016.

7.2 The principal planning policies relevant to the consideration of this application are as follows:

Chichester Local Plan: Key Policies 2014-2029

- Policy 1: Presumption in Favour of Sustainable Development
- Policy 2: Development Strategy and Settlement Hierarchy
- Policy 4: Housing Provision
- Policy 5: Parish Housing Sites 2012- 2029
- Policy 6: Neighbourhood Development Plans
- Policy 8: Transport and Accessibility
- Policy 26 Existing Employment Sites
- Policy 33: New Residential Development
- Policy 39: Transport, Accessibility and Parking
- Policy 40: Sustainable Design and Construction
- Policy 42: Flood Risk and Water Management
- Policy 43 Chichester Harbour Area of Outstanding Natural Beauty (AONB)
- Policy 44 Development around the Coast
- Policy 45 Development in the Countryside
- Policy 47: Heritage
- Policy 48 Natural Environment
- Policy 49: Biodiversity
- Policy 50: Development and Disturbance of Birds in Chichester and Langstone Harbours Special Protection Areas

Bosham Neighbourhood Plan

The following policies are considered to be of relevance:

- Policy 2 - Archaeological Sites
- Policy 3 - Habitat Sites
- Policy 4 - Landscape Character and Important Views
- Policy 5 - Light Pollution
- Policy 6 - Biodiversity
- Policy 7 - Integration & Sense of Community
- Policy 10 - Footpaths & Cycle Paths
- Policy 12 - Housing Development
- Policy 13 - Settlement Boundary
- Policy 14 - Windfall Sites
- Policy 16 - Housing Density & Design
- Policy 17 - Housing Need
- Policy 18 - Flood Risk Assessment
- Policy 19 - SUDS Design & Management
- Policy 20 - Surface Water Run-off
- Policy 21 - Wastewater Disposal
- Policy 23 - Retention of Businesses
- Policy 24 - Broadband and Telecommunications

Chichester Local Plan Review Preferred Approach 2016 – 2035

~~7.3 Work on the review of the adopted Local Plan to consider the development needs of the Chichester Plan Area through to 2035 is progressing. Consultation on a Preferred Approach Local Plan has taken place and following detailed consideration of all responses to the consultation, it is intended that the Council will publish a Submission Local Plan under Regulation 19 in late 2022 spring 2023. Following consultation, the draft Local Plan will be submitted to the Secretary of State for independent examination. In accordance with the Local Development Scheme, it is anticipated that the new Plan will be adopted by the Council in 2023. However, at this stage, it is considered that limited weight can be attached to the policies contained within the Local Plan Review.~~

~~7.4 Relevant policies from the published Local Plan Review 2035 Preferred Approach are:~~

~~Part 1 – Strategic Policies~~

- ~~● S1 Presumption in Favour of Sustainable Development~~
- ~~● S2 Settlement Hierarchy~~
- ~~● S3 Development Hierarchy~~
- ~~● S4 Meeting Housing Needs~~
- ~~● S5 Parish Housing Requirements~~
- ~~● S6 Affordable Housing~~
- ~~● S12 Infrastructure Provision~~
- ~~● S20 Design~~
- ~~● S23 Transport and Accessibility~~
- ~~● S27 Flood Risk Management~~
- ~~● S31 Wastewater Management and Water Quality~~

~~Part 2 – Development Management Policies~~

- ~~● DM3 Housing Density~~
- ~~● DM8 Transport, Accessibility and Parking~~
- ~~● DM16 Sustainable Design and Construction~~
- ~~● DM18 Flood Risk and Water Management~~
- ~~● DM28 Natural Environment~~
- ~~● DM29 Biodiversity~~
- ~~● DM30 Development and Disturbance of Birds in Chichester, Langstone and Pagham Harbours Special Protection Areas~~
- ~~● DM31 Trees, Hedgerows and Woodlands~~

Chichester Local Plan 2021 - 2039: Proposed Submission (Regulation 19)

7.3 Work on the review of the adopted Local Plan to consider the development needs of the Chichester Plan Area through to 2039 is now well-advanced. Consultation on a Preferred Approach Local Plan has taken place. Following detailed consideration of all responses to the consultation, the Council has published a Submission Local Plan under Regulation 19, which was approved by Cabinet and Full Council for consultation in January 2023. A period of consultation took place from 3rd February to 17th March 2023, and the Submission Local Plan is expected to be submitted to the Secretary of State for

independent examination in late Summer/early Autumn 2023. In accordance with the Local Development Scheme, it is anticipated that the new Plan will be adopted by the Council in 2024. At this stage, the Local Plan Review is an important material consideration in the determination of planning applications, the weight that can be attached to the policies contained therein is dependent on the significance of unresolved objection attributed to any relevant policy, commensurate with government policy at paragraph 48 of the NPPF (2021).

7.4 Relevant policies from the published Chichester Local Plan 2021 - 2039: Proposed Submission (Regulation 19) are:

- Policy S1 Spatial Development Strategy
- Policy S2 Settlement Hierarchy
- Policy NE2 Natural Landscape
- Policy NE5 Biodiversity and Biodiversity Net Gain
- Policy NE6 Chichester's Internationally and Nationally Designated Habitats
- Policy NE7 Development and Disturbance of Birds in Chichester and Langstone Harbours, Pagham Harbour, Solent and Dorset Coast Special Protection Areas and Medmerry Compensatory Habitat
- Policy NE8 Trees, Hedgerows and Woodlands
- Policy NE10 Development in the Countryside
- Policy NE11 The Coast
- Policy NE12 Development around the Coast
- Policy NE13 Chichester Harbour Area of Outstanding Natural Beauty
- Policy NE15 Flood Risk and Water Management
- Policy NE16 Water Management and Water Quality
- Policy NE19 Nutrient Neutrality
- Policy NE20 Pollution
- Policy NE21 Lighting
- Policy NE22 Air Quality
- Policy NE23 Noise
- Policy NE24 Contaminated Land
- Policy H1 Meeting Housing Needs
- Policy H3 Non-Strategic Parish Housing Requirements 2021 - 2039
- Policy H5 Housing Mix
- Policy P1 Design Principles
- Policy P2 Local Character and Distinctiveness
- Policy P3 Density.
- Policy P4 Layout and Access
- Policy P5 Spaces and Landscaping
- Policy P6 Amenity
- Policy P8 Materials and Detailing
- Policy P9 The Historic Environment
- Policy P11 Conservation Areas
- Policy P14 Green Infrastructure
- Policy P16 Health and Well-being
- Policy E1 Meeting Employment Land Needs
- Policy T1: Transport Infrastructure

- Policy T2 Transport and Development
- Policy T3 Active Travel - Walking and Cycling Provision
- Policy T4 Parking Provision

National Policy and Guidance 2021

7.5 Government planning policy now comprises the revised National Planning Policy Framework (NPPF 2021), published 21st July 2021 which, *inter alia*, states:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

7.6 In addition, consideration should also be given to Sections 1 (Introduction) 2 (Achieving sustainable development), 5 (Delivering a sufficient supply of homes), 12 (Achieving well-designed places), 14 (meeting the challenge of climate change, flooding, and coastal change), 15 (Conserving and enhancing the natural environment) and 16 (Conserving and enhancing the historic environment). In addition, the relevant paragraphs of the National Planning Practice Guidance have also been taken into account.

Other Local Policy and Guidance

7.7 The following documents are material to the determination of this planning application:

- Planning Obligations and Affordable Housing SPD
- Surface Water and Foul Drainage SPD
- Chichester Harbour Area of Outstanding Natural Beauty - Joint Supplementary Planning Document
- CHC Chichester Harbour AONB Management Plan (2014-2029) including Planning Principles
- CDC Waste Storage and Collection Guidance

Interim Position Statement for Housing Development

7.8 In accordance with national planning policy, the Council is required to regularly prepare an assessment of its supply of housing land. ~~The Council's most recent assessment of its housing supply has identified that as of 24 November 2021 there is a potential housing supply of 3,536 net dwellings over the period 2021-2026. This compares with an identified housing requirement of 3,329 net dwellings. This results in a surplus of 208 net dwellings which is equivalent to 5.3 years of housing supply.~~ On Monday 6 December 2022 the Council published its most recent assessment of five-year housing land supply for the Chichester Local Plan area, which provides the updated position as of 1 April 2022. The published assessment identifies a potential housing supply of 3,174 net dwellings over the period 2022-2027. This compares with an identified housing requirement of 3,350 net

dwellings. This results in a shortfall of 176 net dwellings, equivalent to 4.74 years of housing supply.

7.9 Notwithstanding the above, to pro-actively manage the situation prior to the adoption of the Local Plan Review, the Council has brought forward an Interim Position Statement for Housing Development (IPS), which sets out measures to help increase the supply of housing by encouraging appropriate housing schemes. At its meeting on 3 June 2020, the Planning Committee resolved to approve the draft IPS for the assessment of relevant planning applications with immediate effect, and to publish the draft document for a period of consultation. The consultation closed on 10 July and the responses were processed. The IPS, with the proposed revisions, was reported back to the 4 November 2020 Planning Committee, where it was approved with immediate effect. New housing proposals considered under the IPS, such as this application, will therefore need to be assessed against the 13 criteria set out in the IPS document. The IPS is a development management tool to assist the Council in delivering appropriate new housing. It is not a document that is formally adopted and neither does it have the status of a supplementary planning document, but it is a material consideration. It is a document that the decision maker shall have regard to in the context of why it was introduced and in the context what the alternatives might be if it wasn't available for use. New housing proposals which score well against the IPS criteria where relevant are likely to be supported by officers.

7.10 ~~At the time of writing, the Council can demonstrate a 5.3-year supply of housing and the new position statement which was November 2021 has been published. As a result of this, the Council are of the view that there is no longer a need to apply the tilted balance (Paragraph 11 of the NPPF) cannot demonstrate a five-year supply of housing, meaning the tilted balance (Paragraph 11 of the NPPF) is engaged. The presumption in favour of permitting sustainable development therefore falls in favour of granting planning permission, unless *'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole'*. However, as per the requirements of Paragraph 74 of the NPPF, the Council are required to monitor and update its supply of housing annually. As a result of this. The Council has not withdrawn the IPS, and considered it appropriate to continue to assess development, outside of settlement boundaries against the criteria of the IPS. This approach shall ensure the Council can maintain the supply of housing, by continuing to approve appropriate housing development.~~

7.11 The aims and objectives of the Chichester in Partnership Community Strategy 2016-2029 which are relevant and material to the determination of this planning application are:

- Support communities to meet their own housing needs
- Support and promote initiatives that encourage alternative forms of transport and encourage the use of online services
- Promote and increase sustainable, environmentally friendly initiatives in the district
- Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area

8.0 Planning Comments

8.1 The main issues arising from this proposal are:

- i. Principle of development

- ii. Design and impact upon character of the Bosham Conservation Area and Chichester Harbour AONB
- iii. Impact upon amenity of neighbouring properties
- iv. Impact upon highway safety and parking
- v. Infrastructure
- vi. Environmental Protection
- vii. Sustainability
- viii. Ecological considerations
- ix. Impact upon trees
- x. Flood Risk and Surface Water Drainage
- xi. Nutrient Neutrality
- xii. Recreational Disturbance

Assessment

i. Principle of development

- 8.2 The application site is previously developed land but located outside of any Settlement Boundary, which is defined as the 'Rest of the Plan Area' within the Chichester Local Plan (CLP). Policies 2 and 45 of the CLP state that development outside of settlement boundaries must require a countryside location and meet an essential, small scale, local need which cannot be met within or immediately adjacent to an existing settlement. These policies are compatible with Paragraphs 78-80 of the revised Framework, which state that housing should be located where it will enhance or maintain the vitality of rural communities but generally avoid the development of isolated homes in the countryside. In addition, Policy 1(B) of the Bosham Parish Neighbourhood Plan (BPNP) states new development will not be permitted outside of the settlement boundary unless it accords with other policies in the plan or it is sustainable development that significantly contributes to strategic aims, complies with other policy requirements but is a development that could reasonably be located within the settlement boundary.
- 8.3 The Council's most recent assessment of its Five-Year Housing Land Supply was published on 5th December 2022 and identifies 4.74 years of housing supply. As such the Council's housing policies are deemed out of date and the provisions in Paragraph 11(d) of the NPPF (known as the 'tilted balance'; i.e., where there can be a presumption in favour of granting permission for sustainable development where there are out-of-date housing policies) are engaged. It does not necessarily follow that the absence of a 5-year housing supply means the application should be allowed on that basis alone; however, for the application to be refused, the Council would have to demonstrate that the adverse impacts would significantly and demonstrably outweigh the benefits.
- 8.4 In the absence of a five-year housing land supply ~~In order to maintain a supply of housing~~ and to continue to approve appropriate housing development, it is considered appropriate to assess this application against the Interim Position Statement for Housing Development (IPS), and the 13 criteria set out within this document. When assessing the proposal against the 13 criteria within the IPS, which define what the Council considers good quality development in the Local Plan area, the Council has not identified any adverse impacts. It is relevant to consider the criteria of the IPS criteria in turn:

8.5 1) The site boundary in whole or in part is contiguous with an identified settlement boundary

The eastern boundary of the site lies adjacent to the Bosham Settlement Boundary.

8.6 2) The scale of development proposed is appropriate having regard to the settlement's location in the settlement hierarchy

Bosham is a sustainably located settlement defined as a Service Village in the Local Plan (Policy 2), where the provision of three additional houses would be considered appropriate.

8.7 3) The impact of development on the edge of settlements, or in areas identified as the locations for potential landscape gaps, individually or cumulatively does not result in the actual or perceived coalescence of settlements, as demonstrated through the submission of proportional evidence.

The application site comprises previously developed land and is currently occupied by a variety of commercial buildings. The replacement of these buildings would not result in actual or perceived coalescence of settlements.

8.8 4) Development proposals make best and most efficient use of the land, whilst respecting the character and appearance of the settlement. The Council will encourage planned higher densities in sustainable locations where appropriate (for example, in Chichester City and the Settlement Hubs). Arbitrarily low density or piecemeal development such as the artificial sub-division of larger land parcels will not be encouraged.

It is considered that the development complies with this criterion, with an appropriate density achieved whilst having regard to the character of the surround area.

8.9 5) Proposals should demonstrate that development would not have an adverse impact on the surrounding townscape and landscape character, including the South Downs National Park and the Chichester Harbour AONB and their settings. Development should be designed to protect long-distance views and intervisibility between the South Downs National Park and the Chichester Harbour AONB.

It is considered that the development complies with this criterion, with the size, scale and detailed design of the dwellings considered appropriate in the context of the site. In addition, the proposal seeks the replacement of larger commercial buildings, which are in a poor state of repair with this scheme taking the opportunity to improve the visual amenity of the site. The sites waterfront location within the AONB is a key consideration, which is addressed in more detail within the relevant section below.

8.10 6) Development proposals in or adjacent to areas identified as potential Strategic Wildlife Corridors as identified in the Strategic Wildlife Corridors Background Paper should demonstrate that they will not affect the potential or value of the wildlife corridor.

The site does not lie in or within close proximity to a potential Strategic Wildlife Corridors, thus this criterion is not applicable to this application.

- 8.11 **7) Development proposals should set out how necessary infrastructure will be secured, including, for example: wastewater conveyance and treatment, affordable housing, open space, and highways improvements.**

It is considered the proposal would meet the above criterion, with the wastewater disposal to be provided through a connection to the existing main sewer network. The scheme is not of a scale where an affordable housing contribution, or provision of open space or any highways works are required; however, it shall be CIL liable. The development would be required to contribute towards the A27 infrastructure improvements, as detailed below.

- 8.12 **8) Development proposals shall not compromise on environmental quality and should demonstrate high standards of construction in accordance with the Council's declaration of a Climate Change Emergency. Applicants will be required to submit necessary detailed information within a Sustainability Statement or chapter within the Design and Access Statement to include, but not be limited to: - Achieving the higher building regulations water consumption standard of a maximum of 110 litres per person per day including external water use; - Minimising energy consumption to achieve at least a 19% improvement in the Dwelling Emission Rate (DER) over the Target Emission Rate (TER) calculated according to Part L of the Building Regulations 2013. This should be achieved through improvements to the fabric of the dwelling; - Maximising energy supplied from renewable resources to ensure that at least 10% of the predicted residual energy requirements of the development, after the improvements to the fabric explained above, is met through the incorporation of renewable energy; and - Incorporates electric vehicle charging infrastructure in accordance with West Sussex County Council's Car Parking Standards Guidance.**

The development would meet this criterion, with this matter discussed further within the sustainability section of this report.

- 8.13 **9) Development proposals shall be of high-quality design that respects and enhances the existing character of settlements and contributes to creating places of high architectural and built quality. Proposals should conserve and enhance the special interest and settings of designated and non-designated heritage assets, as demonstrated through the submission of a Design and Access Statement.**

The development is of a high standard of design and layout, with this matter discussed further within the impact upon the character of the area section of this report.

- 8.14 **10) Development should be sustainably located in accessibility terms, and include vehicular, pedestrian and cycle links to the adjoining settlement and networks and, where appropriate, provide opportunities for new and upgraded linkages.**

The site is well connected to the existing settlement, lies adjacent to a PRoW with pedestrian access onto the shore and nearby public transport. The site benefits from an established vehicle access. The proposal is therefore considered to comply with this criterion.

- 8.15 **11) Development is to be located in areas at lowest risk of flooding first, and must be located, designed and laid out to ensure that it is safe, that the risk from flooding is minimised whilst not increasing the risk of flooding elsewhere, and that residual risks are safely managed. This includes, where relevant, provision of the necessary information for the Council to undertake a sequential test, and where necessary the exception test, incorporation of flood mitigation measures into the design (including evidence of independent verification of SUDs designs and ongoing maintenance) and evidence that development would not constrain the effective function of the flood plain, either by impeding surface water/ flood flows or reducing storage capacity. All flood risk assessments and sequential and exception test processes should be informed by the most recent climate change allowances published by the Environment Agency. Built development can lead to increased surface water run-off; therefore, new development is encouraged to incorporate mitigation techniques in its design, such as permeable surfaces and surface water drainage schemes must be based on sustainable drainage principles.**

A proportion of the site lies within Flood Zones 2 and 3, where it has been necessary for the Council to undertake a sequential test, and the exception test as per the guidance set out within the NPPF. This matter is addressed fully within the flood risk section of the report, which sets out how the proposal complies with this criterion.

- 8.16 **12) Where appropriate, development proposals shall demonstrate how they achieve nitrate neutrality in accordance with Natural England's latest guidance on achieving nutrient neutrality for new housing development.**

The scheme has demonstrated nitrogen neutrality against the relevant guidance at the time the application was submitted. Consideration needs to be given to the updated guidance published on 16 March 2022 and it is for this reason that the recommendation is to delegate the application to officers.

- 8.17 **13) Development proposals are required to demonstrate that they are deliverable from the time of the submission of the planning application through the submission of a deliverability statement justifying how development will ensure quicker delivery. The Council will seek to impose time restricted conditions on planning applications to ensure early delivery of housing.**

The application seeks full planning permission, and a time restricted condition is recommended to ensure early delivery of the housing proposed. It is considered this this criterion is satisfied.

- 8.18 In considering the above, the proposal is considered to comply with the IPS, a document that has been introduced to appropriately manage housing delivery and as such, the principle of the development is considered acceptable. ~~subject to the nitrates mitigation remaining acceptable in light of the updated guidance from Natural England.~~ In addition, in respect of the BPNP, the re-development of the existing site is

a type of development that could not reasonably be located within the settlement boundary because it is a previously developed site outside of the settlement boundary.

- ~~8.19 Notwithstanding the above, the proposal would result in the loss of the employment space, which is protected under Policy 26 of the CLP. However, Policy 26 advises that planning permission will be granted for alternative uses on land or floorspace currently or previously in employment generating uses where "it has been demonstrated (in terms of the evidence requirements accompanying this policy) that the site is no longer required and is unlikely to be re-used or redeveloped for employment uses".~~
- 8.20 Notwithstanding the above, the site was previously a commercial shipyard, providing employment floorspace within the district; the loss of which is protected under Policy 26 of the Local Plan. However, as discussed during the previous committee meeting, it is possible to consider the previous use of the building and site to be abandoned, thus not necessitating the protection and marketing requirements as set out within Policy 26.
- 8.21 The abandonment of a use is not a principle embodied in planning legislation, rather it is a legal concept which has evolved through various appeal decision and high court judgements. The concept of abandonment applies in circumstances where a building or land 'remains unused for a considerable time, in such circumstances that a reasonable man might conclude that the previous use had been abandoned' (Hartley v MHLG [1970] 1QB 413). The considerations to be taken into account in deciding whether a use has been abandoned are set out in the case of Castell y Mynach Estate v Secretary of State for Wales and Taff Ely Borough Council. These are, the period of non-use, the physical condition of the building and or land, whether there had been any other use, and the owner's intentions.
- 8.22 In considering these four tests further, the site has been vacant since 1993, providing no contribution to the local economy despite its former use as a commercial shipyard. This period of non-use (30 years) is a considerable period of inactivity for the site, which the council considers to be sufficient to conclude the use of the site has been abandoned, in the circumstances as established by Hartley v MHLG [1970]. In addition, the buildings, site and slipway have all fallen well into disrepair, with the Bosham Conservation Area Appraisal noting the site to be an 'eyesore on the edge of the conservation area'. Moreover, the proposal has been accompanied by a viability report, which details how the significant costs required to bring the site back into commercial use, the limitations of the water access and the likely requirement to improve/rebuild the slipway, poor tidal access, undesirable vehicle access combined with the anticipated lower income relative to other marinas within the district, means that a redevelopment of the site for marine business use is not a viable proposition.
- 8.23 This view aligns with that of the Inspector in his decision on this site under appeal (APP/L3815/A/13/2209694) dated 18 September 2014, where the inspector advised, *'I understand the Council's aspirations for the site, but the appellant's evidence satisfactorily demonstrates that in broad terms the use of the whole site for marine related uses would not be viable'*. The inspector then stated *'the location and characteristics of the site and its access (including overhanging trees and telegraph wires which would necessitate the lowering of masts during transport); the tidal*

restrictions; the costs of demolition and decontamination (or the costs of refurbishment); and the exclusion of costs in the appellant's calculations relating to the restoration/improvement of the foreshore/slipway; all indicate to me that the Council's aspirations would not be viable, even in terms of using the whole site for open boat storage'.

8.24 There has been no subsequent use of the site since it became vacant in 1993 and attempts to redevelop the site date back to 2008/9. A further application in 2013 once again sought the redevelopment of the site, with it clear that the owners' intentions lie with an alternative use for the site, rather than returning the site back to marine uses. Whilst this may be the case, it is important to be considered that in support of the 2013 application, a marketing campaign had been undertaken, which evidenced there was no realistic interest in the site for commercial uses, which corroborate the owner's approach in redeveloping the site for housing. Similarly, viability evidence also evidenced the significant limitations which would prevent the site being realistically returned to a shipyard. Therefore, whilst the owners' intentions were clearly to redevelop the site for alternative uses, there is sufficient evidence in support of this approach, not least the lack of interest in the site for commercial use, the poor state of repair of the buildings, and the latest findings of the viability report.

8.25 Consequently, it is reasonable to conclude, when applying the four tests, that the use of the building and site has been abandoned, thus has a nil use. As such and being mindful of the engaged 'tilted balance' the proposal which seeks the redevelopment of this site for housing, can be considered acceptable, in principle given it would not result in the loss of a protected employment site, its compliance with the IPS and the small contribution towards housing needs.

~~8.26 In light of the latest findings of the submitted viability report, the previous acceptance by the Inspector of the unviability of returning the site to its former commercial use, and the fact that the site has been vacant since 1993; it is not considered reasonable apply the strict marketing tests as set out within Policy 26 (and Appendix E) of the CLP, but instead taking a more pragmatic approach on the loss of the employment space~~

~~8.27 As such, the proposal is considered to comply with the requirements of Policy 26 of the Local Plan and of the PP02 Safeguarding Marine Enterprise Chichester Harbour Management Plan (2019-2024), in so far as the need to robustly justify the loss of the clearly redundant employment space, thus the principle of the redevelopment of the site, with residential dwellings can be considered acceptable, in principle subject to the previously explored compliance with the IPS and the further materials considerations outlined below.~~

ii. Design and impact upon character of the Bosham Conservation Area and Chichester Harbour AONB

8.28 Policy 33 of the Chichester Local Plan sets out that any proposed development must meet the highest standards of design and provide a high-quality living environment in keeping with the character of the surrounding area and its setting in the landscape. This includes considering its proportion, form, massing, siting, layout, density, height, scale and neighbouring and public amenity. Policy 43 sets out planning permission

will be granted where developments conserve and enhance the natural beauty and local features of the AONB, reinforce the special qualities of the AONB, do not undermine the open, rural character, and meet the aims of the Chichester Harbour AONB Management Plan. Policy 47 sets out that development should respect the distinctive local character and sensitively contribute to creating places of high architectural and built quality. Policy 48 amongst other considerations requires proposals to respect and enhance the landscape character of the surrounding area and site. Policy 2 of the BPNP seeks to ensure new housing developments use locally common materials and be of a high standard of design, whilst Policy 5 of the BPNP reinforces the requirement to protect listed buildings and the conservation area from inappropriate development, and Policy 6 of the BPNP seeks to ensure proposals do not detract from the distinctive character and special qualities of the AONB.

- 8.29 The proposal if permitted would result in the complete redevelopment of this vacant previously developed site, resulting in the demolition of several commercial buildings, which cover much of the site area. The site would then be developed with three detached contemporary style dwellings. The resultant layout involves two dwellings positioned centrally within the site, facing west towards the shore, with parking and garaging to the rear (east) which would be accessed by a shared vehicle access onto Windward Road (south). The third dwelling would be set to the east, fronting Windward Road and aligning with the existing linear form of the neighbouring housing development. The existing roadway into the site would be extended along the southern boundary, in line with the proposed vehicle access with the existing gravel tack (PRoW) retained providing access to the shore.
- 8.30 The western part of the site would, if permission were to be granted, be raised by approximately 2m relative to the existing site level. Combined with a grassed flood bank to the western boundary of the site this will increase the finished floor level and provide a flood mitigation measure for the dwellings. The increase in height of the western proportion of the site, would be achieved through the use of stepped gabion walls, retaining the built-up ground, which would then broadly align with the higher ground level to the east of the site and Windward Road. The western properties (plots A and B) would be constructed on the raised ground, reading as contemporary two storey dwellings when viewed from the water. When viewed from the south, along the access road and footpath, more of the retaining walls, would be evident. Plot C to the east of the site would again be raised, but to a lesser extent than plots A and B and would be 0.2m higher than the neighbouring property of 8 Windward Road.
- 8.31 The detailed design of the dwellings has been revised during the application, with the amended scheme addressing officers' initial concerns with regards to the prominence and the general massing of the properties, particularly the flank view of plot B and the large scale of the dwellings. The revised scheme has resulted in an overall reduction in scale, amendments to the detailed design/material palette and the consolidation of much of the hard engineering required to access the properties and forming boundary treatments. As a result, the scheme is now considered to be more appropriate in terms of its scale, responding to the context of the site and respecting the scale of the neighbouring properties.
- 8.32 In views from the south, from within the Conservation Area, the ridge height of the proposed dwellings would broadly align with adjoining dwellings in Windward Road, Whilst the proposed dwellings are larger in scale, they would incorporate appropriate

detailing and architectural elements to add interest and reduce their overall mass and bulk. As a result of the increase in land levels plots A and B are higher than the plots C and D to the north and south of the site (Shipyards Cottage and Burneside), with the proposed dwellings appearing more prominent when viewed from the water. The additional height of plots A and B would be mitigated through the use of a shallow roof pitch, and the level of separation between the plots which would help to break up the total massing of the development when viewed from the west. As such, it is considered that these dwellings would not be unduly prominent when viewed from wider vantage points to the west and south of the site. Therefore, the proposal is not considered to be of scale which would be of detriment to the special qualities of the Chichester Harbour AONB or that character and appearance of the Bosham Conservation Area.

- 8.33 The proposed dwellings would be contemporary in their design, utilising strong gable detail at first floor level, with flat roofs to the single storey elements plus sedum roofed garages. The contemporary approach provides a clear demarcation between the surrounding housing, providing the opportunity for a high quality, contemporary development in place of the existing commercial buildings. The design approach incorporates an almost industrial feel, which references the previous context of the site.
- 8.34 The proposal would incorporate a high-quality material palette, which includes natural slate, dark zinc cladding, timber cladding, flintwork and dark brickwork, all of which provide an appropriately muted colour palette, in line with the guidance provided by the Chichester Harbour Conservancy AONB Management Plan. As expected, a contemporary approach has been applied to the dwelling's fenestration; however, the levels of glazing are not considered to be excessive, rooflights are proposed only in respect of plot A and the main areas of glazing, facing the harbour are in part recessed to reduce glare and upward light spill.
- 8.35 It is important to consider the visual impacts of the proposal in relation to the number of derelict and poor-quality buildings on this brownfield site. The current condition of the site is detrimental to both the character and quality of the Conservation Area and the Chichester Harbour AONB. The proposal would provide good quality design, to provide a high quality, comprehensive redevelopment of the site, which although more prominent from certain vantage points, represent a substantive improvement to the visual quality of the existing site. The new development if permitted would reinforce and enhance the character and quality of the AONB and the Bosham Conservation Area.
- 8.36 In response to the comments raised during the previous committee, further negotiations have taken place around the treatment of the western raised bank, landscaping and the prominence of the dwelling when viewed from the harbour.
- 8.37 The revised scheme sees the introduction of a tiered garden to the western proportion of the site, allowing for a wider grass verge adjacent to the existing hardstanding, whilst also setting the increase in height further back within the site. The resultant tiering of the garden has allowed for a more gradual increase in height, which incorporates a planted graded slope with steps between the lower and upper lawn areas. The previously proposed retaining wall continues further in front of Plot B, ending at the southern set of steps and provides a sharper angle to the southwest

corner of the site. This again sets the increase in height further back within the site, away from the footpath and allows for tree and shrub planting along this boundary. Tree planting has also been proposed between Plots A and B and planting shall be provided in front and behind the southern wall of Plot C.

- 8.38 The revised landscaping is considered to have further softened the increase in land height to the western proportion of the site, reducing the prominence of the change in land levels and the dwellings themselves. In addition, it has enabled a significant increase in planting, to both the graded bank but also to the southwest corner of the site where ten additional trees have been proposed.
- 8.39 The proposal has been accompanied by a revised (revision D) Landscape and Visual Impact Assessment (LVIA), which has been undertaken in accordance with industry recognised methodology and standards. The purpose of the LVIA is to evaluate potential effects of the proposed development on the character of the physical landscape and visual amenity to influence the design process and avoid / prevent, reduce, or mitigate adverse effects and incorporate enhancements where possible. Accordingly, consideration has been given to the potential effects from several key vantage points, including, but not limited to those from the footpath/slipway, Windward Road and longer-range vantage points such as the footpaths on Chidham Lane and Harbour Way.
- 8.40 The LVIA concludes the proposal would have a largely beneficial to neutral impact, due to the size, scale, and visual prominence of the existing building which are to be replaced. This together with the dwellings being positioned further eastwards within the site, in line with the building line of the neighbouring properties to the north, helps to reduce the prominence of the development, particularly from the western footpath/slipway. The more gradual change in land levels and terracing of the western gardens will appear less prominent, with the additional tree planting on the upper terraces providing partially filtered views of the dwellings, without fully obscuring views of the built form. The proposed use of vernacular and natural building materials, including flint / cobbles, timber and metal sheet cladding, and linear geobricks in muted and darker colours will help to integrate the proposals within the surrounding waterfront residential development. In considering the above, the LVIA concludes the magnitude of effect for viewers on the slipway/western footpath will be low adverse to nil (neither adverse nor beneficial) in the short term, becoming low beneficial in the long term.
- 8.41 In turning to the effect on the southern footpath and Windward Road, the reduction in the building massing will allow for additional filtered view through the site, increasing its visual permeability. It is however appreciated views will be focused along the access road, and the variety of boundary walls, banking, grass verges and costal planting, which will provide great visual interest. The use of materials, like those utilised within Shipyard House, will ensure the proposed flint walling will tie in with adjoining development as well as the local vernacular. The proposed linear tree planting of poplar and ornamental species on the southwestern corner of the site will reflect existing vegetation and focus views along the footpath and access road towards Shipyard House and the waterfront. In considering the above, the LVIA concludes magnitude of effect will be nil (neither adverse nor beneficial), to low beneficial, where the proposals will replace an existing derelict building, and be seen in the context of Shipyard House and properties on Windward Road. A nil to low

beneficial magnitude of effect, combined with a medium to high sensitivity would result in a neutral to minor beneficial visual effect.

- 8.42 Finally, in turning to the effects on the proposals from the eastern shore of the Chidham Peninsula, which will be like those gained from the water on the Bosham Channel. The LVIA advises *'the proposed dwellings will be visible as part of the existing linear waterfront development from Windmill Field, along Westbrook Field to Shipyard House. Interspersed with mature trees, and distinctive rows of poplar, there is a break in this waterfront development, where the field within the conservation area, separates Shipyard House from Mill Meadow, Bosham Church and listed buildings within the historic core of Bosham, seen to the south'*. The proposed buildings on Plots A and B will be visible in this line of development, visually contained by Shipyard House to the south, and set back from the water, approximately 40 metres further inland than Shipyard House. Replacing the existing shipyard buildings, the proposed properties will be seen in the context of surrounding waterfront development, and in the foreground of houses on Spindrift Mews and Windward Road. The contemporary design of the proposals, including the use of vernacular, muted and dark coloured building materials, as well as techniques to reduce reflectivity of glazing, will help to integrate the buildings into the surrounding landscape, as will a backdrop of mature trees to the north and east.
- 8.43 The LVIA concludes the proposal would not be out of character with the existing linear development lining the water to the north of Bosham. The visualisations demonstrate that the proposed dwellings will be no more prominent than surrounding buildings, and in the long term, as proposed planting matures, will be well integrated into the surrounding waterfront landscape. It is not considered they will be out of character with the existing linear development lining the water to the north of Bosham. These distant views from the Chidham peninsula will result in an initial nil (neither adverse nor beneficial) magnitude of effect, becoming low beneficial in the long term as proposed planting matures. A nil magnitude of effect, combined with a high sensitivity will result in a neutral visual effect, becoming minor beneficial in the long term.
- 8.44 The Chichester Harbour Conservancy, commissioned a rebuttal to the original LVIA, which is critical of the over-reliance placed upon the removal of the existing buildings, and whilst both the rebuttal and LVIA accept the benefits of removing the existing dilapidated structure, the rebuttal considers that too high a valuation has been given to the redevelopment / removal of dereliction than should be the case. In addition, the rebuttal considered the raised land level and resultant height of the dwellings to have a more significant impact that assessed with the LVIA, concluding there will be a more adverse impact upon the AONB. Finally, the rebuttal acknowledged the density has been reduced [relative to the appeal scheme], but it does not consider the layout to reflect the local pattern or the height of the adjoining coastal properties. It concludes the landscape policy requirements have been given insufficient weight and the scheme therefore fails to meet these policy requirements.
- 8.45 A final rebuttal has been prepared by the applicants, in response to the Chichester Harbour Conservancy's rebuttal, which acknowledges differences in opinion as to the level of sensitivity are not unusual when professionals are asked to give their opinion. It also provides further justification in their approach and outlines the additional supporting information, including photomontages which have been provided to further evidence and justify their assessment. Ultimately, the rebuttal concludes none of the

predicted visual and landscape effects that are identified as adverse are 'significant' in planning terms and the site can accommodate the proposed development because of good design practice that respects the AONB development principles.

8.46 In considering the findings of the LVIA, the rebuttal comments prepared by the Chichester Harbour Conservancy and the final rebuttal prepared by the applicants, Officers consider the proposal would be of an appropriate form of development, in respects of its layout, density and landscaping, result in a high-quality design that would integrate well into the surrounding area. It is accepted the development will of course involve a degree of change to the character and appearance of that land, but that change in or by itself is not sufficient on its own to warrant refusal particularly when that judgment is weighed against the benefit of delivering new homes and the comprehensive redevelopment achievable, which would restore the character and quality of the AONB and enhance the Bosham Conservation Area. On this basis, the development would accord with the national and local planning policy.

iii. Impact upon amenity of neighbouring properties

8.47 Paragraph 130 of the NPPF states that planning decisions should create places that offer a high standard of amenity for existing and future users. In addition, Policy 33 of the Local Plan seeks to protect the amenities of neighbouring properties in terms of their outlook, privacy, or available light.

8.48 The proposal would be sufficiently distanced, orientated and designed so as not to have an unacceptable effect on the amenities of the neighbouring properties. There would be an adequate level of separation between the neighbouring properties to the north and south of the site to ensure the proposal would not result in a detrimental impact upon the outlook, privacy, or available light of these properties. The raised nature of plots B may give rise to overlooking upon the eastern amenity space of Shipyard House, however this would be mitigated by planting at the boundary, and the timber screening to the southern terrace area. The boundary planting consists of a double stacked row of trees, with varying canopy heights which will filter views between the proposal, the adjoining track/footpath, and Shipyard House. In addition, the raised garden has been setback further within the site, providing a greater level of separation to the boundary of Shipyard Cottage. As such, the revised proposal is considered to result in a satisfactory relationship with Shipyard Cottage.

8.49 Plot C would be appropriately separated from the 8 Windward Road to the east, resulting in an acceptable neighbour relationship. The location of the detached garage for plot C has been brought forward (south) within the plot, in line with the rear elevation of 8 Windward Road, reducing any adverse impacts upon residential amenity.

8.50 The impacts associated with the construction of the development upon the amenity of neighbouring properties has arisen within third party objection comments. The Construction and Environmental Management Plan, which is a suggested condition, could satisfactorily secure details of anticipated vehicle movements, number of vehicles, timings of deliveries, etc., to help mitigate the impact of the construction upon neighbouring properties. However, it is accepted there will be a degree of disruption during the construction phase, notably the initial phase of demolition and site clearance, but this will be mitigated as far as practicable by the CEMP. The

temporary which may occur would not be a justifiable reason to refuse planning permission.

8.51 Taking the above considerations into account, the development would result in an acceptable living environment for the further occupiers of the proposed dwellings and those of the neighbouring properties and therefore the development would accord with the contents of Policy 33 of the Chichester Local Plan and Section 12 of the NPPF.

iv. Impact upon highway safety and parking

8.52 Policy 39 of the Chichester Local Plan requires developments to have safe and adequate access to the public highway and parking needs can be met within the site whilst Policy 9 of the BPNP seeks to minimise any increases in vehicular traffic.

8.53 The proposal has been reviewed in consultation with WSCC Highways, who have raised no objection to the proposed development, noting 'the addition of three dwellings is not anticipated to result in a material intensification of use of the junction over the potential for the existing B2 use of the site'. In addition, the proposal provides adequate vehicle parking, and is located within a sustainable location adjacent to the existing settlement boundary and sustainable transport options. As suggested, the provision of cycle storage and electric vehicle charging points would be secured via condition to further encourage sustainable modes of transport. It is considered that the provision of 3 dwellings on the site would not likely increase traffic movements compared to the potential re-use of the site for commercial purposes, and therefore the proposal would comply with the BPNP's policy to minimise increases in vehicular traffic.

8.54 The applicants have provided further information concerning the anticipated volume of material, which would be required to raise the site. This has again been reviewed by WSCC Highways, who have raised no objection. The anticipated volume of materials is 2480 m³ as shown on the volume of land drawing. However, 2000 m³ of this will comprise existing materials arising from the demolition of the existing buildings, excluding any contaminated materials (e.g., asbestos or steel). The additional 480 m³ of material will be brought to site in 15 m³ lorry loads, which equates to around 32 lorry loads of material brought to site plus the removal of the excavated contaminated material. The latter would be required, irrespective of the raising of the site. It is therefore estimated that around 40 total two-way movements (40 in and 40 out) would be required for the imported material and removal of contaminants.

8.55 The anticipated number of vehicle movements, associated with the importing and removal of materials is not considered to be unreasonable for the size of development. They are also likely to be contained to the earlier part of the construction process, helping to minimise potential disturbance. The frequency, timings and routing/manoeuvring of these movements can be adequately secured via the Construction Environmental Management Plan (CEMP) condition, which routinely agrees such details ahead of the commencement of construction.

8.56 In light of the above, the proposal is considered to result in an acceptable impact upon the highways network, make acceptable provisions for vehicle parking/ turning and provides measures to support alternative and sustainable forms of transport. In

addition, the anticipated vehicle movements associated with the importing and removal of materials is not considered to be unreasonable, and subject to securing full details via the CEMP condition, the proposal is considered to comply with Policies 39 of the Local Plan and 9 of the Birdham Neighbourhood Plan.

v. Infrastructure

8.57 On 24th January 2023, the Council agreed the Pre-Submission Local Plan for Regulation 19 consultation, beginning 3 February 2023. Therefore, at the time of writing (Regulation 19) the Plan is at an advanced stage of preparation and its weight as a material consideration in the determination of planning applications has increased. The Chichester Local Plan Review (LPR) will require all new housing in the southern part of the Plan Area to contribute to a scheme of infrastructure improvements to the strategic road network (A27).

8.58 The LPR sets out a strategy to provide long term mitigation of these impacts, up to 2039, which requires all new housing development (where there is a net increase) to contribute towards identified improvements. In the absence of any such contribution the proposals would lead to an unsustainable increase in impacts upon these networks and would undermine the ability of the emerging LPR to deliver an appropriate mitigation strategy to see further growth of up to 3,600 dwellings beyond existing commitments. The applicant has confirmed their acceptance to the necessary financial contribution, which will be secured via a S106 agreement, together with the recreational disturbance fee (below). Therefore, subject to securing the S106 agreement, the proposal would comply with Policy 9 of the Chichester Local Plan 2014-2029, Policies I1, T1 and T2 of the emerging Chichester Local Plan Review 2021-2039: Proposed Submission and Paragraphs 8, 104, 105 and 110 of the National Planning Policy Framework.

vi. Environmental Protection

8.59 The proposal has been reviewed in consultation with the Environment Agency and the Council Environmental Protection Officer, who have considered the potential impacts principally in respects of contaminated land, but also in the respects of noise, lighting, and impacts arising during construction. The findings of the contaminated land report, which has identified the need for further surveys, are acceptable, with both consultees suggesting condition to ensure the further survey work is carried out, with mitigation identified and agreed by the LPA prior to the commencement of works on site.

8.60 A lighting proposal has been provided, which is acceptable and proportionate to the scale of the development and therefore a condition is recommended to ensure the lighting is undertaken in accordance with the submitted details. In terms of air quality, conditions shall be used to secure the EV charging and cycle storage, as detailed within the previous section, which shall contribute towards sustainable modes of transport. The pedestrian link to the south of the site, will allow connectivity of the development on foot or by cycle, allowing sustainable transport to be maximised.

8.61 In light of the above, the proposal is considered to result in an acceptable environmental impact, subject to future compliance with the recommended conditions.

vii. Sustainability

- 8.62 The proposal has been accompanied by a sustainability construction plan, which details the applicant's intention to adopt a sustainable approach, to reduce the proposals environmental impact. It advises that each dwelling would benefit from high levels of insulation, exceeding building control regulations and achieving high performing u-values. In addition, each property would incorporate a mechanical ventilation with heat recovery (MVRH) which would reduce the reliance upon fossil fuels.
- 8.63 The development would also comply with the water consumption targets, as set out within the building regulations. The provision vehicle charging points will also be secured via planning condition, further contributing to the sustainability of the development.
- 8.64 Therefore, subject to compliance with these measures, and the planning conditions, the proposal is considered to result in an enhanced sustainable form of development, thus complying with policy 40 of the local plan.

viii. Ecological considerations

- 8.65 Policy 49 of the Chichester Local Plan requires the biodiversity of the site to be safeguarded and enhanced whilst the NPPF makes it clear in paragraph 174 that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on, and providing for net gains, for biodiversity. In addition, Policy 7 of the BPNP requires the biodiversity value of a site to be protected.
- 8.66 The council's ecology officer has reviewed the ecology surveys and subsequent letter from the ecologist and is satisfied with their findings, recommendations, and suggested mitigation/enhancements, which can be adequately secured through the suggested conditions. In addition to this, the Council's Ecology Officer has also suggested further enhancements, which can be adequately incorporated secured via condition.
- 8.67 In light of the above, and subject to compliance with the recommended conditions the proposal shall adequately safeguard and enhance the biodiversity of the site in accordance with national and local planning policies.

ix. Impact upon trees

- 8.68 The northern boundary of the site comprises a row of mixed quality trees, protected by a tree protection order (TPO) reference 08/00168/TPO. The proposals have the potential to impact some of these protected trees, as their root protection areas (RPAs) extend into the development site, beneath plot A and the northern part of the parking area.
- 8.69 The proposal has been accompanied by an Arboricultural Impact Assessment and Method Statement, which details the potential impacts upon the trees, along with the mitigation measures proposed. It also confirmed that the proposal does not seek the removal of any of the protected trees, and improvements to include the removal of

much of the existing concrete ground covering can result in improvements to the overall health of the trees. The report identifies the required mitigation measures, including the use of tree protection fencing, ground mitigation and the identification of 'no dig' zones within the RPAs. The construction of the foundation for the dwellings shall employ 'pile and beam' construction, which is far less invasive than traditional strip foundation, minimising the impact upon any tree routes encountered. The laying of new permeable hardstanding, including the internal parking area shall utilise a cellular membrane within the RPAs to avoid any root compaction. Finally, the report details an appropriate method of demolition, manual excavation within the 'identified hand dig zones' and identifying any site storage shall take place outside of the RPAs and away from the protected trees.

8.70 In light of the above, and subject to compliance with the Arboricultural Impact Assessment and Method Statement and tree protection plan, which is included within a recommended condition, the proposal would adequately safeguard the health of the protected trees, with the removal of the existing concrete ground covering, likely to result in an improvement to the health of the trees. As such, the proposal is acceptable in this regard.

x. Flood Risk and Surface Water Drainage

8.71 The site, including the proposed siting of plots A and B are located within flood zones 2 and 3 and is at risk from tidal flooding. The site lies within an area where ground water levels are between 0.5 and 5m below the ground surface, with the site being at a low risk from ground water flooding. The proposal has been accompanied by a flood risk assessment (FRA) which details the necessary mitigation measures, which are to be incorporated into the development to ensure the proposed dwellings and further occupants are adequately protected from flooding. The findings of the FRA have been reviewed in consultation with the Environment Agency (EA) and the Councils Costal and Drainage Engineer, both of which have confirmed they raise no objection to the proposal subject to compliance with the submitted flood risk assessment, which can be adequately secured via planning condition. Policy 42 of the Chichester Local Plan and Policy 8 of the BPNP requires new development in areas at risk of flooding to meet the sequential and exception tests in the NPPF, not increase risk of flooding elsewhere, be subject to a flood risk assessment, incorporate measures to ensure the buildings would be resilient, ensure appropriate flood warning and evacuation plans are in place, have suitable on-site drainage.

8.72 In accordance with the National Planning Policy Framework (NPPF), the proposed development is appropriate provided that the site meets the requirements of both the sequential and exception test. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source (Paragraph 162 of the NPPF) and a sequential test seeks to identify sequentially preferable alternative sites for the proposed development, within a geographical area defined by local circumstances relating to the catchment area for the type of development proposed. Paragraph 027 of the NPPG states that a pragmatic approach on the availability of alternatives should be taken. A sequential test has been submitted with this application, which following discussion with the LPA has reduced the search area to the parish of Bosham and specifically the Burnes Shipyard site. This approach has been taken, as there is a clear need to redevelop the Burnes Shipyard site, as a

brownfield site on the edge of the Bosham Conservation Area; with this only achievable by developing within the site. It is considered that this is a pragmatic approach in line with the guidance within the NPPG. As such, there are no sequentially preferable site which would achieve the redevelopment of the Burnes Shipyard site, that are at a lower risk of flooding and therefore the proposal is considered to comply with the sequential test.

- 8.73 Once the sequential test has been passed, it is necessary to apply the exception test (Paragraph 164 of the NPPF) which advises, for the exception test to be passed it should be demonstrated that, a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. A proposal should satisfy both elements of the exception test to be considered appropriate (Paragraph 165).
- 8.74 In considering the criteria set out within Paragraph 164, the proposal would result in the redevelopment of a redundant shipyard, which has been out of use since 1993 and makes no contribution to the wider community. In addition, the buildings and site are in a poor state of repair, resulting in a detrimental impact upon the setting of the Bosham Conservation Area and represent a poor building within the Chichester Harbour AONB. In addition, anti-social behaviour has been raised as a concern. The proposal would result in the comprehensive redevelopment of the site, of high architectural quality and would result in a significant improvement relative to the current site. As such, the proposal can be considered to meet criterion a) of the exception test. The Council's Drainage Engineer is satisfied the proposal would not increase flood risk overall, with the detailed design of the dwellings, incorporating flood mitigation measures, as set out within the FRA ensuring they are safe for the lifetime of the development. As such, the proposal is considered to meet criterion b), thus is considered to represent an acceptable form of development when considering the advice within Paragraphs 159-165 of the NPPF and Paragraph 027 and 031 of the NPPG.
- 8.75 Finally, the NPPG advises in Paragraph 029 that 'ultimately the local planning authority needs to be satisfied in all cases that the proposed development would be safe throughout its lifetime and not lead to increased flood risk elsewhere'. In considering the findings and mitigations within the FRA, which has been reviewed and considered acceptable (subject to conditions), by both the Environment Agency and the Council's Drainage Engineer, the Local Planning Authority can be satisfied the proposal would be safe throughout its lifetime and not lead to increased flood risk elsewhere.
- 8.76 The proposed drainage strategy is to drain all surface water using an existing outfall into a tidal waterbody (Chichester Harbour). This approach is acceptable in principle and should adequately drain the development, subject to securing full details of the proposed scheme. The council's drainage officer has suggested full details of the proposed surface water drainage scheme be secured via condition. Therefore, subject to compliance with this drainage strategy, secured via condition the proposal is acceptable in respects of surface water drainage/flooding.

xi. Nutrient Neutrality

- 8.77 The proposal comprises new residential development, which is to be connected to the main sewer network, where it is accepted that the treated effluent from the development will eventually discharge into a European or internationally designated protected site, with the potential for harm to be caused to those sites by the overall increase in nitrate levels. It is Natural England's view that the cumulative increase in nitrate levels from development is likely to have a significant effect on such designated sites. This is therefore directly connected to the increase in wastewater from the development.
- 8.78 In such instances, the implications from the proposed development (that is the nutrient content of the discharge) together with the application of measures to avoid or reduce the likely harmful effects from the discharge, are required to be tested by the by the Local Planning Authority (LPA) via an 'appropriate assessment' to assess the impact on the designated sites in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended).
- 8.79 To assist the LPA with its appropriate assessment, the application has been accompanied by a Nutrient Neutrality Management Plan which details the additional nitrogen resulting from the proposed development (2.4 kg 6.05kg of Nitrogen per year) and the proposed offsite mitigation.
- 8.80 The mitigation proposes the removal of 0.09ha 0.228ha of agricultural land, which forms a small proportion of a larger parcel of land, north of Droke Lane, East Dean, Chichester. This land would be subject to woodland creation, through the planting of broadleaf trees at a density equivalent to 100 per hectare. This proposal has been tested via an appropriate assessment, in consultation with Natural England, who have raised no objection to the application, subject to securing the proposed mitigation.
- 8.81 ~~However, since the assessment was undertaken new guidance has been published by Natural England, and this requires further consideration. It is for this reason that the recommendation is to delegate the decision to officers to allow this matter to be considered further. An updated mitigation proposal has been provided, which calculates the level of nitrogen resulting from the proposed development to be 6.05kg per year, with the mitigation proposing the removal of 0.228ha of land at East Dean. An updated appropriate assessment has been undertaken, in consultation with Natural England, who have raised no objection to the application, subject to securing the proposed mitigation. The mitigation, following the completion of the overarching legal agreement for the nitrogen mitigation at Droke Farm, can be secured via the suggested planning condition. Therefore, subject to future compliance with the suggested condition, mitigation the proposal would not impact upon the European designated sites because of nitrates, and therefore the proposal would comply with policy 49 of the CLP and section 15 of the NPPF. The exact location of the proposed mitigation land, within the wider parcel would be secured within the S106 agreement, forming a legally binding agreement between the landowners and applicants, and securing this mitigation land in perpetuity.~~

xii. Recreational Disturbance

8.82 The site is located within the 5.6km buffer zone of the Chichester and Langstone Harbours Special Protection Area where a net increase in dwellings would likely cause harm to the special qualities of the European designated site because of recreational disturbance. In accordance with Policy 50 of the Local Plan a financial contribution towards the Bird Aware Solent scheme is required to mitigate recreational disturbance because of the proposal.

8.83 A contribution of ~~£2,593.00 (3 x 4 bedroom property (£864))~~ £2940.00 (3 x 4-bedroom property (£980)) as habitat mitigation can be secured via S106 agreement to ensure the proposals compliance with Policy 50 of the CLP and the requirements of the Habitat and Protected Species Regulations 2017.

Conclusion

8.84 In conclusion, the proposal would result in the redevelopment of a vacant site with several derelict commercial buildings with a high-quality residential development that would integrate well within the surrounding area. Consequently, it would enhance the AONB and Bosham Conservation Area. It is located within a sustainable location enhancing the local environment and incorporating satisfactory parking facilities, plus safe vehicular and pedestrian access and egress and opportunities for improved biodiversity measures. The proposal would result in a nitrogen neutral development, achieve an acceptable relationship with the neighbouring properties and make provision for the necessary infrastructure and Recreational Disturbance financial contributions.

8.85 The NPPF requires local planning authorities to demonstrate that they have a rolling 5-year supply and when there is less than a five-year supply the NPPF engages the 'tilted balance', that is a presumption in favour of permitting new sustainable housing development. The Council is unable to demonstrate that it has a five-year supply of housing land and therefore the housing policies in the Local Plan are now considered to be out of date. In the absence of an up-to date Local Plan, the Council cannot rely on a plan-led approach to decision making on housing applications as it ordinarily would. In accordance with Paragraph 11 of the NPPF, permission should be granted, only except where *the 'adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole'*. As set out above, this is not considered to be the case and consequently, the application is recommended for approval.

8.86 ~~Subject to further consideration of the proposed nitrates mitigation scheme, the proposal would accord with the relevant national and local planning policy and associated supplementary planning guidance. However, due to the need to consider further the newly published guidance from Natural England it is now recommended that the application be delegated to officers.~~

Human Rights

8.87 In reaching this conclusion the Human Rights of the applicants and nearby occupiers have been considered and it is concluded that the recommendation to permit is justified and proportionate.

RECOMMENDATION

DEFER FOR S106 THEN PERMIT

If the recommendation above is agreed, and in the event after further consideration by officers the application be recommended for approval under delegated powers the following conditions would likely be considered appropriate;

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2) The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Decided Plans"

Reason: For the avoidance of doubt and in the interests of proper planning.

3) No development shall commence unless the Council has received the Notice of Purchase in accordance with the requirements of the legal agreement between CDC, SDNPA and John Holt dated 21.12.2022 in respect of the Credits Linked Land identified in the Nutrient Neutrality Management Plan (27.04.2022) submitted with the application.

Reason: To demonstrate that suitable mitigation has been secured in relation to the effect that nitrates from the development has on protected sites.

4) No development shall commence, including any works of demolition, until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved CEMP shall be implemented and adhered to throughout the entire construction period unless any alternative is agreed in writing by the Local Planning Authority. The CEMP shall provide details of the following:

- (a) the anticipated number, frequency and types of vehicles used during construction,
- (b) the provision made for the parking of vehicles by contractors, site operatives and visitors,
- (c) the loading and unloading of plant, materials and waste,
- (d) the storage of plant and materials used in construction of the development,
- (e) the erection and maintenance of security hoarding,
- (f) the provision of road sweepers and/or wheel washing facilities to mitigate the impact of construction upon the public highway
- (g) measures to control the emission of dust and dirt during construction, to include where relevant sheeting of loads, covering and dampening down stockpiles
- (h) measures to control the emission of noise during construction,
- (i) details of all proposed external lighting to be used during construction and measures used to limit the disturbance of any lighting required. Lighting shall be used only for security and safety,
- (j) appropriate storage of fuel and chemicals, in bunded tanks or suitably paved areas, and
- (k) waste management including litter and prohibiting burning of materials/waste.

Reason: These details are necessary pre-commencement to ensure the development proceeds in the interests of highway safety and in the interests of protecting nearby

residents from nuisance during all stages of development and to ensure the use of the site does not have a harmful environmental effect.

5) **No development shall commence** until details of the proposed overall site-wide surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal as set out in Approved Document H of the Building Regulations and the SUDS Manual produced by CIRIA. Winter ground water monitoring to establish highest annual ground water levels and Percolation testing to BRE 365, or similar approved, will be required to support the design of any Infiltration drainage. The surface water drainage scheme shall be implemented as approved unless any variation is agreed in writing by the Local Planning Authority. No building shall be occupied until the complete surface water drainage system serving that property has been implemented in accordance with the approved surface water drainage scheme.

Reason: The details are required pre-commencement to ensure that the proposed development is satisfactorily drained with all necessary infrastructure installed during the groundworks phase.

6) In accordance with the findings of the preliminary geoenvironmental and geotechnical assessment produced by TEC (dated Jan 2019) **no development shall commence** until a Phase 2 intrusive investigation report has been submitted to and approved in writing by the LPA detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011+A1:2013 - Investigation of Potentially Contaminated Sites - Code of Practice. The findings shall include a risk assessment for any identified contaminants in line with relevant guidance.

Reason: In the interests of amenity and to protect the health of future occupiers of the site from any possible effects of land contamination in accordance with local and national planning policy.

7) If the Phase 2 report submitted identifies that site remediation is required then **no development shall commence** until a Remediation Scheme has been submitted to and approved in writing to the Local Planning Authority detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. Any ongoing monitoring shall also be specified. A competent person shall be nominated by the developer to oversee the implementation of the Remediation Scheme. The report shall be undertaken in accordance with national guidance as set out in DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination CLR11. Thereafter the approved remediation scheme shall be fully implemented in accordance with the approved details.

Reason: In the interests of amenity and to protect the health of future occupiers of the site from any possible effects of contaminated land in accordance with local and national planning policy.

8) **No development/works shall commence** on the site until a written scheme of archaeological investigation of the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include proposals for an initial trial

investigation and mitigation of damage through development to deposits of importance thus identified, and a schedule for the investigation, the recording of findings and subsequent publication of results. Thereafter the scheme shall be undertaken fully in accordance with the approved details, unless any variation is first submitted to and agreed in writing by the Local Planning Authority.

Reason: The site is potentially of archaeological significance. It is considered necessary for this to be a pre-commencement condition as these details need to be agreed prior to the construction of the development and thus go to the heart of the planning permission.

9) **No development shall commence on site** until the method of piling/foundation design has been submitted to and be approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved methods.

Reason: It is understood that piled foundations may be required therefore a foundations risk assessment is required to ensure that the proposed piling does not harm groundwater resources in line with paragraph 170 of the National Planning Policy Framework.

10) No development above slab level shall commence until full scheme of proposed renewable sources of energy and a sustainability statement has been submitted to and approved in writing by the Local Planning Authority. The sustainability statement shall detail sustainable energy sources (i.e Solar Panel and Heat Pump) and additional measures to reduce the carbon emissions of the development hereby permitted. The scheme of the proposed sources of renewable energy shall include details of the appearance, technical specification and where relevant a noise report. Once agreed, these measures shall be fully implemented in accordance with the approved scheme prior to the first occupation of the dwellings and thereafter retained in perpetuity for their designated use.

Reason: To minimise the impact of the development upon climate change.

11) Notwithstanding any details submitted **no development/works above slab level shall commence** until a full schedule of all materials and finishes to be used for external walls (including boundary walls), windows and doors and roofs of the building(s) have been submitted to and approved in writing by the Local Planning Authority. Upon submission of the details to the Local Planning Authority samples of the proposed materials and finishes shall be made available for inspection on site, unless otherwise agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved schedule of materials and finishes, unless any alternatives are agreed in writing via a discharge of condition application.

Reason: To enable the Local Planning Authority to control the development in detail in the interest of amenity and to ensure a development of visual quality.

12) **No part of the development hereby permitted shall be first occupied** until covered and secure cycle parking spaces have been provided in accordance with plans and details that shall first have been submitted to and approved by the Local

Planning Authority. Thereafter the cycle parking shall be retained for that purpose in perpetuity.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

13) No part of the development hereby permitted shall be occupied until refuse and recycling storage facilities have been provided in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the refuse and recycling storage facilities shall be maintained as approved and kept available for their approved purposes in perpetuity.

Reason: To ensure the adequate provision of onsite facilities in the interests of general amenity and encouraging sustainable management of waste.

~~14) No part of the development hereby permitted shall be first occupied~~ until at least one Electric Vehicle (EV) charging point per dwellings and ducting to all remaining parking spaces to provide 'passive' provision for these to be upgraded in future has been provided in accordance with plans and details that shall first be submitted to and agreed in writing by the Local Planning Authority. Thereafter the Electric Vehicle Charging point shall be retained for that purpose, indefinitely and unless otherwise agreed in writing by the Local Planning Authority

~~Reason: To provide alternative sustainable travel options in accordance with local and national initiative to reduce carbon emission and current sustainable transport policies.~~

15) No part of the development hereby permitted shall be first occupied until the car parking has been constructed and laid out in accordance with the approved site plan and the details specified within the application form. These spaces shall thereafter be retained at all times for their designated purpose.

Reason: In the interests of ensuring sufficient car parking on-site to meet the needs of the development.

16) The development hereby permitted shall not be first occupied until a verification report for the approved contaminated land remediation has been submitted in writing to the Local Planning Authority. The report should be undertaken in accordance with national guidance as set out in DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination CLR11.

Reason: In the interests of amenity and to protect the health of future occupiers of the site from any possible effects of land contamination in accordance with local and national planning policy.

17) The development hereby permitted shall not be first brought into use until the following ecological enhancements have been implemented:

- a) The integration of a bat box into the dwellings hereby approved, or the provision of a bat box within a tree sited within the grounds of the development

proposal. The bat box shall face a south/south westerly and positioned 3-5m above ground.

- b) The integration of a bird box to the dwellings hereby approved or within a tree sited within the grounds of the property.
- c) The provision of two hedgehog nesting boxes within the site.
- d) The provision of gaps at the bottom of the fences to allow movement of small mammals across the site
- e) The provision of log piles within the site.
- f) The infilling of any gaps within tree lines or hedgerows with native species
- g) Any trees removed should be replaced at a ratio of 2:1

Thereafter, the ecological enhancements shall be retained and maintained in perpetuity.

Reason: In the interests of securing a biodiversity enhancement.

18) The dwelling hereby permitted shall be designed to ensure the consumption of water by persons occupying the dwelling must not exceed 110 litres per person per day, as set out in G2 paragraphs 36(2) and 36(3) of the Building Regulations 2010 - Approved Document G - Sanitation, hot water safety and water efficiency (2015 edition with 2016 amendments). The dwelling shall not be first occupied until the requirements of this condition for the dwelling(s) have been fully implemented, including fixtures, fittings and appliances, and therefore they shall be maintained as approved and in full working order in perpetuity.

Reason: To ensure water efficiency within the dwellings and to comply with the requirements of Policy 40 of the Chichester Local Plan: Key Policies 2014-2029.

19) The development hereby permitted shall be carried out in strict accordance with the submitted Ecological Impact Assessment, produced by Lizard Landscape (Feb 2021) and the recommendations and mitigation it details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of protecting biodiversity and wildlife.

20) The following ecological mitigation measures shall be adhered to at all time during construction:

- a) Due to the potential for bats within the trees to the north of the site, a buffer around these trees shall be maintained during the development. The buffer shall be clearly marked with a temporary fence and at no time shall any works take place within the buffer and no vehicles, equipment or materials be stored within the buffer at any time.
- b) Due to the potential for bats within the existing structure, a precaution for bats shall be taken during demolition. If any bats are discovered during the work, all works should stop, and a bat ecologist be consulted. If a bat roost is found, works must not proceed until Natural England has been consulted on the requirement of a protected species license.
- c) Precautions should be put in place for hedgehogs and the site will need to be searched carefully before works begin. If any small mammals including

hedgehogs are found they should be relocated away from the construction area into surrounding suitable habitats.

- d) Due to the potential for hedgehogs and or reptiles hibernating or sheltering within the brush pile, compost and debris piles noted on site, this shall not be removed between mid-October to mid-March inclusive and shall undergo a soft demolition.
- e) To ensure the site remains unsuitable for reptiles, continued management of the site must take place to ensure reptile habitat does not develop onsite. If this is not possible then a precautionary approach should be taken within the site with regards to reptiles.
- f) Due to the risk of disturbance to overwintering birds, construction works must avoid the winter months (October - Feb) to ensure they are not disturbed by any increase in noise and dust.
- g) If any works need to take place to the trees or for vegetation clearance on the site, they 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 (within 24 hours of any work).

Reason: In the interests of protecting biodiversity and wildlife.

21) The development hereby permitted shall be carried out in strict accordance with the submitted Arboricultural Impact assessment & Method Statement produced by Lizard Landscape (Feb 2021) and tree protection plan LLD2222-ARB-DWG-001 REV 00 and LLD2222-ARB-DWG-002 REV 02, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the trees on and around the site are adequately protected from damage to their health and /or amenity value.

22) The development hereby permitted shall be carried out in strict accordance with the submitted Sound Advice Acoustics Ltd report ref SA 3765 rev5 (December 2020) and the recommendations it makes with Section 1.7 of the report, with regard to glazing and ventilation.

Reason: to ensure that the internal noise levels in the proposed dwellings are acceptable with reference to the guidance given in British Standard 8233:2014.

23) The development shall be carried out in accordance with the submitted flood risk assessment (Project number 23140, approved on 9 March 2021) and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 5.45 metres above Ordnance Datum (AOD)
- No sleeping accommodation shall be placed below the first floor, which shall be set at 5.64 mAOD
- Electrical switchgear shall be placed no lower than 5.34 mAOD
- Flood resilient and resistance construction methods shall be implemented

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The

measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants

24) The proposal shall be carried out with strict accordance with the DW Windsor lighting assessment and the accompanying plan ref 21 0098 1A, unless otherwise agreed in writing by the Local Planning Authority.

Reason: Reason: In the interests of protecting wildlife and the character of the area.

25) The development hereby permitted shall be carried out with strict accordance with the submitted landscaping scheme, drawing number 2027-TF-00-00-DR-L-1001 REV H, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity and of the environment of the development.

26) The construction of the development and associated works shall not take place on Sundays or Public Holidays or any time otherwise than between the hours of 0700 hours and 1800 hours Mondays to Fridays and 0800 hours and 1300 hours on Saturdays.

Reason: In the interests of residential amenity

27) Notwithstanding any indication shown on the approved plans, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) hereby approved, Plot A shall not be first occupied until the first-floor windows in the north elevation of Plot A hereby permitted shall be permanently.

- i. glazed with obscure glass with a glass panel which has been rendered obscure as part of its manufacturing process to Pilkington glass classification 5 (or equivalent of glass supplied by an alternative manufacturer), and
- ii. non-opening below 1.7 metres from the finished floor level of the room in which the window is installed.

Reason: To protect the privacy of the occupants of the adjoining residential property.

28) Notwithstanding the provisions of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking, re-enacting or modifying that Order) no fence, wall or other means of enclosure shall be erected, constructed or established other than those shown on the approved plans.

Reason: In the interest of the visual amenity of the site.

29) The proposed hard surface/s hereby permitted shall either be made of porous materials or provision shall be made to direct run-off water from the hard surface/s to a permeable or porous surface within the site and thereafter shall be maintained as approved in perpetuity.

Reason: To ensure adequate provision for surface water drainage and avoid discharge of water onto the public highway.

30) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) no building, structure or other alteration permitted by Class A- E of Part 1 Schedule 2 shall be erected or made on the application site without a grant of planning permission.

Reason: In the interests of protecting the amenity of neighbours and the surrounding area.

Decided Plans

The application has been assessed and the decision is made on the basis of the following plans and documents submitted:

Details	Reference	Version	Date Received	Status
PLAN - AMENDED PLANS: PROPOSED SITE PLAN	19097-O4C		27.06.2022	Approved
PLAN - AMENDED PLANS: STREET ELEVATIONS	19097-O8C		27.06.2022	Approved
PLAN - AMENDED PLANS: LANDSCAPE GENERAL ARRANGEMENT REV H	2027-TF-00-00-DR-L-1001	REV H	27.06.2022	Approved
PLAN - AMENDED PLANS: SECTIONS	2027-TF-00-00-DR-L-5001		27.06.2022	Approved
PLAN - AMENDED PLANS: SECTIONS	2027-TF-00-00-DR-L-5002		27.06.2022	Approved
PLAN -	19097-05	REV B	12.01.2022	Approved
PLAN -	19097-06	REV B	12.01.2022	Approved
PLAN -	19097-07	REV B	12.01.2022	Approved
PLAN - Tree constraints plan	DWG 001		10.03.2021	Approved
PLAN - Tree retention plan	DWG 002 REV 01		10.03.2021	Approved

INFORMATIVES

1) The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2) This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990.

For further information on this application please contact Calum Thomas on 01243 534734

To view the application, use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QPARWMERMPI00>