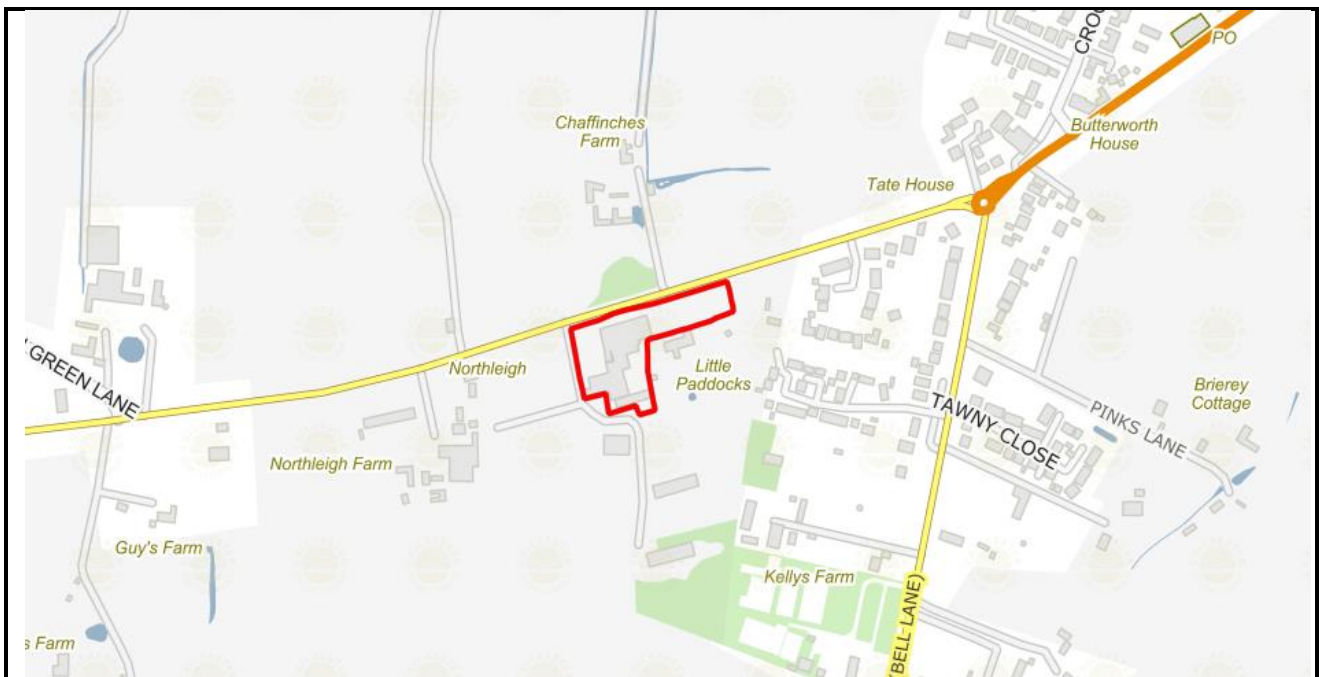



Parish: Birdham	Ward: The Witterings
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BI/23/00067/FUL

Proposal	14 no. dwellings (4 x affordable 10 x market), replacement commercial (class E) building, new and altered access and associated works.		
Site	Russells Garden Centre Main Road Birdham West Sussex PO20 7BY		
Map Ref	(E) 481540 (N) 99349		
Applicant	Russells Garden Centre Ltd	Agent	Mrs Natalie McKellar

RECOMMENDATION TO DEFER FOR SECTION 106 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 Parish Objection – Officer recommends Permit.

2.0 The site and surroundings

2.1 The application site constitutes a 'L' shaped parcel of land, immediately adjacent to the B2179, to the south-west of Birdham. As a garden centre and café the site is occupied by a large single-storey building that has a significant road frontage, due to the width of the building, and extends back into the site to occupy the majority of the centre of the site.

- 2.2 The building on the site is formed by a collection of ad hoc extensions with no overarching style but with a commercial character. Either side of the building, and visible from the highway, are large parking areas including horticultural products on display. The predominant vegetative boundary on the site is to its southern rear boundary with the remainder of the site having low vegetative or fenced boundaries resulting in the site having a high degree of visibility from the highway.
- 2.3 To the north, beyond the highway, is a combination of a set-back dwelling, with associated equestrian use, and agricultural land. To the east is a commercial use, to the west agricultural land and to the south a mixture of agricultural land and a large single-storey dwelling (Little Paddocks) that has a single dormer window and multiple rooflights facing the application site.
- 2.4 The site is outside of any settlement boundary, as defined by Policy SD2 of the Chichester Local Plan: Key Policies 2014-2029 (the 'Local Plan') and Policy 13 of the Birdham Parish Neighbourhood Plan 2014-2029 (the 'Neighbourhood Plan') and therefore falls into 'Rest of Plan Area'/countryside.
- 2.5 Forming one of the southern vehicular gateways into Birdham the site is characterised by its long open frontage to the highway, extensive hardstanding and commercial appearance that is in juxtaposition with the sylvan nature of the northern boundary of the highway. With no footpath connecting the application site to the centre of Birdham, thick vegetation restricting views of Pipers Mead and the speed limit changing from 40mph to 50mph just before the site, when leaving Birdham, there is a distinct transition in character away from the consolidated built form of Birdham to a more disparate pattern of development more readily associated with the rural fringe as you approach the application site. A bus stop, serving both directions, is located on the highway approx. 50m to the west of the application site.
- 2.6 Chichester Harbour National Landscape, a designated Area of Outstanding Natural Beauty (AONB), is located immediately to the north with the northern edge of the highway forming the boundary. The thick vegetative boundary along the northern side of the highway largely prevents views into and out of the AONB whilst the only Public Right of Way (PRoW) close to the site is some distance away to the south.
- 2.7 Located in Environment Agency (EA) Flood Zone 1, with a low probability of flooding, the site also has a part culverted drainage channel running along its northern boundary, immediately adjacent to the highway, that continues as an open watercourse to the east of the site towards the centre of Birdham. In terms of foul drainage, the site is located within the area served by the Sidlesham Waste-Water Treatment Works (WWTW).

3.0 The Proposal

- 3.1 The application seeks detailed planning permission for the demolition of all existing structures on the site including all fences and boundaries located within the site including the removal of the boundary treatment facing the highway, the cessation of the nursery and café use and the subsequent erection of 14 dwellings and a Class E commercial unit.
- 3.2 The 14 dwellings will comprise eight two-storey dwellings and 6 bungalows of the following mix:

- 2 x 1-bed bungalows;
- 4 x 2-bed houses;
- 1 x 2-bed bungalow;
- 2 x 3-bed houses;
- 3 x 3-bed bungalows; and
- 2 x 4-bed houses

3.3 In terms of the affordable mix four of the dwellings would be affordable comprising:

- 1 x first home (2-bed house); and
- 3 x social rent units (1 x 1-bed bungalow, 1 x 2-bed dwelling and 1 x 3-bed bungalow)

3.4 For a development of 14 units 30% affordable housing equates to 4.2 units therefore, in accordance with the CDC Planning Obligations and Affordable Housing SPD, the remaining 0.2 is proposed as a commuted sum via legal agreement.

3.5 The 360sqm Class E commercial unit will be single story with a flexible internal space that can respond to market demand (i.e. one or multiple occupiers). Whilst Class E includes a number of uses the applicants have agreed that the application seeks permission for only the following within Class E:

- E(c) – Provision of financial services, professional services or other services principally to visiting members of the public;
- E(e) – Provision of medical or health services, principally to visiting members of the public; and
- E(g) – (i) An office to carry out operational or administrative functions, (ii) the research and development of products or (iii) processes or any industrial process which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

3.6 In terms of parking the dwellings will have 24 parking spaces in addition to five unallocated visitor spaces and the Class E unit will have 26 car parking spaces.

3.7 Twelve of the dwellings would be located on the deeper western part of the site with a new vehicular access formed whilst the proposed commercial unit would be located at the eastern end of the site, with a separate vehicular access serving it and the remaining two dwellings, in addition to a separate pedestrian footpath entrance.

3.8 The existing vehicular access would be stopped up along its entire length and a vegetative boundary installed facing the highway. The parts of the existing watercourse that are open adjacent to the site will be culverted in addition to any sections to the east and west that are necessary to provide a footpath to the bus stop to the west and to join with the existing footpath at Pipers Mead to the east.

3.9 Both the respective dwellings and commercial unit would have pitched roof designs and elevational treatments comprising of a mix of bricks and weatherboarding.

4.0 History

94/00240/ELD	PER	Use as a nursery including sale by retail of produce and products from the nursery, imported goods and products but only those directly related to the main use.
95/01913/FUL	PER	Part change of use of existing nursery to coffee shop with new toilets and covered area. Resiting of existing office & addition of new conservatory. Childs play area.
97/01202/FUL	REF	To station a temporary mobile home on site for managers' accommodation for security to be used approximately nine months per year.
03/02563/FUL	PER	Single storey extension.
03/02873/FUL	PER	Polytunnel.
04/03496/FUL	APPRET	Erection of polytunnel.
04/03497/COU	APPRET	Change of use A1 to A3.
08/03432/ADV	REF	Advertisement (retrospective).
21/00953/PREM		Re-development of the site with 29 no. dwellings including 30% affordable housing, access, landscaping and associated works.

5.0 Constraints

Listed Building	NO
Conservation Area	NO
Rural Area	YES
AONB	ADJACENT
Tree Preservation Order	NO
EA Flood Zone	
- Flood Zone 2	NO
- Flood Zone 3	NO
Historic Parks and Gardens	NO

6.0 Representations and Consultations

6.1 Birdham Parish Council

Object for the following reasons:

- The site is outside of the settlement boundary;
- Urbanising effect upon the character of the area and adjacent AONB;
- The emerging Local Plan does not allocate any housing to Birdham. Despite that Birdham has recently seen 150 dwellings permitted;
- Culverting of the drainage channel along the highway would harm water flows;

- Loss of employment;
- The café on the site is an important community asset; and
- Support the objections raised by Chichester Harbour Conservancy.

6.2 Earnley Parish Council

Object for the following reasons:

- The site is currently trading and includes a café;
- The reduction in employment opportunities on the site; and
- Creeping urbanisation in addition to another entrance on the road.

6.3 West Itchenor Parish Council

Object on the same grounds as Birdham Parish Council.

6.4 Chichester Harbour Conservancy

Object for the following reasons:

- The site lies outside of the settlement boundary;
- There would be an unacceptable urbanising effect impacting upon the setting of the Chichester Harbour AONB;
- Would set a dangerous precedent for development adjacent to the AONB;
- As the Council has a housing land supply greater weight should be given to the harm to the AONB.

6.5 National Highways

No objection.

6.6 Natural England

No objection subject to securing financial contribution to mitigate recreational impact upon Chichester and Langstone Harbours SPA.

6.7 Southern Water

Comment that:

- The applicant will need to apply for a formal connection to the public sewer;
- As the surface water strategy is proposed to remain in private ownership its long term maintenance will need to be ensured;
- If any public sewers are found on the site their ownership should be ascertained before any further works; and
- Request informative that foul sewerage and surface water details should be agreed by the Local Planning Authority.

6.8 WSCC Lead Local Flood Authority

Further comments 23.10.23 and 06.03.24

Applicant has provided an updated drainage strategy to account for the local flood risk issues and surface water drainage at this location. No objection to updated drainage strategy with is in accordance with NPPF and local plan policy 42, subject to the following conditions:

- The submission of construction drawings of the surface-water drainage scheme;
- Confirmation of the arrangements for future maintenance and management of the surface-water drainage scheme; and
- The submission of a verification report post installation to demonstrate that the drainage measures have been installed as agreed.

The culvert is required for access purposes and will require Ordinary Watercourse Consent.

Original comments 02.05.23

Object due to:

- Lack of information regarding surface water and groundwater flood risk;
- Inadequate assessment of any likely impacts and consequences of the development; and
- Lack of evidence in the form of a detailed layout, detailed design and supporting calculations in evidence of storage, capacity, connections, safety and feasibility.

6.9 WSCC Local Highway Authority

Further comments 16.02.24

- Amended plans do not show any major changes from a highways point of view;
- Proposed landscaping near access doesn't impact visibility splays; and
- Still awaiting response from applicant regarding issue within Road Safety Audit regarding whether barrier is required to protect the watercourse.

Original comments 02.05.23

- Require more information to not object;
- Full swept path tracking has been provided to demonstrate all anticipated vehicles can manoeuvre the accesses and turn within the site;
- Road Safety Audit point regarding whether barrier is required to protect the watercourse needs addressing by the applicant;
- With regard to sustainable transport modes there are several facilities within walking distance including bus stops, petrol station/shop and convenience store. East Wittering and Birdham can be reached by cycle;
- Linking footpath should be provided between the site and the bus stop to the west and the existing footpath at Pipers Mead to the east;
- The residential car parking proposed is in accordance with the WSCC Guidance;
- Garages can be utilised for cycle storage;
- If a café use is proposed then the applicant will need to justify why the level of parking provision proposed is acceptable; and

- More details/scenarios for trip generation and justification of trips should be provided.

6.10 WSCC Fire & Rescue

No objection subject to a condition regarding the provision of additional fire hydrants, so that all dwellings are within 150m of a fire hydrant for the supply of water for fire-fighting and evidence to ensure the development complies with approved documents in relation to fire service vehicle access requirements.

6.11 CDC Archaeology

There is no known archaeological interest and given the site has already been developed no mitigation is necessary.

6.12 CDC Design

No objection subject to conditions regarding materials and roof details.

6.13 CDC Drainage

Whilst considering that the Lead Local Flood Authority are the most appropriate body to comment, state that:

- The site is within the low risk Flood Zone 1 and there is no additional knowledge of the site being at increased flood risk; and
- Note that the proposal is to drain surface water at a restricted rate to the adjacent watercourse. Although we have no objection to the principle of the proposal, we are aware of local flooding and so surface water drainage must be dealt with sensitively. Additional maintenance to the watercourse(s) may be required (which is identified on their drawings) and consent will be required for the proposed connections.

6.14 CDC Economic Development

“The Economic Development Service supports this application. There has been a garden centre on the current site for 20+ years. For many years the business was thriving.

However, in the last 6 years the business has been in steep decline. The site comprises of a multitude of small, temporary buildings which, due to lack of available funds, have fallen into disrepair. There are many leaks across the roof which has recently spoiled thousands of pounds of stock. In order to continue retailing on site and to preserve the integrity of the stock, the premises requires major investment to remove the current structure and to rebuild a new one”.

“The owners of the site, however, do not have funds to invest due to the prolonged decline in visitors and income. The current business is not a viable venture in its own right and therefore they are not able to sell it as a going concern. The plan to retain some commercial space, whilst raising money from the sale of land for residential use, is a compromise which would release enough capital to resurrect the centre. This would enable current employment to be preserved onsite”.

“If this plan is unsuccessful, it looks very likely that the site will be abandoned and fall into dereliction due to lack of income and rising costs. The site may remain empty for some time, in which case the employment will be lost altogether. It would be fair to predict if that were the case, at some stage in the future, the land would then be vulnerable to property developers and ultimately, the site would fall to solely residential purposes. In our appraisal of the situation therefore, it is better to offer a mixed site with some commercial enterprise remaining and retaining employment, rather than lose the entire site to purely residential uses”.

6.15 CDC Environmental Health – Land Contamination

No objection subject to conditions regarding undertaking remediation works in accordance with the submitted report, the submission of a verification report post remediation and measures to deal with any unexpected contamination.

6.16 CDC Environmental Health - Noise

No objection subject to conditions regarding noise mitigation.

6.17 CDC Environmental Strategy

Comment as follows:

- Bats – The lighting scheme should minimise any impacts by avoiding any unnecessary light spill;
- Recreational Disturbance - Agree that a contribution to Solent Bird Aware will mitigate any impact;
- Nesting Birds - Any clearance works should be undertaken out of bird breeding season;
- BNG – Pleased to see some enhancement measures proposed;
- Hedgehogs - Any brush piles, compost and debris piles on site should be removed out of the hibernation period; and
- Sustainability – Satisfied that the proposals meet the requirement of Policy 40 subject to a condition securing the measures.

6.18 CDC Housing

Further comments 02.04.24

- Agree the provision of four affordable units with the 0.2 unit shortfall being made by commuted sum;
- Agree the affordable housing tenure, mix & location on the site; and
- The open market mix is in broad accordance with the HEDNA.

Original comments 14.04.23

- The proposal will need to provide four affordable units and make up the 0.2 dwelling shortfall via commuted sum;
- The size of the affordable units is acceptable but the tenure mix needs amending to include a minimum of 25% as First Homes; and
- The open market tenure is compliant with the HEDNA.

6.19 Third Party Representations

7 objections on the following grounds:

- Lack of infrastructure, such as doctors, schools, shops and for foul waste and vehicles;
- Not sustainable location with residents reliant on motor vehicles for employment opportunities;
- The local road network will be unable to cope with the additional traffic;
- Impact upon protected habitats;
- Inappropriate location adjacent to the AONB;
- Impact upon water flows, in particular surface water, due to the high existing water table;
- The loss of a community facility that is well utilised;
- Extension of the built area of Birdham close to the Parish of West Wittering; and
- Lack of pavements and unsafe access due to high vehicle speeds.

7.0 Planning Policy

7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029, the CDC Site Allocation Development Plan and all made Neighbourhood Plans. The Birdham Parish Neighbourhood Plan 2014-2029 was made on 7 June 2016 and forms part of the Development Plan against which applications must be considered.

7.2 The principal policies of the Chichester Local Plan and the Birdham Neighbourhood Plan 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 3 The Economy and Employment Provision

Policy 4 Housing Provision

Policy 5 Parish Housing Sites 2012-229

Policy 6 Neighbourhood Development Plans

Policy 8 Transport and Accessibility

Policy 9 Development and Infrastructure Provision

Policy 26 Existing Employment Sites

Policy 33 New Residential Development

Policy 34 Affordable Housing

Policy 38 Local and Community Facilities

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

Policy 45 Development in the Countryside

Policy 48 Natural Environment

Policy 49 Biodiversity

Policy 50 Development and disturbance of birds in Chichester and Langstone Harbours SPAs

Policy 52 Green Infrastructure

Policy 54 Open Space, Sport and Recreation

Birdham Parish Neighbourhood Plan 2014-2029

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 8 Retention of Assets of Community Value and Other Facilities
Policy 9 Traffic Impact
Policy 10 Footpaths and Cycle Paths
Policy 11 Village Severance
Policy 12 Housing Development
Policy 13 Settlement Boundary
Policy 16 Housing Design & Density
Policy 17 Housing Need
Policy 18 Flood Risk Assessment
Policy 20 Surface Water Run-Off
Policy 21 Wastewater Disposal
Policy 23 Retention of Businesses

National Policy and Guidance

7.3 Government planning policy comprises the National Planning Policy Framework (NPPF December 2023). The relevant sections of the NPPF pertinent to the assessment of this application include:

- Section 2 Achieving Sustainable Development
- Section 4 Decision Making
- Section 5 Delivering a Sufficient Supply of homes
- Section 6 Building a strong, competitive economy
- Section 8 Promoting healthy and safe communities
- Section 9 Promoting sustainable transport
- Section 11 Making effective use of land
- Section 12 Achieving well designed places
- Section 14 Meeting the challenge of climate change, flooding and coastal change
- Section 15 Conserving and enhancing the natural environment
- Section 16 Conserving and enhancing the historic environment

7.4 The relevant paragraphs of the National Planning Practice Guidance and the National Design Guide (January 2021) have also been taken into account.

Relevant Planning Policies - Emerging

7.5 The Chichester Local Plan Review Preferred Approach 2016 - 2035 contains emerging policies to be afforded appropriate weight with regard to guidance at Para 48 of the NPPF. Planning policies given moderate weight in the consideration of this application include:

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

7.6 The Chichester Local Plan 2021-2039: Proposed Submission has now completed its 'Regulation 19' consultation (17 March 2023) and it is anticipated that the plan will be submitted to the Secretary of State for independent examination in 2024. In accordance with the Local Development Scheme, it is anticipated that the new Plan will be adopted by the Council in 2024. Accordingly the plan could now be considered to be at an 'Advanced Stage of Preparation' for the purposes of paragraph 48(a) of the NPPF and consequently could be afforded moderate weight in the decision making process. At this stage, the Local Plan Proposed Submission 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 in the NPPF.

7.7 The relevant policies of the Chichester Local Plan 2021 - 2039: Proposed Submission (Regulation 19) include:

- Policy S1 Spatial Development Strategy
- Policy S2 Settlement Hierarchy
- Policy NE2 Natural Landscape
- Policy NE5 Biodiversity and Biodiversity Net Gain
- Policy NE6 Internationally and Nationally Designated Habitats
- Policy NE7 Development and Disturbance of birds in Chichester and Langstone Harbours, Pagham Harbour, Solent and Dorset Coast SPAs and Medmerry Compensatory Habitat
- Policy NE8 Trees, Hedgerows and Woodlands
- Policy NE10 Development in the Countryside
- Policy NE13 Chichester Harbour AONB
- Policy NE15 Flood Risk and Water Management
- Policy NE16 Water Management and Water Quality
- Policy NE20 Pollution
- Policy NE21 Lighting
- Policy NE22 Air Quality
- Policy NE23 Noise
- Policy NE24 Contaminated Land
- Policy H1 Meeting Housing Needs
- Policy H2 Strategic Locations/Allocations 2021-2039
- Policy H3 Non-Strategic Parish Housing Requirements 2021-2039
- Policy H4 Affordable Housing
- Policy H5 Housing Mix
- Policy H10 Accessible and Adaptable Homes
- 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 P14 Green Infrastructure
- Policy P15 Open Space, Sport and Recreation
- Policy P16 Health and Well-being
- Policy P17 New and Existing Local and Community Facilities including Local Shops
- Policy E2 Employment Development
- Policy T1 Transport Infrastructure

Policy T2 Transport and Development
Policy T3 Active travel - Walking and Cycling Provision
Policy T4 Parking Provision
Policy L1 Infrastructure Provision

Other Local Policy and Guidance

7.8 The following documents are also material to the determination of this planning application

- Planning Obligations and Affordable Housing SPD (December 2018)
- Surface Water and Foul Drainage SPD (September 2016)
- WSCC Guidance on Parking at New Developments (September 2020)
- Chichester Harbour Area of Outstanding Natural Beauty: Joint Supplementary Planning Document (May 2017)
- Chichester Harbour AONB Management Plan (2014-2029)
- Planning Noise Advice Document Sussex (November 2023)

7.9 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:

- Maintain low levels of unemployment in the district
- Develop a local workforce that meets the needs of local employers
- Support local businesses to grow and become engaged with local communities
- Promoting and developing a dementia friendly district
- Encourage and support people who live and work in the district and to adopt healthy and active lifestyles
- Protect and support the most vulnerable in society including the elderly, young, carers, families in crisis and the socially isolated
- Maintain the low levels of crime in the district in the light of reducing resources
- Support and empower communities and people to help themselves and develop resilience
- 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

8.0 Planning Comments

8.1 This section will assess the application against the Development Plan and any relevant material considerations. The main issues arising from this proposal are:

- i. Principle
- ii. Existing Commercial and Community Use
- iii. Introduction of Housing and Revised Commercial Offer
- iv. Design
- v. Neighbouring Amenity
- vi. Connectivity
- vii Protected Designations - Habitat Regulation Assessment
- viii. Flooding and Surface Water Drainage

- ix. Sustainable Measures
- x. Other matters
- xi. Conclusion and Planning Balance

i. Principle

- 8.2 The proposal seeks to change the use of part of the site away from its existing commercial use, as a nursery that can sell products grown on site or imported but “directly related to the main use”, to a residential use through the introduction of 14 dwellings. It is proposed on the remaining part of the site that it would remain in commercial use, with the introduction of a new building and the widening the commercial uses that can be undertaken.
- 8.3 The principle of the partial loss of use is acceptable, in accordance with Policy 26 of the Local Plan, if a viability and marketing exercise has been undertaken and there is no realistic prospect of the existing commercial use continuing. Policy 23 of the Neighbourhood Plan does, however, seek to specifically protect existing uses related to horticulture.
- 8.4 The proposal would also result in the loss of the existing café albeit the permission for the café restricts it to only operating alongside the nursery use and not as a separate planning entity. It is, however, protected as a community facility by Policy 38 of the Local Plan and Policy 8 of the Neighbourhood Plan.
- 8.5 The application site, due to the significant retail element that has permission, constitutes brownfield land. Accordingly, if the loss of the existing use is acceptable, the NPPF requires that Councils should, through their planning policies, “make as much use as possible of previously developed or brownfield land”. This is particularly relevant with regard to using brownfield land to meet the District’s housing needs where the use of brownfield land minimises the need to develop greenfield sites.

ii. Existing Commercial & Community Use

- 8.6 The application is supported by a Commercial Viability Report that sets out the lack of market demand for the existing use of the site given the poor quality of the buildings, the modest commercial catchment area, other competing businesses and the investment required in the site for it to be able to compete viably within the market.
- 8.7 The Council’s Economic Development Team recognise the issues that the site has, considering that there is unlikely to be a viable ongoing concern, and thus support the proposal to retain employment opportunities on part the site. They also raise concerns that, should the site not be redeveloped in some form, then no employment opportunities will be retained given the circumstances of the site and existing business.
- 8.8 Furthermore, whilst the proposal only includes 360sqm of commercial floorspace (compared to 2,188sqm existing) it would, according to the submitted Application Form, retain the existing 7 FTE employee opportunities. In addition, the flexible use of the proposed commercial use and its speculative nature combined with the fact that 26 parking spaces are designated for the use, is indicative of its likely employment potential.

8.9 The proposal would therefore not result in the loss of any employment opportunities on the site but would result in the loss of a use related to horticulture, contrary to Policy 23 of the Neighbourhood Plan. It is also noted that the information provided does fall short of the requirements set out at Appendix E of the Local Plan regarding the marketing of the site and premises at a realistic rent/price for a minimum period of two years (or other reasonable timeframe) as little marketing appears to have been undertaken.

8.10 The loss of the café as a community use would also conflict with Policy 38 of the Local Plan and Policy 8 of the Neighbourhood Plan but, given that the café is tied to the use of the site as a nursery via planning condition and is not in a location that the Council’s spatial strategy would look to locate a café use on its own, the loss is not considered overriding.

8.11 It is therefore considered that, whilst there are material considerations that weigh strongly in favour, there remains a modest degree of conflict with the development plan in this regard which will need weighing against the benefits of the proposal in the planning balance.

iii Introduction of Housing & Revised Commercial Offer

8.12 If the loss of the existing use is to be accepted it is appropriate to thereafter consider what is acceptable to replace it on the site. The proposal includes the retention of an element of an employment generating use in addition to introducing housing. As set out below, this is considered broadly acceptable.

Revised Commercial Offer

8.13 A Class E use is, in principle, considered an acceptable re-use of part of the site as it will retain an employment generating use and Class E uses are generally considered compatible with being in residential areas due to their likely limited impact upon neighbouring residential amenity. However, the full range of uses within Class E is not considered appropriate for the site, given its location away from strategic transport infrastructure, outside of any defined settlement boundary and away from any larger settlement as per the commentary below:

Class E	Use	Commentary
(a)	Display or retail sale of goods other than hot food to visitors	Given existing retail provision is linked to nursery use it has not been demonstrated that unrestricted retail in this out of settlement location is appropriate and meets the requirements of Policy 28 of the Local Plan. Furthermore, the parking provision may be inadequate.
(b)	Sale of food or drink for consumption on site	Not considered appropriate due to location that would no longer benefit from the ‘anchor’ nursery use. Not included within submitted Transport Assessment trip rates.

(c)	Provision of financial services, professional services or other services principally to visiting members of the public	Considered appropriate
(d)	Indoor sport or recreation	Not considered appropriate as no noise assessment undertaken and limited parking provision to meet the needs of this type of activity. Necessary restriction on operating hours may be problematic for a business.
(e)	Provision of medical or health services, principally to visiting members of the public	Considered appropriate
(f)	Creche, day nursery or day centre	Not considered appropriate as no noise assessment undertaken, inadequate drop off and pick up arrangements and lack of appropriate outside space
(g)	(i) An office to carry out operational or administrative functions, (ii) the research and development of products or (iii) processes or any industrial process which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.	Considered appropriate

8.14 It is therefore considered necessary, to make the development acceptable and as the applicant had agreed, to impose a planning condition restricting the use of the commercial unit proposed to those uses above that are considered appropriate. In addition, given the proximity of the neighbouring residential uses, in particular Little Paddocks and proposed plots 13 and 14, which share a vehicular access with the commercial unit, and the absence of noise information to accompany a specific confirmed use it is considered necessary to impose a condition restricting the hours of operation of the commercial unit to 08.00 – 20.00, as suggested by the applicant.

Housing

8.15 Whilst Birdham has experienced recent permissions that exceed its housing allocation in both the adopted and emerging Local Plans the application site constitutes a brownfield site where, if the loss of the existing use is accepted, the key matter for consideration is what should be introduced on the site as opposed to whether anything should, given the NPPF attaches importance to the effective use of brownfield land. Therefore, whilst the site is outside of the settlement boundary its status as brownfield land, and location with good access to facilities and services, is considered overriding in this instance and the introduction of housing is accordingly considered an appropriate re-use of part of the site.

8.16 When considering what weight to afford the introduction of housing with regard to meeting housing need it is noteworthy that, following the issue of a revised NPPF, Council's like

Chichester that have an emerging Local Plan which has completed its 'Regulation 19' formal consultation stage and is ready to submit for examination, need only identify a four-year supply of housing sites for the 5-year period. However, whilst the Council has a 4.19 year housing supply (as at 1 April 2023) and therefore has a housing land supply this is not by a significant margin and it is therefore important that the Council grants permission for appropriate developments to ensure that the housing supply remains positive to meet the identified needs of the District and enable the Council to control the location of development by defending against inappropriate development proposals. It is also important that housing supply remains buoyant to ensure the Council is able to maintain the provision of a 5-year housing land supply upon adoption of the emerging local plan.

- 8.17 The contribution that the proposal would therefore make to meeting the District's housing need is considered to constitute a significant material consideration when applying the planning balance.
- 8.18 The Council's Housing team have confirmed the proposed affordable dwellings are acceptable with regard to the size of units and tenure proposed to meet local need. The dwellings are also split into two parts of the site and are designed to be tenure blind. The affordable housing would be secured via a s106 legal agreement alongside a requirement to make up the 0.2 unit shortfall against policy requirements by way of financial contribution. However, given that the Community Infrastructure Levy (CIL) receipt from the proposal is necessary to ensure infrastructure improvements to mitigate the impacts of the additional population that development will bring, and affordable housing can apply for exemption from CIL, the s106 agreement is proposed to restrict the development from providing any additional affordable housing above the agreed percentage.
- 8.19 Furthermore, it is considered that the proposed mix of open-market dwelling sizes accords with the need identified by the Council's Housing and Economic Development Needs Assessment (HEDNA) 2022 whilst the dwellings meet the minimum Nationally Described Space Standards (NDSS) standards and are M4(2) compliant with regard to supporting access for all mobility groups.
- 8.20 It is therefore considered that, whilst there is a conflict with Policy 5 of the Local Plan and Policies 12, 13, 14 and 15 of the Neighbourhood Plan, the proposal is in accordance with Policy 34 of the Local Plan, the CDC Planning Obligations and Affordable Housing SPD 2016 and the NPPF and, given the other material considerations present, significant weight should therefore be given to the contribution that the proposal would make to meeting housing need.

iv Design

- 8.21 Policy 33 of the Local Plan sets out at criteria 1 that proposals must "meet the highest standards of design" whilst the NPPF, at Paragraph 139, is clear that "development that is not well designed should be refused" with Paragraph 135 setting out the clear expectations. This is further supported by Policy 16 of the Neighbourhood Plan and the 2021 National Design Guide which sets out how to create beautiful, enduring and successful places.

Layout & Appearance

- 8.22 The proposed site layout seeks to respond to its context by reducing its wider visibility and utilising the 'L' shape of the site to locate the commercial unit away from the majority of the residential development. Whilst this would necessitate two vehicular access points by taking this approach it reduces the amount of developable area occupied by internal highway, thus resulting in the effective use of land, whilst enabling the northern boundary of the site to accommodate a strong vegetative boundary to the significant betterment of the approach to Birdham.
- 8.23 The dwellings are appropriately positioned to provide interest and terminate views whilst parking spaces are integrated to reduce their visual impact, particularly close the respective entrances to the site. Furthermore, measures such as employing grasscrete (or similar) for some of the parking spaces and the turning area within the site in addition to the absence of internal pavements will support the edge of settlement vernacular. The site also functions well with each dwelling benefitting from private amenity space, bins being located away from the street scene and the minimisation of any 'left over' space with only the designated Amenity Open Space not being attributed to the responsibility of respective occupiers.
- 8.24 The proposed commercial unit would be appropriately sited on the eastern part of the site both largely, with the exception of two dwellings, separating it from the residential uses and also ensuring that the largest building is located closest to the built form of Birdham. The provision of a separate pedestrian access, largely segregated parking area and designated areas for cycle and refuse storage will ensure that the building assimilates into the character of the site and wider area.
- 8.25 The proposed dwellings would have an appropriate edge of settlement vernacular with the materials proposed, the inclusion of bungalows and the form of the roof pitches affording the site a subservient appearance that would not compete with the prevailing rural landscape character. The commercial unit takes a similar approach and, whilst a building of stature, its roof form would reduce the perception of mass ensuring that it is visually appropriate for its location. It is therefore considered that, subject to a condition requiring final agreement of materials, the elevational designs proposed are acceptable.

Open Space

- 8.26 The proposal includes a modest communal amenity area in the south-west corner of the site constituting a grassed area with a number of trees. Given the scale of development, and the provision of private amenity space per dwelling, this is considered acceptable against the policy requirement for 143sqm Amenity Open Space. Therefore, subject to a requirement to manage and maintain the space in perpetuity the proposal is considered, in this regard, to be in accordance with the CDC Planning Obligations and Affordable Housing SPD and Policy 40 of the Local Plan in this regard.
- 8.27 It is therefore considered that the proposed development is of a high quality of design that would create a high quality and beautiful place. The application is therefore in accordance with Policy 33 of the Local Plan, Policy 16 of the Neighbourhood Plan, the National Design Guide 2021 and the NPPF in this regard.

Landscape Impact

8.28 Whilst the site is adjacent to the AONB there is limited intervisibility due to the vegetative screening on the northern side of the highway. Furthermore, the proposed removal of the existing unsightly buildings and introduction of vegetative boundary on the southern side of the highway would enhance the setting of the AONB. It is, however, considered appropriate to restrict the ability of occupiers to amend the design, by requiring expressed permission for any amendments via the removal of permitted development rights, the amount of lighting and ensure that what lighting there is minimises its light spill in accordance with Policy 5 of the Neighbourhood Plan. With these measures in place it is considered that the proposal would have an acceptable impact upon the setting of the AONB and the wider landscape character of the area in accordance with Policies 33 and 43 of the Local Plan, Policy 4 of the Neighbourhood Plan and the NPPF.

v Neighbouring Amenity

8.29 Whilst all other neighbouring uses have a significant separation distance from the proposal the dwelling to the south, Little Paddocks, is sited close to the site boundary and includes a dormer window and rooflights facing the application site. However, the nearest dwelling to Little Paddocks, plot 14, is a bungalow ensuring that there would be a mutual acceptable impact upon the amenity of the respective occupiers. Furthermore, plots 9 and 10, to the west, have adequate separation distances to Little Paddocks whilst the proposed commercial use is single storey, offset and would be separated by the introduction of planting along the boundary. It is therefore considered that the proposal is acceptable in this regard in accordance with Policy 33 of the Local Plan, Policy 16 of the Neighbourhood Plan and the NPPF.

Trees

8.30 Whilst the site contains significant hardstanding the vegetative boundaries of the site are worthy of retention and the site includes a number of trees of merit. Whilst appropriate tree protection and retention measures are proposed, including during the construction stage, the submitted Arboricultural Impact Assessment sets out that a number of trees will be removed, albeit only two are worthy of retention being category C trees. The application therefore proposes significant new planting, with the category C trees being compensated for by replacement mature specimens at a 2:1 ratio. It is therefore considered that the application is acceptable, in this regard, in accordance with Policy 52 of the Local Plan.

vi Connectivity

8.31 The proposal would stop up the existing access to the site, which is not particularly legible given the extensive hard landscaping and lack of boundary and introduce two new accesses to serve the proposal. The Local Highway Authority have confirmed that this is a safe arrangement and that there would be no significant impact upon the local highway network given the insignificant change to trip generation emanating from the site. To ensure that the site is connected to the facilities and services in Birdham and the wider area a footpath connection alongside the highway is proposed to be secured via s106 agreement so that the existing bus stop to the west and Birdham itself can be accessed on foot. The application is therefore in accordance with Policies 8, 9 and 39 of the Local Plan and Policies 7, 9 and 10 of the Neighbourhood Plan in this regard.

vii Protected Designations - Habitat Regulation Assessment

Recreational Disturbance

- 8.32 The application site is within 5.6km of Chichester and Langstone Harbours SPA and, as such and as set out within the Council's Appropriate Assessment, there is a likelihood of an impact upon the designations through recreational disturbance arising from the residents of the proposed development.
- 8.33 The applicant has therefore agreed to make the appropriate contribution per dwelling to the Solent Bird Aware Strategy and this is proposed to be secured in the s106 legal agreement. It is therefore considered that the application is in accordance with Policies 49 and 50 of the Local Plan, Policy 3 of the Neighbourhood Plan and the Conservation of Habitat and Special Regulations 2017.

Protected Species

- 8.34 Given the site includes significant hardstanding the existing ecological value is principally found in the vegetation bounding the site and within the roof forms of older buildings. Both a preliminary ecological assessment and subsequent bat emergence survey were submitted with the application identifying swallows utilising a building and bats moving through the site, but not nesting within it.
- 8.35 Therefore, subject to planning conditions to address the following it is considered that the application is acceptable, in this regard, in accordance with Policy 49 of the Local Plan, Policy 6 of the Neighbourhood Plan and the Conservation of Habitats and Species Regulations 2017:
- Nesting Birds - A planning condition is recommended to ensure that any clearance works are only undertaken out of bird breeding season;
 - Hedgehogs - A planning condition is recommended to ensure that any brush, compost or debris piles on site are only removed outside of the hibernation period; and
 - Bats – A lighting scheme is required to be submitted via the recommended condition to demonstrate how it would minimise any impacts by avoiding any unnecessary light spill.

Biodiversity Net Gain

- 8.36 Whilst the application was submitted ahead of the impending legislative requirement for 10% Biodiversity Net Gain (BNG) and contains no information regarding BNG the NPPF is clear that decisions should contribute to and enhance the natural and local environment including providing net gains for biodiversity whilst Policy 6 of the Neighbourhood Plan requires development to maintain and enhance the current biodiversity status of Birdham. It is therefore considered appropriate to impose a planning condition requiring that the site results in a BNG in accordance with Policy 6 of the Neighbourhood Plan and the NPPF.

viii Flooding & Surface Water Drainage

- 8.37 The application site is located within EA flood zone 1 which has a low probability of flooding and is where the NPPF seeks to sequentially direct new development. There is, however, a mainly open watercourse that runs parallel to the highway immediately adjacent to the northern boundary of the site albeit it is culverted where the site is currently accessed.

- 8.38 The application is accompanied by a Foul and Surface Water Drainage Strategy Report which sets out the approach to drainage. Groundwater monitoring has been undertaken and, in combination with the fact that the underlying material is clay, relying on infiltration would not acceptably mitigate any impact with regard to not exceeding existing greenfield run off rates.
- 8.39 Given the above the application proposes, in the first instance, to reuse water through the introduction of water butts, and thereafter to positively drain the site to a tanked sub-base of the access road that will act as an attenuation feature before discharging into the existing watercourse at a rate no greater than the existing run-off rate. Whilst the existing watercourse will be culverted to accommodate the proposed footpath this would not reduce the capacity of the watercourse.
- 8.40 The Lead Local Flood Authority have concurred with the submitted Report conclusions with no objection subject to planning conditions requiring the construction drawings of the proposed surface water drainage measures, details of the management and maintenance arrangements and the submission of a verification report post installation to demonstrate that it has been installed as designed.
- 8.41 It is therefore considered that, subject to the above planning conditions, the application has demonstrated that it will not increase flood risk elsewhere, has taken the opportunity to reduce flood risk overall and would appropriately manage surface water drainage. The application is therefore in accordance with Policy 42 of the Local Plan and Policies 18 and 20 of the Neighbourhood Plan.

ix Sustainable Measures

- 8.42 The application includes a Sustainable Design and Construction Report which sets out a number of measures that the proposed development would employ. For all the proposed residential units this includes a fabric first approach, air source heat pumps, a maximum of 110 litres of water usage per person per day, water butts, construction materials with an A or A+ rating under BRE's Green Guide, responsibly sourced timber and EV charging for all dwellings.
- 8.43 The submitted report does not, however, explicitly include measures for the commercial unit. It is therefore considered that, whilst the building is capable in principle of including relevant measures, a planning condition should be imposed requiring the submission of final details, in this regard, for the commercial unit.
- 8.44 It is therefore considered that, subject to a condition requiring further details for the commercial unit and a condition requiring the proposed dwellings to comply with the submitted report, the application is in accordance with Policy 40 of the Local Plan in this regard.

x Other Matters

Air Quality and Noise

- 8.45 The site is not located within an Air Quality Management Area (AQMA) whilst the main noise generating use is traffic on the adjacent highway. The application is accompanied by a Noise Assessment that sets out a range of potential measures, such as enhanced

glazing for those dwellings adjacent to the highway, that demonstrate that, in principle, that any unacceptable acoustic measures can be mitigated. Furthermore, the applicant has agreed to limit the commercial unit to those Class E uses that have an acceptable acoustic impact.

- 8.46 Therefore, subject to a condition requiring the implementation of necessary mitigation measures to the dwellings and the restriction of uses within Class E that may be noise generating, as their acceptability has not been demonstrated, the proposal is considered acceptable in accordance with Policies 33 and 40 of the Local Plan in this regard.

Construction Impacts

- 8.47 Whilst any development will result in temporary disturbance to the local area and community, and this is unavoidable, it is appropriate to require measures to minimise any impacts. Accordingly, it is considered appropriate to impose a condition requiring a Construction Environmental Management Plan (CEMP) and a Construction Traffic Management Plan (CTMP) to ensure that any impacts upon the amenity of the neighbouring dwelling, the highway, the adjacent AONB and the adjacent watercourse are minimised.

Foul Drainage

- 8.48 The application proposes to continue with a mains connection to Sidlesham WWTW to dispose of foul waste. The WWTW is an environmentally constrained treatment plant as it discharges into the Broad Rife and onwards into Bracklesham Bay. However, Southern Water are aware of the need to increase capacity at the WWTW and are taking steps to do so, as set out within the Southern Water Sidlesham Drainage Strategy. It is therefore considered that the application is acceptable in this regard in accordance with Policy 21 of the Neighbourhood Plan.

Land Contamination

- 8.49 The application includes a Ground Conditions Assessment report dated January 2022 which sets out the results of a desktop appraisal and subsequent soil sampling on the site, both near the surface (for the purpose of contamination assessment) and through boreholes (for geotechnical purposes). Whilst not unexpected, due to the commercial history of the site, the investigation identified lead, arsenic and polycyclic aromatic hydrocarbons that require further investigation and potential remediation prior to the residential use of the site.
- 8.50 It is therefore considered that, subject to planning conditions requiring further site investigation, remediation and verification, the application is acceptable in this regard in accordance with the NPPF”.

Infrastructure and Planning Obligations

- 8.51 The development would be liable to pay the Council's Community Infrastructure Levy (CIL) charge of £120 sqm (+ indexing from January 2016) which, whilst the applicant can seek CIL exemption of affordable units, would mitigate the impact on wider infrastructure that the introduction of residents would result in.

8.52 However, a s106 legal agreement would also be necessary to secure the infrastructure directly necessary and related to the development to make it acceptable in planning terms. The following is therefore proposed to be secured:

- Four affordable dwellings comprising of one first home (2-bed) and three social rent (1 x 1-bed bungalow, 1 x 2-bed dwelling and 1 x 3-bed bungalow);
- Timing of delivery of the affordable units, appropriate management by an approved body and a nominations agreement;
- Financial contribution in lieu of the 0.2 unit shortfall in affordable housing, to be calculated in accordance with the Planning Obligations and Affordable Housing SPD;
- Timing of delivery of commercial unit – prior to first occupation of 8th open market dwelling;
- Timing of delivery of vehicular access and footpath link to Birdham – prior to first occupation of any dwellings;
- Financial contribution of £465 per 1-bed, £671 per 2-bed, £875 per 3-bed and £1,029 per 4-bed for recreational disturbance mitigation at Chichester and Langstone Harbours SPA, in accordance with the Planning Obligations and Affordable Housing SPD;
- Financial contribution of £7,728 per dwelling towards the A27 Local Plan mitigation works in line with the Council's SPD 'Approach for securing development contributions to mitigate additional traffic impacts on the A27 Chichester Bypass' with an updated tariff based on the methodology set out in draft policy T1: transport Infrastructure (A27 Mitigation contributions) in the Chichester Local Plan 2021-2039: Proposed Submission (Regulation 19);
- Delivery, management and on-going maintenance of the Amenity Open Space; and
- £1,350 s106 monitoring fee.

8.53 This is considered in accordance with Policies 8, 9, 34, 49, 50, 52 and 54 of the Local Plan, Policies L1, T1 and T2 of the emerging Chichester Local Plan 2021-2039: Proposed Submission Version, the CDC Planning Obligations and Affordable Housing SPD 2016, Policies 3, 6 and 17 of the Neighbourhood Plan, the NPPF and the Conservation of Habitat and Species Regulations 2017.

xi Conclusion and Planning Balance

8.54 The application is accompanied by viability information that demonstrates the difficulties that the existing business faces, not least due to the poor condition of the site and the significant investment required. The Council's Economic Development Team acknowledge the challenges the site faces and support the application to ensure that employment opportunities remain on the site in an attractive and future-proof format.

8.55 Whilst the information submitted falls short of the marketing information the Local Plan requires this is not, within the context of the above, considered an overriding concern. In addition, the café is only currently considered appropriate due to its existing connection to the nursery so its loss as a community facility is also not considered overriding.

8.56 As a brownfield site there is a requirement to make the effective use of land and the retention, in part, of an employment use is considered appropriate. Furthermore, the introduction of housing, given the broadly sustainable location, is considered an acceptable use and one, given the housing need of the district, that attracts significant weight.

- 8.57 The proposal would also enhance the setting of the adjacent AONB with the removal of the existing buildings and introduction of a vegetative boundary adjacent to the highway resulting in an improved gateway to Birdham. The application is also technically competent in all other regards.
- 8.58 The loss of the café as a community use and the nursery, as a use related to horticulture, are therefore not considered overriding concerns given that there will be no loss in overall employment on the site. The introduction of housing is, conversely, afforded significant weight given that the housing land supply is only marginally positive and the use of brownfield sites to meet housing need will minimise the need to develop greenfield sites.
- 8.59 The 'tilted balance' at Paragraph 11 of the NPPF is not considered, on balance, to be engaged, due to the fact the Council has a housing land supply and the spatial distribution of housing and protection of employment and community uses policies are in date. However, the fact that it is necessary to address the point demonstrates the close-run nature of the Councils housing land supply.
- 8.60 The retention of employment and the meaningful contribution to meeting housing need are therefore considered to outweigh the respective degrees of conflict with the loss of the nursery and the community use. The application is therefore recommended for approval subject to planning conditions and the completion of a s106 agreement.

Human Rights

- 8.61 The Human Rights of all affected parties have been taken into account and the recommendation to permit is considered justified and proportionate.

RECOMMENDATION

DEFER FOR SECTION 106 THEN PERMIT subject to the following conditions and informatives:-

- 1) The development hereby permitted shall be begun before the expiration of two 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 following plans:

- 1426/DP100 – Location Plan;
- 1426/DP101 Rev 3 – Block Plan;
- 1426/DP103 Rev 3 – Site Plan;
- 1426/DP104 Rev 2 – Plots 1 & 2 Ground & First Floor Plan;
- 1426/DP105 – Plots 3 & 4 Ground & First Floor Plan;
- 1426/DP106 – Plots 5 & 6 Ground & First Floor Plan;
- 1426/DP107 Rev 2 – Plots 7 & 8 Ground & First Floor Plan;
- 1426/DP108 Rev 2 – Plots 9, 10, 11 & 14 Ground Floor Plan;
- 1426/DP109 Rev 2 – Plots 1 & 2 elevations;
- 1426/DP110 Rev 2 – Plots 3 & 4 Elevations;
- 1426/DP111 Rev 2 – Plots 5 & 6 Elevations;

- 1426/DP112 Rev 2 – Plots 7 & 8 Elevations;
- 1426/DP113 Rev 2 – Plots 9 & 11 Elevations;
- 1426/DP114 Rev 2 – Plots 10 & 14 Elevations;
- 1426/DP115 Rev 2 – Plots 12 & 13 Elevations;
- 1426/DP116 Rev 2 – Commercial Unit Ground Floor Plan;
- 1426/DP117 Rev 2 – Commercial Unit Elevations;
- 1426/DP118 Rev 2 – Commercial Unit Elevations;
- 1426/DP119 Rev 2 – Commercial Unit Elevations;
- 1426/DP120 Rev 2 – Street Elevation; and
- 1426/DP122 Rev 2 – Garage and Bin Enclosure.

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

3) No development shall commence until plans of the site showing details of the existing and proposed ground levels, proposed finished floor levels, levels of any paths, drives, garages and parking areas and the proposed completed height of the development and any retaining walls have been submitted to, and approved in writing by, the Local Planning Authority. The details shall clearly identify the relationship of the proposed ground levels and proposed completed height with adjacent buildings. The development thereafter shall be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the area and the amenity of neighbouring and future occupiers in accordance with Policy 33 of the Chichester Local Plan: Key Policies 2014-2029, Policy 16 of the Birdham Parish Neighbourhood Plan 2014-2029 and the NPPF.

4) No development shall commence until a Remediation Scheme (addressing the findings of the submitted Ground Condition Assessment J21-104-RO1 dated 31.01.22) 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: To ensure that risks from land contamination, ground gases and contaminated groundwater to the future uses of the land, neighbouring land, surface water, groundwater and wider environment are mitigated to ensure that the development can be carried out safely without any unacceptable risks to workers, neighbours and off-site receptors in accordance with the NPPF.

5) No development shall commence, including any works of demolition, until a Construction and Environmental Management Plan (CEMP) comprising a schedule of works and accompanying plans for that Phase 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 phased programme of demolition and construction works;
- (b) the anticipated number, frequency and types of vehicles used during construction;
- (c) the location and specification for vehicular access during construction,
- (d) the provision made for the parking of vehicles by contractors, site operatives and visitors,
- (e) the loading and unloading of plant, materials and waste,
- (f) the storage of plant and materials used in construction of the development,
- (g) the erection and maintenance of security hoarding,
- (h) the location of any site huts/cabins/offices,
- (i) the provision of road sweepers, wheel washing facilities and the type, details of operation and location of other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- (j) details of public engagement both prior to and during construction works, including a named person to be appointed by the applicant to deal with complaints who shall be available on site and contact details made known to all relevant parties,
- (k) measures to control the emission of dust and dirt during construction, to include where relevant sheeting of loads, covering and dampening down stockpiles and restriction of vehicle speeds on haul roads. A dust management plan should form part of the CEMP which includes routine dust monitoring at the site boundary with actions to be taken when conducting dust generating activities if weather conditions are adverse,
- (l) measures to control the emission of noise during construction,
- (m) 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,
- (n) appropriate storage of fuel and chemicals, in bunded tanks or suitably paved areas,
- (o) measures to reduce air pollution during construction including turning off vehicle engines when not in use and plant servicing, and
- (p) waste management including prohibiting burning,
- (q) provision of temporary domestic waste and recycling bin collection point(s) during construction.

Reason: To safeguard the amenity of occupiers of adjoining properties, highway and pedestrian safety, the character and appearance of the area and adjacent AONB and to prevent pollution in accordance with Policies 33, 40, 48 and 49 of the Chichester Local Plan: Key Policies 2014-2029 and the NPPF.

6) No development shall commence until final acoustic mitigation measures (in accordance with the recommendations set out within the Noise Assessment R9894-1 Rev 1 dated 26.03.24) are submitted and approved, in writing, by the Local Planning Authority. The development shall be undertaken in accordance with the agreed detailed and retained as such.

Reason: To safeguard the amenity of the occupiers of the proposed dwellings in accordance with Policy 33 of the Chichester Local Plan: Key Policies 2014-2029 and the NPPF.

7) No development shall commence until details of how the development will achieve a Biodiversity Net Gain, measured against the Statutory Metric, have been submitted and agreed, in writing, by the Local Planning Authority. The development shall be undertaken and thereafter maintained in accordance with the agreed details.

Reason: To ensure the development contributes to biodiversity in accordance with Policy 6 of the Birdham Parish Neighbourhood Plan 2014-2029 and the NPPF.

8) No development above slab level shall commence until a schedule and samples of all materials and finishes to be used (including but not limited to external walls, roofs, windows, doors and rainwater goods) have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved schedule of materials and finishes and maintained as such unless otherwise agreed in writing.

Reason: To safeguard the character and appearance of the area in accordance with Policy 33 of the Chichester Local Plan: Key Policies 2014-2029, Policy 16 of the Birdham Parish Neighbourhood Plan 2014-2029 and the NPPF.

9) No development above slab level shall commence until details of a soft landscaping scheme (to include a plan showing the location of planting and type of species, a management and maintenance plan and the location and species of the four mature trees to compensate for the loss of the two category C trees) has been submitted to and approved, in writing, by the Local Planning Authority. The development must be carried out in accordance with the approved details. Any trees or plants which are removed, die or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved unless otherwise first agreed in writing by the Local Planning Authority.

Reason: To safeguard the character and appearance of the area in accordance with Policy 33 of the Chichester Local Plan: Key Policies 2014-2029, Policy 16 of the Birdham Parish Neighbourhood Plan 2014-2029 and the NPPF.

10) No development above slab level shall commence until details of materials to be used for hard surfaced areas have been submitted to and approved, in writing, by the Local Planning Authority. The development must be carried out in accordance with the approved details.

To safeguard the character and appearance of the area in accordance with Policies 33 of the Chichester Local Plan: Key Policies 2014-2029, Policy 16 of the Birdham Parish Neighbourhood Plan 2014-2029 and the NPPF.

11) No development above slab level shall commence until details of all boundary treatments (including height and material) have been submitted to and approved, in writing, by the Local Planning Authority. The development must be carried out in accordance with the approved details and retained as such.

Reason: To safeguard the character and appearance of the area and the amenity of the occupiers of adjoining properties in accordance with Policies 33 of the Chichester Local Plan: Key Policies 2014-2029, Policy 16 of the Birdham Parish Neighbourhood Plan 2014-2029 and the NPPF.

12) No development above slab level shall commence until a lighting strategy has been submitted to and agreed, in writing, by the Local Planning Authority. The scheme shall set out how the development shall be designed to ensure that artificial light shall not exceed thresholds from the Institution of Lighting Professional's, 'Guidance Notes for the Reduction of Obtrusive Light (Guidance Note 01/20)', shall include an isolux diagram showing the predicted luminance in both the horizontal and the vertical plane (at a height of 3.5 metres) for the development and demonstrate how it would mitigate potential impacts upon bats. The development shall be undertaken in accordance with the agreed details and retained as agreed.

Reason: To safeguard protected species in accordance with Policies 48 and 49 of the Chichester Local Plan: Key Policies 2014-2029, Policy 5 of the Birdham Parish Neighbourhood Plan 2014-2029 and the NPPF.

13) No development of the Commercial Unit shall commence until details of the sustainability measures for the building have been submitted to and agreed, in writing, by the Local Planning Authority. The measures shall be installed prior to the first occupation of the building and thereafter maintained and retained as agreed.

Reason: To ensure that the development constitutes sustainable design and construction in accordance with Policy 40 of the Chichester Local Plan: Key Policies 2014-2029 and the NPPF.

14) Prior to the installation of any noise generating mechanical or electrical equipment to the Commercial Unit details of the acoustic performance and any necessary mitigation measures shall be submitted to and agreed, in writing, by the Local Planning Authority. The measures shall be installed as agreed and thereafter retained as such.

Reason: To safeguard the amenity of the occupiers of the proposed dwellings in accordance with Policy 33 of the Chichester Local Plan: Key Policies 2014-2029 and the NPPF.

15) The development, hereby permitted, must not be first occupied until provision has been made on site for the parking of vehicles and cycles in accordance with approved plan no. 1426/DP103 Rev 03 unless otherwise agreed in writing. The vehicular and cycle parking shall be retained as agreed.

Reason: To ensure that adequate provision for the parking of vehicles and cycles is provided in accordance with Policy 39 of the Chichester Local Plan: Key Policies 2014-2029 and the NPPF.

16) Prior to the first occupation of any dwelling, hereby permitted, details showing the precise location, installation and ongoing maintenance of fire hydrants to be supplied (in accordance with the West Sussex Fire and Rescue Guidance Notes) shall be submitted to and be approved in writing by the Local Planning Authority in

consultation with West Sussex County Council's Fire and Rescue Services. The approved fire hydrants shall be installed before first occupation of any dwelling and thereafter be maintained as in accordance with the approved details. Within 1 month of the completion of the fire hydrant installation, confirmation that the fire hydrant is ready for operational use shall be made to the WSCC Fire and Rescue Service's Water and Access Manager.

Reason: In accordance with The Fire and Rescue Services Act 2004.

17) The development, hereby permitted, must be carried out in accordance with the Arboricultural Impact Assessment and Method Statement LLD2287-ARB-REP-002 Rev 02 dated 16.02.24 and the tree protection measures set out on approved plans LLD2287-ARB-DWG-021 dated 14.02.24, LLD2287-ARB-DWG-022 dated 14.02.24 and LLD2287-ARB-DWG-023 dated 14.02.24 unless otherwise agreed in writing.

Reason: To safeguard trees and other vegetation in accordance with Policy 52 of the Chichester Local Plan: Key Policies 2014-2029 and the NPPF.

18) In the event that contamination is found at any time when carrying out the approved development that was not previously identified in the submitted Ground Condition Assessment (J21-104-RO1 dated 31.01.22) it must be reported in writing immediately to the Local Planning Authority. The development shall not be first occupied until;

- i) An investigation and risk assessment has been undertaken in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority, and
- ii) where remediation is necessary a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. Any remediation shall be fully implemented in accordance with the approved scheme before the development is brought into use, and
- iii) a verification report for the remediation shall be submitted in writing to the Local Planning Authority before the development is first brought into use.

Reason: To ensure that risks from land contamination, ground gases and contaminated groundwater to the future uses of the land, neighbouring land, surface water, groundwater and wider environment are mitigated to ensure that the development can be carried out safely without any unacceptable risks to workers, neighbours and off-site receptors in accordance with the NPPF.

19) The development shall be undertaken in accordance with the measures set out within the submitted Sustainable Design & Construction Report (therm energy dated 28.09.2022) including:

- Fabric first approach;
- Air source heat pumps for all residential units;
- Maximum of 110 litres water consumption per person per day;
- Water butts for all residential units;
- Construction materials with a A or A+ rating under BRE's Green Guide;
- Responsibly sourced timber; and
- EV charging for all dwellings.

All measures shall be installed prior to the first occupation of the dwelling to which they relate and shall thereafter be retained and maintained as installed.

Reason: To ensure that the development constitutes sustainable design and construction in accordance with Policy 40 of the Chichester Local Plan: Key Policies 2014-2029 and the NPPF.

20) The development, hereby permitted, must be carried out in strict accordance with the methodology, mitigation and enhancement measures and recommendations detailed in the Preliminary Ecological Appraisal LLD2287 dated 14.04.21 and Bat Emergence Survey Report LLD2787-ECO-REP-002-00-BAS dated 21.06.22 unless otherwise agreed in writing.

Reason: To safeguard protected species and other species present on the site in accordance with Policies 48 and 49 of the Chichester Local Plan: Key Policies 2014-2029, Policy 6 of the Birdham Parish Neighbourhood Plan 2014-2029 and the NPPF.

21) No works to trees or vegetation on the site shall take place during the bird breeding season between 1st March - 1st October unless under the observation and instruction of a qualified ecologist.

Reason: To safeguard protected species and other species present on the site in accordance with Policies 48 and 49 of the Chichester Local Plan: Key Policies 2014-2029, Policy 6 of the Birdham Parish Neighbourhood Plan 2014-2029 and the NPPF.

22) No brush piles, compost or debris piles shall be removed between the hibernation period mid-October to mid-March unless under the observation and instruction of a qualified ecologist.

Reason: To safeguard protected species and other species present on the site in accordance with Policies 48 and 49 of the Chichester Local Plan: Key Policies 2014-2029, Policy 6 of the Birdham Parish Neighbourhood Plan 2014-2029 and the NPPF.

23) Notwithstanding the Town and Country Planning (Use Classes) Order 1987 or any provision or statutory instrument amending or revoking that Order the proposed Commercial Unit, hereby permitted, shall only be used for Use Class E(c), E(e) and E(g) and for no other use.

Reason: To promote sustainable development and safeguard highway safety, the character and appearance of the area and the amenity of neighbouring residential uses in accordance with Policies 1, 2, 3, 33, 38, 39 of the of the Chichester Local Plan: Key Policies 2014-2029 and the NPPF.

24) The Commercial Unit, hereby permitted, shall only be used between the hours of 08:00 – 20:00 Monday - Saturday and at no time on Sundays, Bank Holidays or Public Holidays unless otherwise agreed in writing.

Reason: In the absence of a specific confirmed use and accompanying noise information to safeguard the amenity of the occupiers of the neighbouring dwellings in

accordance with the aims and intentions of the Chichester Local Plan: Key Policies 2014-2029, the Birdham Parish Neighbourhood Plan 2014-2029 and the NPPF.

25) 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 Classes A, B, C, D, E and F of Part 1 Schedule 2 shall be erected or made on the application site without a grant of planning permission.

Reason: To safeguard the character and appearance of the area in accordance with Policy 33 of the Chichester Local Plan: Key Policies 2014-2029, Policy 16 of the Birdham Parish Neighbourhood Plan 2014-2029 and the NPPF.

26) 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 on any of the Open Space or Amenity Areas shown on the approved plans.

Reason: To safeguard the character and appearance of the area in accordance with Policy 33 of the Chichester Local Plan: Key Policies 2014-2029, Policy 16 of the Birdham Parish Neighbourhood Plan 2014-2029 and the NPPF.

INFORMATIVES

- 1) The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal, discussing those with the applicant and therefore working with the applicant and consultees to result in an application able to be recommended for approval.
- 2) S106 - This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990.
- 3) The council has created a Surface Water Drainage Proposal Checklist document that can be found in the downloadable documents box on the following webpage: <http://www.chichester.gov.uk/landdrainage>. This document is designed to clearly outline the Council's expectations and requirements for Surface Water Drainage Proposals. If pre-commencement surface water conditions are applied to the application this document should be used for any subsequent Discharge of Conditions Applications.
- 4) The developer's attention is drawn to the provisions of the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats etc) Regulations 1994, and to other wildlife legislation (for example Protection of Badgers Act 1992, Wild Mammals Protection Act 1996). These make it an offence to kill or injure any wild bird intentionally, damage or destroy the nest of any wild bird intentionally (when the nest is being built or is in use), disturb, damage or destroy and place which certain wild animals use for shelter (including badgers and all bats and certain moths, otters, water voles and dormice), kill or injure certain reptiles and amphibians (including adders, grass snakes, common lizards, slow-worms, Great Crested newts, Natterjack toads, smooth snakes and sand lizards), and kill, injure

or disturb a bat or damage their shelter or breeding site. Leaflets on these and other protected species are available free of charge from Natural England.

The onus is therefore on you to ascertain whether any such species are present on site, before works commence. If such species are found or you suspected, you must contact Natural England (at: Natural England, Sussex and Surrey Team, Phoenix House, 32-33 North Street, Lewes, East Sussex, BN7 2PH, 01273 476595, sussex.surrey@english-nature.org.uk) for advice. For nesting birds, you should delay works until after the nesting season (1 March to 31 August).

- 5) A formal application to Southern Water for connection to the public sewerage system is required in order to service this development. Attention is drawn to the New Connections Services Charging Arrangements document which has now been published and is available to read on Southern Water's website via the following link: southernwater.co.uk/developing-building/connection-charging-arrangements.
- 6) The applicant is reminded that the prior written consent of the Lead Local Flood Authority (WSCC) or its agent (CDC) will be required in order to comply with the Land Drainage Act 1991 and Flood and Water Management Act 2010 for the discharge of any flows to watercourses, or the culverting, diversion, infilling or obstruction of any watercourse on the site. Any discharge to a watercourse must be at a rate no greater than the pre-development run off values. For further information please email landdrainage@chichester.gov.uk.
- 7) Section 278 Agreement of the 1980 Highways Act - Works within the Highway - The applicant is advised to enter into a legal agreement with West Sussex County Council, as Highway Authority, to cover the off-site highway works. The applicant is requested to contact The Implementation Team Leader (01243 642105) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.
- 8) The applicant is advised that the erection of temporary directional signage should be agreed with the Local Traffic Engineer prior to any signage being installed. The applicant should be aware that a charge will be applied for this service.

For further information on this application please contact David Cranmer on 01243 534734

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=ROBUIGERIOG00>