

Public Document Pack

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A meeting of **Planning Committee** will be held Virtually on **Wednesday 7 October 2020** at **9.30 am**

MEMBERS: Mrs C Purnell (Chairman), Rev J H Bowden (Vice-Chairman), Mr G Barrett, Mr R Briscoe, Mrs J Fowler, Mrs D Johnson, Mr G McAra, Mr S Oakley, Mr H Potter, Mr D Rodgers, Mrs S Sharp, Mr A Sutton and Mr P Wilding

AGENDA

1 **Chair's Announcements**

Any apologies for absence which have been received will be noted at this stage.

The Planning Committee will be informed at this point in the meeting of any planning applications which have been deferred or withdrawn and so will not be discussed and determined at this meeting.

2 **Approval of Minutes** (Pages 1 - 8)

The minutes relate to the meeting of the Planning Committee on 9 September 2020 and the Special Planning Committee on 25 September 2020 (*copy to follow*).

3 **Urgent Items**

The Chair will announce any urgent items that due to special circumstances will be dealt with under agenda item 9 (b).

4 **Declarations of Interests** (Pages 9 - 10)

Details of members' personal interests arising from their membership of parish councils or West Sussex County Council or from their being Chichester District Council or West Sussex County Council appointees to outside organisations or members of outside bodies or from being employees of such organisations or bodies.

Such interests are hereby disclosed by each member in respect of agenda items in the schedule of planning applications where the Council or outside body concerned has been consulted in respect of that particular item or application.

Declarations of disclosable pecuniary interests, personal interests and prejudicial interests are to be made by members of the Planning Committee in respect of matters on the agenda or this meeting.

PLANNING APPLICATIONS - AGENDA ITEMS 5 TO 6 INCLUSIVE

Section 5 of the Notes at the end of the agenda front sheets has a table showing how planning applications are referenced.

Please note that agenda item start times are a guide and should not be relied upon. Public speakers are advised to view the live webcast (which can be found here <http://chichester.nucast.live/>) prior to joining the virtual meeting waiting room. For further information please contact democraticservices@chichester.gov.uk.

- 5 **CH/20/00412/OUT - Land Off Broad Road, Broad Road, Hambrook, PO18 8RF (item start time approximately 9.35am)** (Pages 11 - 66)
Outline Application for the construction of 35 no. affordable residential dwellings for first time buyers and those looking to rent their first home (Paragraph 71 entry-level exception site), with all matters reserved other than access.

- 6 **EWB/19/00431/AGR - Hundredsteddle Farm, Hundredsteddle Lane, Birdham, Chichester, West Sussex, PO20 7BL (item start time approximately 10.50am)** (Pages 67 - 118)
Grain store and machinery store.

- 7 **Chichester District Council Schedule of Planning Appeals, Court and Policy Matters** (Pages 119 - 130)
The Planning Committee will consider the monthly schedule updating the position with regard to planning appeals, litigation and recent planning policy publications or pronouncements.

- 8 **South Downs National Park, Schedule of Planning Appeals, Court and Policy Matters** (Pages 131 - 137)
The Planning Committee will consider the monthly schedule updating the position with regard to planning appeals, litigation and recent planning policy publications or pronouncements.

- 9 **Consideration of any late items as follows:**
The Planning Committee will consider any late items announced by the Chair at the start of this meeting as follows:
 - a) Items added to the agenda papers and made available for public inspection
 - b) Items which the Chair has agreed should be taken as matters of urgency by reason of special circumstances to be reported at the meeting

- 10 **Exclusion of the Press and Public**
There are no restricted items for consideration.

NOTES

1. The press and public may be excluded from the meeting during any item of business whenever it is likely that there would be disclosure of exempt information as defined in section 100I of and Schedule 12A to the Local Government Act 1972

2. The press and public may view the agenda papers on Chichester District Council's website at [Chichester District Council - Minutes, agendas and reports](#) unless these are exempt items.
3. This meeting will be recorded and the recording will be retained in accordance with the council's information and data policies. If a member of the public makes a representation to the meeting they will be deemed to have consented to being recorded.
4. How applications are referenced:
 - a) First 2 Digits = Parish
 - b) Next 2 Digits = Year
 - c) Next 5 Digits = Application Number
 - d) Final Letters = Application Type

Application Type

ADV Advert Application
AGR Agricultural Application (following PNO)
CMA County Matter Application (eg Minerals)
CAC Conservation Area Consent
COU Change of Use
CPO Consultation with County Planning (REG3)
DEM Demolition Application
DOM Domestic Application (Householder)
ELD Existing Lawful Development
FUL Full Application
GVT Government Department Application
HSC Hazardous Substance Consent
LBC Listed Building Consent
OHL Overhead Electricity Line
OUT Outline Application
PLD Proposed Lawful Development
PNO Prior Notification (Agr, Dem, Tel)
REG3 District Application – Reg 3
REG4 District Application – Reg 4
REM Approval of Reserved Matters
REN Renewal (of Temporary Permission)
TCA Tree in Conservation Area
TEL Telecommunication Application (After PNO)
TPA Works to tree subject of a TPO
CONACC Accesses
CONADV Adverts
CONAGR Agricultural
CONBC Breach of Conditions
CONCD Coastal
CONCMA County matters
CONCOM Commercial/Industrial/Business
CONDWE Unauthorised dwellings
CONENG Engineering operations
CONHDG Hedgerows
CONHH Householders
CONLB Listed Buildings
CONMHC Mobile homes / caravans
CONREC Recreation / sports
CONSH Stables / horses
CONT Trees
CONTEM Temporary uses – markets/shooting/motorbikes
CONTRV Travellers
CONWST Wasteland

Committee report changes appear in bold text. Application Status

ALLOW Appeal Allowed
APP Appeal in Progress
APPRET Invalid Application Returned
APPWDN Appeal Withdrawn
BCO Building Work Complete
BST Building Work Started
CLOSED Case Closed
CRTACT Court Action Agreed
CRTDEC Hearing Decision Made
CSS Called in by Secretary of State
DEC Decided
DECDET Decline to determine
DEFCH Defer – Chairman
DISMIS Appeal Dismissed
HOLD Application Clock Stopped
INV Application Invalid on Receipt
LEG Defer – Legal Agreement
LIC Licence Issued
NFA No Further Action
NODEC No Decision
NONDET Never to be determined
NOOBJ No Objection
NOTICE Notice Issued
NOTPRO Not to Prepare a Tree Preservation Order
OBJ Objection
PCNENF PCN Served, Enforcement Pending
PCO Pending Consideration
PD Permitted Development
PDE Pending Decision
PER Application Permitted
PLNREC DC Application Submitted
PPNR Planning Permission Required S64
PPNREQ Planning Permission Not Required
REC Application Received
REF Application Refused
REVOKE Permission Revoked
S32 Section 32 Notice
SPLIT Split Decision
STPSRV Stop Notice Served
STPWTH Stop Notice Withdrawn
VAL Valid Application Received
WDN Application Withdrawn
YESTPO Prepare a Tree Preservation Order

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Minutes of the meeting of the **Planning Committee** held Virtually on Wednesday 9 September 2020 at 9.30 am

Members Present: Mrs C Purnell (Chairman), Rev J H Bowden (Vice-Chairman), Mr G Barrett, Mr R Briscoe, Mrs J Fowler, Mrs D Johnson, Mr G McAra, Mr S Oakley, Mr H Potter, Mr D Rodgers, Mrs S Sharp, Mr A Sutton and Mr P Wilding

Members not present:

In attendance by invitation:

Officers present: Miss J Bell (Development Manager (Majors and Business)), Mr J Bushell (Principal Planning Officer), Miss N Golding (Principal Solicitor), Miss S Hurr (Democratic Services Officer), Mr D Price (Principal Planning Officer), Mr S Shaw (County Highways (Development Management) Team Manager), Mr J Saunders (Development Manager (National Park)), Mrs F Stevens (Development Manager (Applications)) and Mr T Whitty (Divisional Manager for Development Management)

118 **Chairman's Announcements**

The Chairman welcomed everyone present to the virtual meeting.

119 **Approval of Minutes**

RESOLVED

That the minutes of 12 August 2020 be approved.

120 **Urgent Items**

There were no urgent items.

121 **Declarations of Interests**

Rev Bowden declared a personal interest in respect of planning applications CC/20/01046/REM and CC/20/01256/ADV as a Member of Chichester City Council.

Mr Barrett declared a personal interest in respect of The Local List as a Chichester District Council appointed Member of Chichester Harbour Conservancy.

Mr Oakley declared a personal interest in respect of planning applications LX/20/0161/OUT, CC/20/01046/REM, CC/20/01256/ADV, SDNP/20/01727/FUL and The Local List as a Member of West Sussex County Council.

Mr Potter declared a personal interest in respect of planning application SDNP/20/01727/FUL as a Chichester District Council appointed Member of South Downs National Park Authority.

Mrs Purnell declared a personal interest in respect of planning applications LX/20/0161/OUT, CC/20/01046/REM, CC/20/01256/ADV, SDNP/20/01727/FUL and The Local List as a Member of West Sussex County Council.

Mrs Sharp declared a personal interest in respect of planning applications CC/20/01046/REM and CC/20/01256/ADV as a Member of Chichester City Council.

122 **LX/20/01617/OUT - Land South Of Loxwood Farm Place, High Street, Loxwood, West Sussex (item start time approximately 9.35am)**

Mr Bushell presented the item to Members and drew attention to the information provided on the update sheet.

The Committee received the following speakers:

Chris Agar – Parish Council
Stuart Holmes – Objector
David Neame – Agent
Gareth Evans – District Council (statement read)

Mr Bushell responded to Members' comments and questions. With regards to the weight which could be afforded to progress being made revising the Neighbourhood Plan (NP), Mr Bushell confirmed that the NP was in its very early stages looking at potential housing sites and was not yet sufficiently advanced to carry weight in terms of decision making. The previous application for 22 units was currently the subject of an appeal and had been refused on the basis that the Council at that time was able to demonstrate that it had a 5 year supply of housing land and that its housing policies which resisted new housing outside of settlement boundaries were up to date. As of 15th July 2020, the housing policies in the Development Plan which for planning purposes in Loxwood comprises the adopted Local Plan (LP) and the made NP were now out of date and the Council had now introduced its Interim Policy Statement to manage the determination of new applications for housing outside of settlement boundaries. With regards to the three metre landscape buffer zone as opposed to five metres, Mr Bushell explained that it was necessary to balance the wildlife and screening benefits of the buffer whilst ensuring an effective use of the land for delivering housing and that three metres was considered sufficient for both the planting of vegetation and protection of tree roots and allowing an acceptable density of development. On the matter of the carriageway widths, the internal layout of the site was a reserved matter which would be assessed as part of the subsequent reserved matters application.

With regard to foul water drainage, Mr Bushell confirmed that there was an on-going dialogue with Southern Water which was looking to improve infrastructure going forward but that on this application Southern Water had raised no objection.

Rev Bowden made a proposal to defer the decision pending a report regarding the progress of the revised NP and further consultations with Southern Water. The Chairman advised this would result in a delay and therefore a potential appeal against non-determination of the application. Mr Whitty confirmed that with an appeal currently in progress on the previous application for 22 dwellings a timely decision would be required by the Committee, and added that Southern Water were responsible for providing appropriate services, and a prematurity argument for regarding the proposals running ahead of the NP would not be a sufficient reason for a deferral and therefore he would counsel against such a proposal.

On the matter of the original outline application on the site in 2014 for 25 dwellings which was refused and dismissed on appeal, Mr Bushell explained that this had been refused by Secretary of State as it had been found contrary to the then up to date housing policies in both the newly made NP and adopted LP.

With regards to the access to the proposed development and a question regarding the swept path analysis plan and Vehicle Activated Speed (VAS) sign and specifically its maintenance, Mr Bushell confirmed that the swept path drawing had been supplied within the Transport Statement, and Mr Shaw confirmed that the VAS devices once installed would be adopted by the highway authority for future maintenance.

Following further debate Mr Whitty confirmed that one of the reasons for refusal in the current appeal was in relation to the housing density (22 units) being too low. This had been increased to 24 in the current application and was now considered acceptable. Mr Whitty advised that the planning Inspector was now likely to approve the appeal given that the Council could no longer demonstrate it had the required 5 year housing supply. To pursue the appeal under such circumstances was likely to result in an application for an award of costs against the Council. He also confirmed that refusing the application could be considered as unreasonable behaviour, and also advised that other agencies were responsible for drainage, highway infrastructure, and provision of school places.

In a vote Members did not accept the officer recommendation to permit the application subject to completion of a S.106 agreement.

The Chairman requested that the reasons for the refusal of the application would be required. Cllr Wilding proposed that the application be refused on the grounds that work to revise the NP in light of the draft housing allocation in the Local Plan Review had not yet been completed, that an appeal was currently on-going and the outcome of this should be awaited and that Southern Water had not yet provided a commitment to improve the drainage infrastructure in Loxwood. This proposal was seconded by Cllr Potter. Following comment that these suggestions were not sufficiently robust to justify refusing the application, Mr Whitty confirmed that they would have no basis in planning policy, and on the matter of the prematurity of the NP, the harm must be identified in policy context.

Miss Golding advised that Members must take responsibility for their decision not to permit the application and a vote on the same recommendation could not be repeated. The recommendation must be altered for a further vote to take place, and she suggested in this regard that a recommendation to defer may be an appropriate way forward.

Following further debate Mr Whitty advised that a deferral could be voted upon seeking further information in relation to the swept path analysis plan, confirmation of proposed foul drainage infrastructure improvements from Southern Water and the availability of school places from West Sussex County Council as the education authority. These matters were then formerly proposed by Cllr Wilding and seconded by Cllr Briscoe.

In a vote Members agreed to defer the decision.

The reasons for deferment would be to gain further information regarding the swept path analysis plan to ensure that the local highway authority considered access to and from the site from the B2133 High Street for larger vehicles such as the Council's refuse lorries was both safe and reasonable, further assurance from Southern Water that the development could be accommodated within the foul drainage network, and confirmation from the local education authority that local schools could provide sufficient school places for the development.

Members took a five minute break

Cllr Sutton joined the meeting and Cllr McAra left the meeting

123 **CC/20/01046/REM - Land On The West Side Of Broyle Road, Chichester, West Sussex (item start time approximately 10.40am)**

Miss Bell presented the item to Members and drew attention to the information provided on the update sheet.

The Committee received the following speaker:

Nick Billington – Agent (statement read)

Miss Bell responded to Members' comments and questions. Miss Bell confirmed the affordable housing split was being monitored, with both developers Miller Homes, and Linden Homes having an equal requirement to provide a 70/30 split. Miss Bell confirmed that the matter of the transition from green space to urban street scene, this had been carefully considered as part of the design strategy. The location in question which was close to the block of flats was a short section of landscaping. Amendments had been sought which gave further consideration to how the landscaping appeared in conjunction with the spine road. On the matter of litter bins, the management company could install bins. Miss Bell confirmed that there would be a condition requiring the developer to replace any vegetation or trees which died within five years, and this would be the responsibility of either the developers or the management company, depending on ownership of the land at the time.

Miss Bell clarified that the shared cycle/footpath on the western side, and pedestrian/cycle path along the spine road would lead into the local centre, the proposed health centre was not being pursued currently, and with regards to the desire for tree lined streets, it was important to ensure the appropriate number of homes were built on the development and the parcel in question was potentially the most urbanised street. Miss Bell confirmed officers had worked upon improving this situation with additional vegetation, deeper front gardens, and further vegetation on the street frontage.

Miss Bell explained that with regards to the density, the site complied with the approved parameter plan and a higher level of density was considered more appropriate in the parcel close to the local centre. On the matter of the ability to ensure vehicles could not access the green open spaces, Miss Bell confirmed that officers were satisfied, and tree planting would limit access. Mr Whitty added that the matter of bins would be raised with the developers, and Members further commented that officers should also discuss the matters of access for unauthorised vehicles.

In a vote Members agreed the recommendation.

Recommendation to **Permit**.

Cllr McAra and Cllr Wilding left the meeting

124 **CC/20/01256/ADV - Land On The West Side Of Broyle Road, Chichester, PO19 3PH (item start time approximately 11.40am)**

Miss Bell presented the item to Members.

Mr Whitty responded to Members' comments and questions. With regards to the matters which could be taken into consideration in making a decision, Mr Whitty confirmed these would be in relation to the amenity of the location and public safety.

With regards to the positioning of the flags allowing sufficient space for pedestrians, and size and colour of the flags relating to safety, Miss Bell confirmed that the flags were set-back allowing space for pedestrians and cyclists, the highways authority had agreed the flags complied with their policies, and officers were satisfied with the proposals. Miss Bell also confirmed, that the number of flags had been reduced via negotiation with the applicants, and that environmental health officers were also satisfied with that the flags would not produce any significant noise.

In a vote Members **Refused** against officer recommendation.

The Chairman requested that the reasons for the refusal of the application would be required. Cllr Briscoe proposed that the application was refused on the grounds of the flags having a negative impact on the rural character of the location and also a negative visual impact on an important approach to the city of Chichester, which was seconded by Rev Bowden.

Members took a ten minute break

Mr McAra and Mr Wilding returned to the meeting.

125 **SDNP/20/01727/FUL - Zurs, London Road, Hill Brow, Rogate, Liss, West Sussex, GU33 7PB (item start time approximately 12.05pm)**

Mr Price presented the item to the Members.

The Committee received the following speaker:

Elena McCloskey – Parish Council
Adrian Collins – Objector
John Pike – Agent (statement read)

Mr Price responded to Members' comments and questions. With regards to general permitted development rights, Mr Price confirmed that these rights would not apply as the application was not a dwelling house, but that a condition could be imposed that the buildings would retain C2 use.

With regards to the wall constructed of sleepers, and whether the application was in part retrospective, Mr Price advised that the wall was of robust construction as it was a retaining wall as there was a significant change in level and the garden was terraced, and the wall and some parking spaces were retrospective. Fencing around the huts at the rear of the main buildings, were for the provision of security, and health and safety for the residents. Mr Price added that there were also plans for additional planting and water saving measures.

With regards to notices not being visible due to the Covid-19 pandemic as cited by the Parish Council speaker, Mr Price confirmed that greater flexibility had been afforded with regards to timescales for the submission of comments. The Chairman added that full information was provided on the Council website regarding applications and Mr Whitty confirmed that all statutory obligations had been fulfilled, and the option to request receipt of notification was available.

In a vote Members agreed the recommendation.

Recommendation to **Permit**.

126 **The Local List - Information required to support a valid planning application**

Mrs Stevens presented the items to Members.

Mrs Stevens responded to Members' comments and questions. With regards to the absence of Medmerry as a location from the list as a Special Area of Conservation or Special Protection Area, Miss Stevens confirmed at the time the list was drawn up, Medmerry had not been designated as such, but the relevant list could be amended to include this area once this change had taken place, and Mrs Stevens further advised that recommendation included the ability for officers to update information.

On the matter of Goodwood Estate Mrs Stevens confirmed that there was no obligation to have specific requirements in The Local List with regards to flight paths, and in relation to noise from Goodwood airfield or motor circuit, that would be considered by noise assessment. Mrs Stevens drew the Committees attention to the relevant section relating to noise sensitive use, which cited aerodrome use. Mrs Stevens confirmed she would discuss whether the motor circuit should be included with environmental health officers. In terms of flood risk, Mrs Stevens explained that consultation comments had not been received from the Environment Agency, but the Council's policy team had referenced the likely future risk of flooding, and one hundred year events going forward, details of which were being utilised for making the Local Plan, and therefore Mrs Stevens would be reviewing this matter for consistency.

With regards to bat surveys, Mrs Stevens confirmed that surveys had to be carried out prior to the submission of a planning application, which was highlighted within the pre-application planning process, to ensure appropriate timings for bat surveys were taken into account.

In relation to foul sewerage Mrs Stevens explained that the issue of nitrates was covered under the off-site ecological impacts section, and the headspace and ability to take the volume of waste water, was included in a separate section, as these were two distinct matters.

In a vote Members agreed the recommendation.

Recommendation to **Endorse**.

127 **Chichester District Council Schedule of Planning Appeals, Court and Policy Matters**

Members agreed to note this item.

128 **South Downs National Park, Schedule of Planning Appeals, Court and Policy Matters**

Members agreed to note this item.

129 **Consideration of any late items as follows:**

There were no late items.

130 **Exclusion of the Press and Public**

There were no part two items.

The meeting ended at 13:13.

CHAIRMAN

Date:

Chichester District Council

Planning Committee

Wednesday 7 October 2020

Declarations of Interests

Details of members' personal interests arising from their membership of parish councils or West Sussex County Council or from their being Chichester District Council or West Sussex County Council appointees to outside organisations or members of outside bodies or from being employees of such organisations or bodies are set out in the attached agenda report.

The interests therein are disclosed by each member in respect of planning applications or other items in the agenda which require a decision where the council or outside body concerned has been consulted in respect of that particular planning application or item.

Declarations of disclosable pecuniary interests, personal interests, prejudicial interests or predetermination or bias are to be made by members of the Planning Committee or other members who are present in respect of matters on the agenda or this meeting.

Personal Interests - Membership of Parish Councils

The following members of the Planning Committee declare a personal interest by way of their membership of the parish councils stated below in respect of the items on the schedule of planning applications where their respective parish councils have been consulted:

- Mr H C Potter – Boxgrove Parish Council (BG)
- Mrs S M Sharp – Chichester City Council (CC)
- Rev J-H Bowden – Chichester City Council (CC)
- Mr P J H Wilding – Lurgashall Parish Council (LG)
- Mr G V McAra - Midhurst Town Council (MI)
- Mr S J Oakley – Tangmere Parish Council (TG)
- Mrs D F Johnson – Selsey Town Council (ST)
- Mrs L C Purnell – Selsey Town Council (ST)
- Mr R A Briscoe – Westbourne Parish Council (WB)

Personal Interests - Membership of West Sussex County Council

The following members of the Planning Committee declare a personal interest by way of their membership of West Sussex County Council in respect of the items on the schedule of planning applications where that local authority has been consulted:

- Mr S J Oakley - West Sussex County Council Member for the Chichester East Division
- Mrs L C Purnell – West Sussex County Council Member for the Selsey Division

Personal Interests - Chichester District Council Representatives on Outside Organisations and Membership of Public Bodies

The following members of the Planning Committee declare a personal interest as Chichester District Council appointees to the outside organisations or as members of the public bodies below in respect of those items on the schedule of planning applications where such organisations or bodies have been consulted:

- Mr G A F Barrett - Chichester Harbour Conservancy
- Mr H Potter – South Downs National Park Authority

Personal Interests – Chichester City Council Representatives on Outside Organisations and Membership of Public Bodies

The following member of the Planning Committee declares a personal interest as a Chichester City Council appointee to the outside organisations stated below in respect of those items on the schedule of planning applications where that organisation has been consulted:

NONE

Personal Interests – West Sussex County Council Representatives on Outside Organisations and Membership of Public Bodies

The following member of the Planning Committee declares a personal interest as a West Sussex County Council appointee to the outside organisation stated below in respect of those items on the schedule of planning applications where that organisation has been consulted:

NONE

Personal Interests – Other Membership of Public Bodies

The following member of the Planning Committee declares a personal interest as a member of the outside organisation stated below in respect of those items on the schedule of planning applications where that organisation has been consulted:

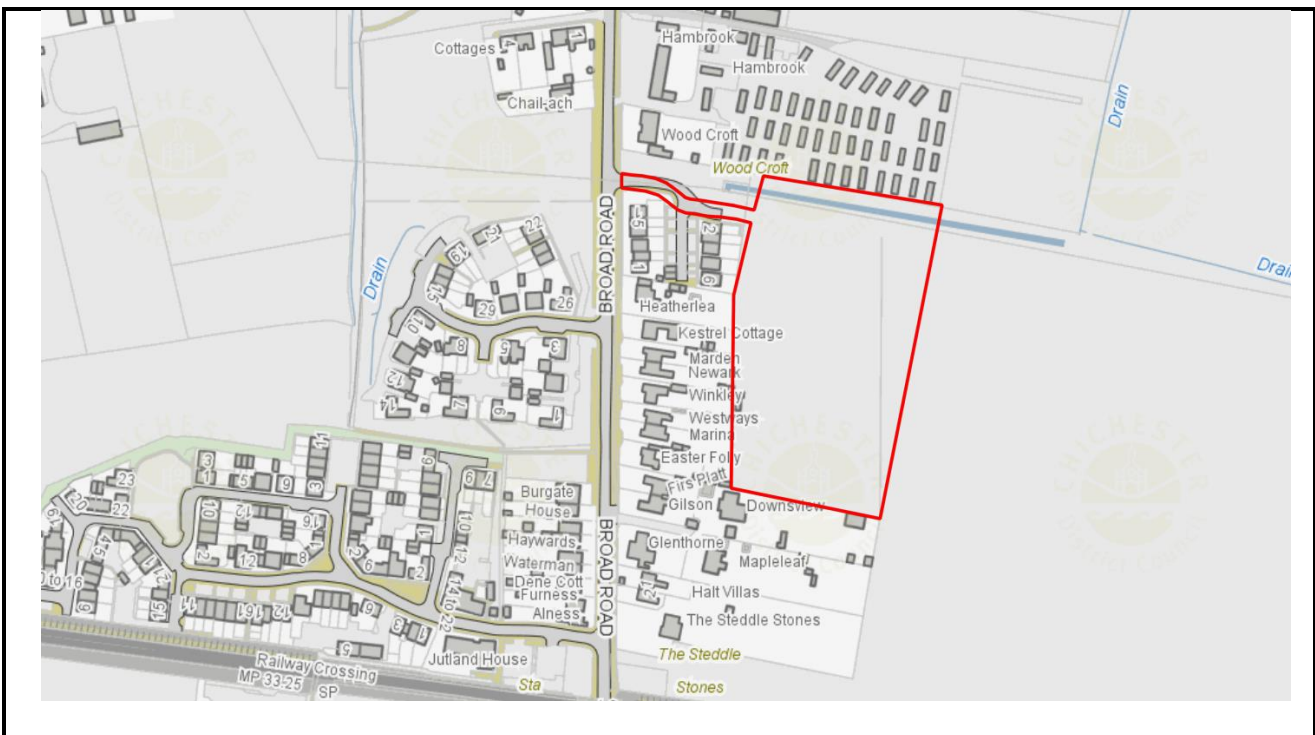
- Mrs L C Purnell – Manhood Peninsula Partnership (Chairman)

Parish: Chidham & Hambrook	Ward: Harbour Villages
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CH/20/00412/OUT

Proposal	Outline Application for the construction of 35 no. affordable residential dwellings for first time buyers and those looking to rent their first home (Paragraph 71 entry-level exception site), with all matters reserved other than access.		
Site	Land Off Broad Road Broad Road Hambrook PO18 8RF		
Map Ref	(E) 478952 (N) 105685		
Applicant	Mr A Williams	Agent	Mr Jeremy Higgins

RECOMMENDATION: NOT TO CONTEST THE APPEAL, SUBJECT TO AN APPROPRIATE ASSESSMENT BEING PASSED (IN CONSULTATION WITH NATURAL ENGLAND) AND COMPLETION OF S106 AGREEMENT



	NOT TO SCALE	<p>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</p>
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1.0 Current situation regarding determination of this application

- 1.1 As Members will see in Section 5 - History below, the applicant has lodged an appeal against non-determination to PINS in relation to this application. This means that the Local Planning Authority is no longer in the position to determine this application. This report is therefore recommending that the Planning Committee agree not to contest the appeal, subject to an appropriate assessment being passed and a S106 agreed.

2.0 Reason for Committee Referral

Red Card: Cllr Moss - When the proposal is a major development
Parish objection - officer recommends not to contest the appeal subject to an appropriate assessment being passed (in consultation with Natural England) and completion of the S106 Agreement

3.0 The Site and Surroundings

- 3.1 The application site measures 1.6 ha and comprises a relatively flat agricultural field with scattered trees and hedges along the boundaries. The site is located on the east side of Broad Road and is accessed via the access road for a residential development comprising 11 dwellings (pursuant to planning application 16/04148/FUL), called Hambrook Place. Within the application site there is a ditch which runs adjacent to the northern boundary and overhead cables above. There is an existing caravan park to the north of the site, open fields to the east and residential gardens to the west and south. The surrounding area is semi-rural in character.
- 3.2 The application site is outside the settlement boundary of Nutbourne East and is within the countryside. The site is located towards the northern end of Nutbourne East and adjoins the settlement boundary which is to the west of the application site.

4.0 The Proposal

- 4.1 The proposal seeks outline planning permission for an entry-level exception site with 35 dwellings with all matters reserved except for access. Specifically permission is being sought for affordable housing for rent and discounted market sales housing.
- 4.2 Discounted market sales housing is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.
- 4.3 The application proposes the following housing mix:

Affordable/Social Rented:
10 x 1 bedroom
9 x 2 bedroom
5 x 3 bedroom
2 x 4 bedroom

Discounted market sales housing:

2 x 1 bedroom

3 x 2 bedroom

4 x 3 bedroom

- 4.4 The applicant has stated in their affordable housing statement that they will engage with the District Council to agree appropriate values to guide house prices and the eligibility of future buyers. The level of discount applied would be carried forward in any future sale of the house with a restriction placed on the property's Title to ensure that the property remains as discount market sale. The mechanisms to achieve this will be included in a Section 106 agreement to ensure the homes are directed at eligible households and are secured as discount market sale in perpetuity.
- 4.5 The proposal seeks access via Hambrook Place, an existing estate road accessed off Broad Road to the west, granted under planning permission 16/04148/FUL, and which currently serves a residential development of 11 dwellings.
- 4.6 Notwithstanding that all other matters, that is appearance, layout, scale and landscaping are reserved, the application is nevertheless accompanied by an amended illustrative layout plan. This illustrative layout shows a mix of detached, semi-detached and terraced properties with maisonettes, together with the associated parking provision. It also shows 345sqm of open space in the centre of the site and landscape buffers on the northern, eastern and southern boundaries. The northern landscape buffer would include land under the electricity pylons.
- 4.7 *Officer note: The proposal has been amended during the course of the application and has been reduced from a total of 42 units*

5.0 History

12/02022/ADV	PER	Free standing hording signs.
19/00874/OUT	WDN	Outline Application for Residential Development of 42 Dwellings with all Matters Reserved other than Access.
20/00050/NONDET	RECEIVED	Outline Application for the construction of 35 no. affordable residential dwellings for first time buyers and those looking to rent their first home (Paragraph 71 entry-level exception site), with all matters reserved other than access.

6.0 Constraints

Listed Building	NO
Conservation Area	NO
Rural Area	YES
AONB	NO
Tree Preservation Order	NO
EA Flood Zone	Flood Zone 1
- Flood Zone 2	NO
- Flood Zone 3	NO
Historic Parks and Gardens	NO

7.0 Representations and Consultations

7.1 Parish Council

Additional comments received 10/09/2020

The Parish Council registers its robust objection to this planning application. The application is not supported by the current Neighbourhood Plan for the parish.

1. The site does not qualify as an ELES - it fails to meet the requirements for qualification for an entry-level exception site.

The foundation of this application is that the developer believes this site qualifies as an entry-level exception site (ELES site) in accordance with the NPPF as modified in 2019. For the appropriate para 71 of the NPPF and footnote 33, see below.

Footnote 33 defines the qualifications for a site to be considered as an ELES. The NPPF says an ELES '... should not be larger than one hectare in size or exceed 5% of the size of the existing settlement'.

- Criteria 1 The site is 1.3 ha so clearly exceeds the 1 ha allowable for an ELES
- Criteria 2 Refers to the relative size of the site to its adjacent neighbours in the settlement boundary. There is only one adjacent settlement, that is Nutbourne East to the south. This is 1.7 ha so the application site represents 7% not 5%
- Both criteria need to be satisfied

It is our view that the application is non-compliant with footnote 33 of the NPPF.

2. Proximity to the power lines

The units to the north of the site are within 35 m of the power lines. The adjacent developments of Hambrook Place and Flat Farm Cottages encountered significant problems because of this proximity and mortgages were not offered on any of the properties on the development.

Notwithstanding the safety issue for future generations. If this precedent were applied here the 9 homes for affordable home ownership would also be denied a mortgage. Furthermore, is it acceptable for those in social housing to be near power lines when this is unacceptable for market housing?

3. Density of housing

35 houses on this space is too dense and there is very little green space. The gardens appear to be small. Covid 19 has shown that overcrowding should be avoided for the well being of residents.

4. Design

The plan shows two story dwellings, the bulk of which would be situated behind a row of bungalows on Broad Road. This will impact on both the visual landscape and the residents of the bungalows. Looking east from Broad Road will have the effect of a dominance of roofs above the low-rise single-story buildings looking towards the easterly open aspect. The residents of the bungalows would also be impacted by a feeling of being hemmed in by the new builds to the north and these builds to the east.

5. Nitrate neutrality

The recommendations from the Nitrogen Assessment Report are that an area of current intensive agricultural land in the vicinity of the development is changed to low input land use such as woodland in perpetuity to offset the rise in nitrates.

However, the developer proposes to use an area of 1.03 ha of land 6 miles north in Hampshire on land previously used for cereal production. More detail is needed e.g. a scale map with the site boundaries identified, together with the twenty year crop history and sufficient detail to give assurance that the necessary mitigation will be guaranteed.

The nitrate assessment makes it clear that the most appropriate siting for mitigation is adjacent to or in the vicinity of the development. Due to there being no nitrate mitigation strategy adopted by Chichester District Council the area located is at least 6 miles away and in a different county. There is no clarity as to the eventual use of this land nor what safeguards there are to protect it in perpetuity, other than the landowner wants to keep ownership. This is unacceptable.

6. Waste Water Treatment capacity

Hambrook is served by Thornham Water Treatment Works which is already at capacity. The District Council must be certain that there is sufficient WWT capacity to accommodate the site. If this cannot be guaranteed, the development cannot be claimed to be deliverable, and should be rejected.

Additional comments received 23/03/2020

- There is no offer of social/affordable rent, a need demonstrated by our Housing Needs Survey.
- The 4 x 4 and 5 bed houses would put of reach of anyone on an average or low salary even at 80% of market value.

Comments received 20/03/2020

The Parish Council objects robustly to this planning application on the following grounds:

- This is an Opportunistic Planning Application prior to the release of the Local Plan and Neighbourhood Plan.
- The site lies outside but adjacent to the settlement boundary.
- The mix of housing falls significantly short of the affordable housing requirement for an Entry Level Exemption Site and fails to meet the local needs as CDC's Housing Needs Survey.
- The plan shows housing close to the overhead power cables. This has already proven to be a problem at Flat Farm Cottages and Hambrook Place with regards to mortgages, notwithstanding the safety issue for future generations.
- Nitrogen Mitigation - the assessment by Baker Consultants states 'to offset the proposed additional nutrient load, it is recommended that agricultural land within the catchment and potentially adjacent to the site is taken out of production and converted to woodland. Clearly Nitrate mitigation and the conversion of prime agricultural land to woodland in this way for 500 homes could have an enormous impact on the parish and its Neighbourhood Plan. We need better waste water treatment that can deal with the Nitrate and the Phosphate, as well as all the other stuff that goes down the sewer. New facilities should be located away from areas vulnerable to sea level rise. Incidentally the Nitrate Vulnerable Zone includes all of our parish.
- The area required for compensation woodland is 3.8ha. This should be planted in what is currently high-input agricultural land and maintained in perpetuity. Why should we lose 3.8ha of high-input agricultural land? How would its future use and management for the next 50/100 years be assured.
- A condition be added that the trees identified in the arboricultural report as being in good condition should be protected. This should be included in the S106 document. Protection should include root protection and be in accordance with that delineated in the arboricultural report.
- The assessment states 'This area of land will need to be purchased and set aside as newly created woodland, potentially under a S106 agreement'. We should be looking to decrease the number of houses and plant within the site area not outside.
- The southern boundary of the site contains a majority of trees listed as 'good quality' in the Johnston Tree Consultancy Report - we need to keep all trees and hedgerows in their original positions to ensure continuity of habitat for wildlife.
- The NPPF says an entry-level exception site should not be a) larger than one hectare in size or b) exceed 5% of the size of the existing settlement. This application possibly fails on both counts as a) this site is 1.3 Hectares (this is clear cut) and b) it depends on what is understood by the size of the existing settlement. We would argue that in this case the settlement must be the one to which this site is adjacent.

Furthermore it has to be defined in a way that it can be quantified, that is, by its boundary. Otherwise the 5% figure is meaningless. It depends how size is defined. If by area or by number of houses. At our count the settlement area is 19 hectares, so the maximum allowable ELES site would be 0.95 hectares. Or if size equals houses then on our count there are less than 400 houses within the settlement boundary which would limit the ELES to less than 20 homes.

7.2 Chichester Harbour Conservancy - summarised by officer

Objection: land is designated countryside where development will only be permitted where it requires a countryside location and meets an essential, small scale and local need which cannot be met within the existing settlement. The application is therefore considered to be prejudicial to the proper consideration of the existing and emerging local and neighbourhood plans.

The Conservancy makes the following comments having regard to policy and recommends a number of conditions, if the Council is minded to grant outline planning permission:

The southern boundary of the 1.3 site is some 0.5km north of the Chichester Harbour AONB boundary (A259) and some 1.1km away from the nearest part of Chichester Harbour. There is a north-south public bridleway (No. 260) some 500m to the east of the site.

The Conservancy is satisfied that if the development were to proceed it would not be likely to visually impact on the setting of the AONB, especially if the scale of development carried out was limited to only two storey eaves height, as suggested by indicative site layout submitted for information purposes. There is too much intervening tree cover as evidenced in the LVIA. Indeed, the overhead electricity cables/pylons already negatively impact on the landscape character of the site.

As the site is well outside the AONB boundary but does involve new dwellings within 5.6km of its boundary, the Conservancy requests that the requisite Solent Disturbance Mitigation contribution be sought from the developer and that the council be satisfied that an adequate surface water drainage solution is agreed - preferably through the use of SUDS which could offer some biodiversity enhancement and that adequate sewerage capacity exists at the Thornham wastewater treatment works to serve the development.

Although 'layout' is not listed for consideration, the Conservancy is pleased to see that the applicant is thinking of designing in some incidental landscaped areas and has left a strip at the northern end of the site of around 15m on the illustrative layout. Whilst the latter has more to do with an easement underneath overhead electricity cables, it would afford an alternative dog walking area, to help take pressure of those visiting the Harbour shoreline with dogs.

It is therefore also suggested that a planning condition/planning obligation clause requires - in accordance with the relevant council development plan policy - that a minimum hectareage of open space is to be delivered through any subsequent Reserved Matters or full planning application.

7.3 Southern Electric

No comments received.

7.4 Southern Water- *Summarised by Officer*

Our initial investigations indicate that Southern Water can provide foul sewage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer. The planning application form makes reference to drainage using Sustainable Urban Drainage Systems (SUDS). Under current legislation and guidance SUDS rely upon facilities which are not adoptable by sewerage undertakers. Therefore, the applicant will need to ensure that arrangements exist for the long-term maintenance of the SUDS facilities.

7.5 Highways England-*Summarised by Officer*

Comments received 21/09/2020

No objection, on the basis that the applicant will make a relevant contribution to the agreed Local Plan mitigations as provided in the Council's adopted SPD 'Approach for securing development contributions to mitigate additional traffic impacts on the A27 Chichester Bypass'. As the development would fall within the "Southbourne development zone" allocation, it would be required to make a contribution of £63,105 (35 x £1,803).

Comments received 18/03/2020

Highways England would offer no objection to the proposals provided that the applicant makes a relevant contribution to the A27 Local Plan mitigations in line with Chichester District Council's SPD 'Approach for securing development contributions to mitigate additional traffic impacts on the A27 Chichester Bypass'. As the development would fall within the "Southbourne development zone" allocation, it would be required to make a contribution of £75,726 (42 x £1,803). With the agreement of the payment of the contribution, we would then be satisfied that the development will not materially affect the safety, reliability and/or operation of the strategic road network (the tests set out in DfT Circular 02/2013, particularly paragraphs 9 & 10, and DCLG NPPF particularly paragraph 109) in this location and its vicinity.

7.6 Natural England- *summarised by officer*

Comments received 14/09/2020

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

In order to mitigate adverse effects on the Solent European Sites and make the proposal acceptable, the following measures should be secured:

- o Financial contribution to the Bird Aware Solent recreational disturbance mitigation strategy;
- o Offsetting of nutrients impacts by taking land identified in the applicant's revised Nitrogen Assessment (Aug 2020) out of agricultural production. As the applicant's calculations do not take account of the nitrogen leaching from the reverted land use, a slightly larger area of land is required.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Comments received 26/03/2020

We consider that without appropriate mitigation the application would:

- o have an adverse effect on the integrity of Chichester and Langstone Harbours Special Protection Area (SPA) and Solent Maritime Special Area of Conservation (SAC)
- o damage or destroy the interest features for which Chichester Harbour Site of Special Scientific Interest has been notified.

Pathways for impact are water quality impacts from discharge of effluent via mains sewerage, and recreational disturbance. Natural England advises that these impacts and the mitigation measures to address them, should be considered through an Appropriate Assessment. This should be carried out by your authority as the competent authority under the Habitats Regulations. Natural England is a statutory consultee in this process.

A nitrogen budget calculation has been submitted with the application, which concludes that the proposal is not nutrient neutral, and so mitigation is required to avoid impacts on the European sites. Natural England's detailed comments on the nutrient budget are set out in an annex to this letter. However, in summary, our conclusion is that the amount of nitrogen produced by the proposal and from current land uses have been overstated, but we nevertheless agree that it does not achieve nutrient neutrality. Therefore, our advice is that offsetting land will be required.

In our view, a location for the mitigation land should be provided in order for your authority to be able to come to a view on the effectiveness of the mitigation and be certain that an adverse effect on the integrity of the European site will be avoided, when determining the planning application.

Therefore, Natural England's advice is that the following further information is required:

- o Location of the mitigation land proposed to offset nutrient impacts;
- o Appropriate Assessment of the proposal, carried out by your authority.

7.7 WSCC Highways

Comments received 22/09/2020

Road Safety Audit – a Road Safety Audit of the access onto Broad Road and the access road into the site has been undertaken. The road is a private cul-de-sac currently serving 11 residential units. The RSA found 4 issues these were associated with lack of centre line and give way markings to the existing access, footway provision into the site and the location and provision of street lighting. The lining issue is to be picked up at detailed design stage, the applicant has provided clarification that a footway shall be provided into the site and that street lighting shall be provided and that the existing street lighting is within third party land and therefore it would not be reasonable for this to be re-located. Therefore all the points within the RSA are considered to be addressed.

Conditions on Outline Consent – WSCC can confirm that they would wish to see a condition included on any permission granted that requires the applicant to submit a Construction Management Plan prior to commencement of development. In addition to this a Travel Plan should be secured via condition.

Vehicular Access – As stated in the original Highway Authority comments the site is being accessed from an existing access from Broad Road which was constructed as part of planning application 16/04148/FUL for 11 residential units. This development proposed a total of 35 units (down from 42 that were originally proposed). This level of additional trip generation through the existing access is not considered to have a severe impact on the safe operation of the highway network.

Refuge access and swept paths - It is noted that the application is an outline one and that the layout plan is illustrative but WSCC appreciate the need to ensure that the proposed level of development is achievable within the space set aside. The applicant has provided a tracking layout plan showing a refuse vehicle accessing within 30m of all bin stores. Chichester as waste authority have raise concerns about the turning area between plots 22 and 23 and that the vehicle being tracked needs to be 0.5 wider. Their suggestion is that the roads between plots 32 and 28 are linked. WSCC as Highway Authority would have no issues with this suggestion.

Wider Transport Improvements – With CIL in place in Chichester District S106 contributions should only be sought for site specific requirements to make a development acceptable in planning terms. WSCC are in the early stages of developing a pedestrian and cycle improvements scheme along Broad Road to connect into the A259. No specific S106 contribution would be sought from this site but CIL could be used to contribute towards these improvements. If members of the committee were inclined they could state that they would look to see CIL contributions from this development going to fund this scheme.

Comments received 02/09/2020

We note that the proposed number of homes has been reduced to 35. Therefore, the information, including the transport statement, remains a valid worst-case assessment of the impacts of the proposal. Proposed parking levels have been reduced slightly to take account of the reduced number of homes, although this matter will be fully covered at reserved matters stage.

Therefore, the highway authority's comments of 26 February 2020 remain broadly valid, and the authority does not object to the application.

The issue of (give-way) white-lining on the existing access to Broad Road has been addressed by the authority's inspector. A relevant planning condition is no longer required.

Further conditions may be requested at reserved matters stage to cover issues such as parking and the impacts of construction.

Comments received 26/02/2020

Having reviewed in detail the relevant documents sent in with the application, the highway authority has no objection to the proposed use. The comments assume that the road Hambrook Place is not adopted as highway.

The road access has been previously supported by WSCC under planning reference 16/04148/FUL. We note that the give-way road markings are missing, as noted in the road safety audit (RSA). This matter has been passed to one of the County Council's highway inspectors for investigation. However, it may be that the current applicant is required to provide them before occupation of the proposed homes. We note the comments in paragraph 4.4 of the transport statement concerning visibility. There is no evidence that the existing access will not be suitable to serve the new homes.

With regard to the RSA, we recommend that all the points raised by the auditors are addressed as far as is reasonably practicable by the applicant. If Hambrook Place is not adopted highway, the authority has limited influence over issues on that road.

The authority does not consider that the estimated traffic increase will have a severe impact on the local road network.

Sixty-three car parking spaces are proposed, 9% fewer than recommended under the County Council's residential parking calculator. Given the proximity of regular bus and train services, the shortfall in parking is not an issue. We note that bicycle and car parking will be addressed at reserved matters stage.

The outline layout for the site demonstrates that service vehicles may enter and leave the site nose-first. Again, this issue will need to be finally addressed at reserved matters stage.

The authority appreciates the submission of a travel plan statement (TPS) for the site. Should the applicant wish to pursue the TPS on occupation of the homes, we recommend that the car trip reduction target be amended to 10%, and that a travel plan coordinator be named in any final document.

A condition is recommended to secure give-way markings at the junction of Hambrook Place and Broad Road prior to the first occupation of the development.

7.8 WSCC Fire and Rescue Service

Condition recommended for additional fire hydrant. Currently the nearest Hydrant to these proposed properties is 280 metres away. The supply of water for firefighting for a domestic premises should be within 175 metres.

7.9 WSCC Lead Local Flood Authority

Current surface water flood risk based on 30year and 100year events - Low Risk
 Modelled groundwater flood hazard classification - High Risk
 Ordinary Watercourses nearby? - Yes
 Records of any historic flooding within the site? - No

No Drainage Strategy has been included with this application. The Application Form states that the surface water from the site will be disposed of via 'Sustainable drainage system'. This method would, in principle, meet the requirements of the NPPF and associated guidance documents.

7.10 CDC Housing Enabling Officer - summarised by officer

Comments received 21/09/2020

Following discussion with planning officers, I have been asked to provide comments on the basis of if this scheme were to be assessed under the Interim Policy Statement for Housing Delivery (IPS).

As a market led development of 35 dwellings, policy 34 of the adopted Chichester Local Plan requires 30% (10.5 units) to be delivered as affordable housing. Therefore, 11 of the 35 affordable dwellings proposed would need to be secured within a section 106 agreement. This could result in the following mix:

Affordable housing mix				
Size	s106 Affordable rented mix	s106 Discounted Market Sale mix	Additional Affordable Rented Mix	Additional Discounted Market Sale Mix
1 bedroom	2		8	2
2 bedroom	3	2	6	1
3 bedroom	2	1	3	3
4 bedroom	1		1	-
Total	8	3	18	6

The above mix is not strictly in line with the Councils Planning Obligations and Affordable Housing SPD of 70% affordable rent and 30% shared ownership, in that it provides 3 section 106 dwellings as discounted market sale rather than shared ownership. On this occasion, this is acceptable as it will still contribute to meeting an identified need within the parish and provide a more affordable option compared with shared ownership, where rent is due on the unsold equity in addition to the mortgage payments. The above mix may also be more attractive to a registered provider as they may be able to attract grant on the additional affordable dwellings from Homes England.

The affordable home ownership should be delivered in line with the Councils Planning Obligations and Affordable Housing SPD and be made available at an appropriate discount for local households in perpetuity. An estimated valuation of the properties is required to be provided by an independent RICS valuer so the discount can be calculated in line with the SPD, as set out below:

- £50,550 (average household income based on an average of resident and work based earnings) x 4 (mortgage lending rate) = £202,200 / open market value based on RICS valuation = % share

As with a paragraph 71 scheme, pepper potting of the affordable units would not be relevant on a 100% affordable housing development. Careful consideration should be given to the design of the dwellings to ensure that they are not externally distinguishable from the nearby market dwellings. The purpose of this would be to avoid any social exclusion and promote mixed, balanced and sustainable communities. The affordable dwellings should also meet the nationally described space standards.

To conclude, if this were to be assessed under the Interim Policy Statement, the Housing Delivery Team would not raise any objections.

Comments received 04/09/2020

Following my consultation response dated 11 August 2020, the applicant has submitted revised plans reducing the density from 37 to 35 dwellings. The application seeks to deliver an entry level exception site (ELES) under paragraph 71 of the National Planning Policy Framework (NPPF). My previous comments regarding the compliance of the site size with footnote 33 of the NPPF still applies.

The proposal now seeks to deliver the following mix of affordable housing:

Proposed affordable housing mix		
Size	Affordable/Social Rented Mix	Affordable Home Ownership Mix
1 bedroom	10	2
2 bedroom	9	3
3 bedroom	5	4
4 bedroom	2	-
Total	26	9

The size and tenure mix is not substantially different from that set out within my previous comments, and has reduced the amount of 1 bedroom flats by 2. The mix is still broadly in line with my previous recommendations and will contribute to addressing the need for more affordable rented accommodation within the parish. The affordable homeownership should be delivered in line with the Councils Planning Obligations and Affordable Housing SPD and be made available at an appropriate discount in perpetuity. An estimated valuation of the properties is required to be provided by an independent RICS valuer so the discount can be calculated in line with the SPD, as set out below:

o £50,550 (average household income based on an average of resident and work based earnings) x 4 (mortgage lending rate) = £202,200 / open market value based on RICS valuation = % share

The proposed development will deliver 35 affordable dwellings, adjacent to the 11 unit affordable housing development at Flat Farm delivered in 2018; 46 in total. The quantum and types of affordable housing proposed are acceptable because of the high need for affordable and social rented accommodation within the parish and district.

The dwellings should be delivered tenure blind and should not be externally distinguishable from market dwellings in the locality. The purpose of this is to avoid any social exclusion that may occur. The dwellings should also meet or exceed the nationally described space standards. Registered providers should be engaged to ensure the delivery of the rented accommodation.

To conclude, the Housing Delivery Team is unable to support this application due to its non-compliance with footnote 33 of the NPPF.

Comments received 11/08/2020

Comments on amended mix for 37 dwellings.

Notwithstanding that the mix is now acceptable; I maintain my original position that this site cannot be considered as an ELES due to the total site area coming in at 1.3 hectares. Footnotes 33 and 34 of the NPPF is clear in that ELES should not be larger than 1 hectare or exceed 5% of the existing settlement size and should not be permitted within National Parks (or Broads Authority), AONB's or land designated as green belt. It is clear from the submitted information that the development area exceeds this requirement. Furthermore, as demonstrated by the map below and the plans contained within the Chidham and Hambrook adopted neighbourhood plan, the parish is made up of 2 distinct and separate settlement boundaries: Nutbourne East and Hambrook. The application site is contiguous with the Nutbourne East settlement which has an area of 18 hectares. The site area at 1.3 hectares would account for 7.22% of the settlement boundary, further demonstrating that this is not compliant with footnote 33 of the NPPF.

Comments received 23/03/2020

In response to the agents rebuttal, the area was based on the Hambrook settlement boundary as defined by the LP and Chidham and Hambrook adopted Neighbourhood Plan. This comes out at 17ha but the applicant has sought to utilise both the Hambrook and Nutbourne East (18ha) boundaries in their calculation of the settlement size at 35ha. There is a clear distinction which is separated by the Hambrook holiday park and yeoman's field housing estate as per the plan attached.

Comments received 26/02/2020

This application seeks to deliver 42 affordable dwellings through an entry level exception site (ELES), as outlined within paragraph 71 of the National Planning Policy Framework (NPPF).

"Local planning authorities should support the development of entry level exception sites, suitable for first time buyers (or those looking to rent their first home), unless the need for such homes is already being met within the authority's area. These sites should be on land which is not already allocated for housing and should:

- a) Comprise of entry level homes that offer one or more types of affordable housing as defined in annex 2 of this framework; and
- b) Be adjacent to existing settlements, proportionate in size to them, not compromise the protection given to areas or assets of particular importance in this framework, and comply with any local design policies and standards"

This is prefaced by footnotes 33 and 34 of the NPPF which requires that ELES should not be larger than 1 hectare in size or exceed 5% of the existing size of the settlement and should not be permitted within National Parks (or Broads Authority), AONB's or land designated as green belt. The submitted application form confirms the area of the development at 1.3 hectares which is above this requirement. The settlement size for Hambrook, as identified by the made Chidham and Hambrook Neighbourhood Plan, covers approximately 17 hectares. The application site accounts for 7.6% of the existing size and in our view would not be eligible to be considered as an ELES.

The principle of an ELES was first established in the revised NPPF in 2018. No further guidance has been published within the planning practice guidance or government documents. As such, there is no established method for assessing the need. The applicant has sought to assess the need based on information gathered from the Chidham and Hambrook housing needs survey (HNS), supplemented by data from the Housing and Economic Development Needs Assessment (HEDNA) 2018. The applicant's affordable housing statement focuses on the need for home ownership products.

The proposal seeks to deliver the following mix of housing: Proposed affordable housing mix

Proposed affordable housing mix		
Size	Discounted Market Sale Mix	Percentage
1 bedroom	22	52%
2 bedroom	13	31%
3 bedroom	5	12%
4 bedroom	1	2%
5 bedroom	1	2%

The above mix is not responsive to the local needs as it fails to acknowledge the greatest need within the parish and district is for affordable and social rented properties. This is clearly demonstrated in the HNS which identifies a need for 34 affordable rented units and the HEDNA which identifies 2,706 additional affordable rented homes are required between 2016 and 2036 (2.5 times larger than low cost home ownership need at 1,082). The applicant has sought to use figures from the housing register to inform the mix of discounted sale units. This will not be fully reflective of the need for this tenure as the register identifies the need for social and affordable rented and not discounted market sale products.

I have concerns that the proposed mix would not meet the identified need or be accessible to local households, specifically the provision of a 4 and 5 bedroom discounted market sale dwelling. Chichester is recognised as one of the least affordable places outside of London with high ratios of house prices to resident and work placed incomes (13.59 and 14.51 respectively). Current sold values of 4 beds in Hambrook have consistently obtained sold prices in excess of £470,000 with 5 beds in excess of £500,000. These units marketed at 80% of their open market value (£376,000 & £400,000) would still be unobtainable to most first time buyers.

Completions of affordable homes in the district have seen an average of 188 homes delivered per annum since the adoption of the local plan, of which 94.5% has come forward in the local plan area. The applicant has replicated information from a similar application in Fishbourne (FB/19/03141/FUL) which incorrectly identifies that 140 affordable homes have been delivered per annum. Recent developments such as Graylingwell, Heritage and Roussillon developments in Chichester, Hunters Rest in Lavant, Grain Store in Tangmere, Maudlin Nursery in Westhampnett, Shopwhyke lakes in Oving, Woodfield Park, Priors Orchard and Garsons Road in Southbourne has seen a large number of low cost home ownership units delivered to meet local need. This will be added to by the delivery of low cost homes coming forward through local plan allocation and windfall developments. The current emphasis, as highlighted within the Homes England Strategic Plan and Shared Ownership and Affordable Homes Programme is to see more social rented homes being bought forward.

The applicant will need to ensure the mortgageability of the products for any prospective purchaser. The Housing Delivery Team is aware that the adjacent development at Flat Farm experienced mortgage lending difficulties on the homeownership properties due to issues with the overhead pylons. These units subsequently had to be converted to affordable rent.

To conclude, the Housing Delivery Team is unable to support this application for the above reasons.

7.11 CDC Drainage Engineer

Comments received 26/02/2020

Flood Risk - The site is wholly within flood zone 1 (low risk) and we have no additional knowledge of the site being at increased flood risk. Therefore subject to satisfactory surface water drainage we have no objection the proposed use, scale or location based on flood risk grounds.

Surface water drainage - The application form states that surface water is to be disposed of via "Sustainable Drainage System". This approach is acceptable in principle. The surface water drainage scheme design should follow the hierarchy of preference as set out in Approved Document H of the Building Regulations and the SuDS Manual produced by CIRIA.

Therefore the potential for on-site infiltration should be investigated and backed up by winter groundwater monitoring and winter percolation testing. The results of such investigations will be needed to inform the design of any infiltration structures, or alternatively be presented as evidence as to why on-site infiltration has not been deemed viable for this development.

If following site investigations it is concluded that on-site infiltration is viable, infiltration should then be utilised to the maximum extent that is practical (where it is safe and acceptable to do so). Any soakage structures should not be constructed lower than the peak groundwater level. Wherever possible, roads, driveways, parking spaces, paths and patios should be of permeable construction.

We would also like to see dedicated discrete soak-away structures for each individual property.

If on-site infiltration is not possible, drainage via a restricted discharge to a suitable local watercourse may be acceptable. (Any discharge should be restricted to greenfield run-off rates, with a minimum rate of 2 l/s).

The documentation supporting the drainage design should be able to demonstrate that the infiltration/SuDS features can accommodate the water from a 1 in 100 year critical storm event, plus an additional 40% climate change allowance.

Conditions are recommended.

7.12 CDC Environmental Health Officer

Comments received 23/09/2020

There is no observable noise from the powerlines and pylon in Hambrook Place. This is a snapshot but we have not received any complaints about low frequency hum from this location either so I am happy that noise from the powerlines is not a concern for this application.

Comments received 21/09/2020

Air Quality mitigation - During operational phase of the development, the following suggested mitigation measures should be considered:

- o Installation of EV charging points in line with WSCC parking standards 2019
- o Provision of secure, covered cycle parking for each dwelling
- o Provision of pedestrian and cycle links on site and linking to nearby off-site routes .

Noise mitigation - A scheme needs to be submitted that indicates that noise levels in the recommended condition are met for internal and external areas. Given the distance from the railway and other noise sources it is unlikely that the orientation of the buildings would be affected - it is more likely that an acoustic fence would be recommended along the southern boundary of the site however without a noise assessment being available, I cannot say more at this stage.

With respect to noise from overhead powerlines, the applicant (or the noise consultants) should be directed to contact National Grid for advice on noise levels from overhead powerlines in order that a suitable buffer distance is left between proposed development and the powerlines. With respect to safety distances, these are specified in the guidance note referenced in the previous comments. Depending on the voltage of the powerlines, various distances are specified. Consideration of the use of the land by kite flyers needs to be taken into account from a safety point of view.

For any plant to be installed (such as air source heat pumps) the applicant should submit details of noise levels based on manufacturer's data so we can assess if the plant is suitable for the proposed location. A condition should be applied to require this information to be submitted.

Comments received 26/03/2020

The site appears to have been undeveloped and used for agricultural purposes for many years. While the risk of land contamination is low, given the sensitivity of the proposed development, a land quality assessment should be undertaken and it is recommended conditions are applied.

An air quality assessment should be undertaken and it is recommended that the guidance given in the most recent IAQM document Land-Use Planning & Development Control: Planning for Air Quality is followed. Both impacts during the operational phase and construction phase of the development should be assessed and mitigation measures should be put forward. This should be secured by planning condition.

It is noted that it is intended that provision for electric vehicle charging points and cycle parking are to be addressed at the Reserved Matters stage (if planning permission is granted). We would also want provision for cycling addressed at this stage, including links to the nearby cycle routes on the A259.

For a development of this size a construction environmental management plan should be secured by condition.

In order to control light spill to nearby residential areas (including properties on the development itself) a condition is recommended.

The development is less than 200 metres from the railway line which includes a level crossing both of which are potentially significant, frequently occurring sources of environmental noise. Although not directly next to the railway line there is currently open ground, and therefore nothing but distance to reduce the level of noise, between the railway line and the proposed dwellings on the southern side of the site. The applicant would need to submit a scheme that demonstrates that the future occupiers of the properties will not be subject to adverse noise from the railway operation.

In addition the applicant needs to consider the environmental noise that can arise from overhead power lines that are positioned at the north end of the site. Commonly power lines may produce a low frequency hum, and a crackling sound more common in damp weather. The applicant's noise assessment should include these potential noise sources.

Conditions to secure a noise mitigation scheme are recommended.

7.13 CDC Environmental Strategy Officer

Comments received 21/09/2020

Following submission of the Nitrogen Assessment (Aug 2020), it has been identified that there will be an increase in nitrogen load to the SPA of 37.02kg/N/yr from the proposed development. We are satisfied that the proposed mitigation of compensation land is suitable and area measuring 1.23ha at Broadreed Farm, Stansted Park, Rowlands Castle would be suitable and planting this area as woodland would be our preferred option. Subject to a S106 agreement to ensure this area is retained in perpetuity as mitigation land we are happy that this approach is suitable.

Comments received 04/05/2020

Following submission of the Energy and Sustainability Statement (April 2020), we are satisfied that the criteria detailed within policy 40 will be met. We are pleased to see the commitment by the applicant to implement measures to achieve a reduction in CO2 emissions of 19%. This will be achieved with a fabric first approach and through installing PV and air source heat pumps on all 42 units on the site.

Policy 40 also requires the installation of electric charging points for electric cars. Though provision is being made for these points, unfortunately no points are being installed currently. We require that electric charging points are installed at the properties onsite. Once this has been confirmed we are happy that the Energy and Sustainability Statement (April 2020), can be conditioned.

Comments received 11/03/2020

The hedgerows on 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 hedgerows (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.

Bat boxes should be installed within the retained trees onsite as detailed within the Phase 2 Bat Surveys (Oct 2019). We would also like bat tiles, bricks or tiles to be integrated into the new units onsite. Bat roosting features should be placed facing south/south westerly positioned 3-5m above ground. A condition should be used to ensure this takes place.

Following submission of the Reptile Survey and Mitigation report (Oct 2019), we are happy that the mitigation proposed would be suitable. A condition should be used to ensure this takes place.

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

We would like a number of bird boxes to be installed on the new buildings / and or tree within the gardens of the new property.

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 (as detailed above)
- Grassland areas managed to benefit reptiles.
- Hibernaculum and log pile (as detailed within the reptile mitigation)
- 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

As long as the applicant is willing to provide a contribution to the Bird Aware scheme, the standard HRA Screening Matrix and Appropriate Assessment Statement template can be used.

Following submission of the Nitrogen Assessment (Feb 2020), it has been proposed that to mitigation the increase in nitrogen load to the SPA of 113kg/N/yr from the proposed development changes to the agricultural land in the wider landholding should be established in perpetuity. The area of land as calculated needs to be 3.8ha and will need to be purchased and set aside as a newly created woodland potentially under a S106 agreement with the LPA. Without the piece of land being identified we are unable to assess whether this form of mitigation will be suitable. Due to this we are unable to complete the HRA assessment.

7.14 CDC Contract Services (Waste)

Comments received 21/09/2020

The site looks fine apart from one turning area, between block 19-22 and 23. Our refuse freighter is actually 3 metres wide, rather than the 2.5 metres shown, as a result the turning area is very tight.

A suggestion would be to link the roads to enable a loop around the properties. This would enable our refuse freighter to negotiate the site in a forward motion reducing the need to reverse. If this is not possible I would request a turning head to be made available near plot 28.

Comments received 03/03/2020

Refer to waste storage and collection service guide.

Individual properties would require one waste and one recycling bin. These come in two different sizes 140 litre or 240 litre, the general rule is for up to two persons in a household we would recommend 140 litre bins for up to four persons 240 litre bins.

In the instances of communal apartments there are two options available, either individual bins as above or bulk communal bins. If bulk communal bins are preferred then the number of bins required depends on how many apartments they serve. Generally bulk bins have a capacity of 1100 litres, the number of bins required can be calculated by taking the numbers of apartments in the block and multiplying it by 240 (litres), then divide is by 1100 (litres).

Other bin sizes are available (see attached requirements) and the above calculation can be adjusted to reflect this.

I would ask that attention is paid to the size, weight and turning circle of our freighters. Our freighter should not have to reverse over excessive distances and all turning areas should be sufficient in size to cater for our large refuse freighters.

This is especially important in areas where the refuse freighter is required to service a small mews/dead end road. If there is insufficient room for a turning area to be incorporated into a mews/dead end road we would require a communal collection point for bins at the entrance to the road.

All road surfaces should be constructed in a material suitably strong enough to take the height of a 26 tonne vehicle. I would discourage the use of concrete block paving unless it is of a highway standard, as these tend to move under the weight of our vehicles. To prevent access issues please may I insist that either parking restrictions are put in place, or adequate visitor parking is provided to prevent visitors from parking at the side of the road. Failure to address this issue at this stage may result in our refuse crew not being able to carry out their collections.

Generally the collection point should be outside the front of the property just inside the property boundary, at the closest point to the public highway. However in the instances of shared driveways the bins would be required to be presented at the entrance of the driveway.

All communal bin storage areas should be sufficient in size to enable our collection crews to manoeuvre the bins out for emptying without the need to move other bins first.

7.15 Third Party Representations

21 letters of objection have been received on the following grounds:

- a) Principle of development
 - Site is outside the settlement boundary
 - Premature to determine before CLP review and NP updated. Exceeds Parish's quota for new housing
 - Contrary to Policies 45 1, 9, 33, 48, 49, 50, 54 of CLP
 - Other brownfield sites
 - Not in Neighbourhood Plan, Parish had much more development in last 5 years than was in the Neighbourhood plan. About 160 over 25.
 - Council has a 5.3years HLS
- b) Character of area
 - Harm to streetscene, two storey buildings instead of bungalows
 - Harm to rural character of the village - overdevelopment of Hambrook
 - Exceeds density in CLP review and NP review
 - Higher density than surrounding development - Not enough outdoor space
- c) Affordable Housing provision
 - Exceeds size threshold for Entry Level Exception Sites (ELES), does not meet requirements of paragraph 71 of the NPPF.
 - 3.8 ha required for woodland to mitigate nitrates issues - need to be secured in perpetuity and should form harm of application site. Overall the size of site would be 5.1ha, well exceeding threshold for ELES.
 - Housing does not reflect local need in the Housing Needs Survey and 3,4 and 5 bed houses would not be affordable for first time buyers
 - Lack of social housing/ rented
 - The location is situated near electricity pylons, which will potentially stop any first time buyer obtaining a mortgage and thus would only become attractive to cash purchasers
 - Bungalows would be more appropriate for local need and reduce visual impact
- d) Impact on residential amenity
 - Overlooking of Downsvie
 - Existing development is unmaintained and results in harm to borders of neighbouring property
 - Cars parked close to Downsvie
 - Noise from households
 - Loss of light and privacy to existing properties to east
 - Loss of view from Marden, Broad Road
 - Bungalows boxed in by new developments
- e) Infrastructure
 - No extra facilities for community
 - Doctors, hospital's dentists and local schools over subscribed
 - Lack of convenience stores
 - Insufficient broadband and mobile signal
 - Lack of sewage capacity

- f) Highways
 - Increase in traffic using Broad Road
 - Broad Road is already very busy
 - Lack of paving for pedestrians on Broad Road
 - 30mph speed limit is not observed
 - Should be speed restrictions on Broad Road if development is permitted
 - Existing development results in parking on Broad Road - resulting in hazard and degradation of grass verge
 - Traffic congestion at A259 junction and traffic exacerbated on A259
 - Train services have been reduced and poor, expensive bus service
 - Inadequate that the site visit undertaken by the Road Safety Audit Team took place during the afternoon on a weekday
 - Historic permissive Right of Way
 - Have applicants carried out a traffic impact survey
- g) Pylons
 - Health impacts from proximity to pylons
 - Safety guidance from the National Grid and the Health and Safety Executive on overhead electricity lines
 - Mortgage problems for recently built dwellings by Pylons - council had to step in and buy them
 - Developers should carry sufficient liability insurance in perpetuity for any exposure claims
- h) Flood risk
 - Field is low lying and wet - gets waterlogged
 - No drainage provision
 - Materials of roads required to assess flood risk
 - The proposal is susceptible to ground source contamination. Furthermore, the ditch drainage layout means that ultimately this water would enter the system and follow Chidham Lane to Chidham before entering the sea via Chichester Harbour.
 - Locals recall use as pond (Winterbourne)
- i) Harm to wildlife (deer, kites, small birds, bats, newts etc)
- j) Loss of Poplar, Horse chestnut, oak and willow trees - loss of habitat and visual impact
- k) Lighting
 - Street lighting should be restricted
 - South Downs National Park to the north is a designated International Dark Sky Reserve and Maybush Copse, half a mile south of the application site, is a Dark Sky Discovery Site.
 - Excessive lighting on adjoining site
- l) Agricultural impact
 - Working field - loss of haylage for cattle
 - Access would be lost to farmland
 - Occupiers trespassing onto neighbours fields resulting in dog fouling and litter
- m) Application details
 - Discrepancies in application form including site address, applicant details don't match the land registry, vacancy of the land, contaminated land, parking spaces, materials, flood risk, Certificate B wrong.
 - Concerns about application type and description should clearly state is for ELES
 - Not provided details of pre-application advice
- n) Environmental Health
 - Knotweed present on the site
 - Contaminated land - old brickworks and unregulated landfill
- o) Application should be postponed due to current events

- p) Coronavirus pandemic has delayed the revision of the Neighbourhood Plan and the Local Plan
- q) Comments of Chichester Harbour Conservancy on last application have not been considered
- r) Nitrates mitigation - more information required

Two letters of general representation have been received on the following grounds:

- a) Absence of cycle route provision - should extend the current Chidham Provision for a cycle route to the north of Scant Road West and/ or to extend the same scheme further east along the A259 to link up with the current cycle path. Should be secured by S106.
- b) Increase in traffic
- c) Housing association providers should be vetted by Council
- d) Access to train station does not have a cycle path

8.0 Planning Policy

The Development Plan

- 8.1 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 Chidham and Hambrook Neighbourhood Plan was made on the 20th September 2016 and forms part of the Development Plan against which applications must be considered.
- 8.2 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 9: Development and Infrastructure Provision
- Policy 33: New Residential Development
- Policy 34: Affordable Housing
- Policy 35: Affordable Housing Exception Sites
- Policy 39: Transport, Accessibility and Parking
- Policy 40: Sustainable Design and Construction
- Policy 42: Flood Risk and Water Management
- 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 Special Protection Areas
- Policy 52: Green Infrastructure
- Policy 54: Open Space, Sport and Recreation

Chidham and Handbrook Neighbourhood Plan

8.3 The policies of the made CHNP relevant to this application are:

Policy EM1 Flood Risk and Surface Drainage
Policy EM2 Protection of Chichester Harbour SPA
Policy EM3 Landscape and Natural Environment
Policy CDP1 Community Development Contributions
Policy H1 Housing in the Plan Area
Policy H2 Diversity of Housing
Policy H3 Impact on Infrastructure
Policy DS1 Design Standard
Policy DS2 Encouraging Quality Design
Policy DS3 Provision of Car Parking

Chichester Local Plan Review Preferred Approach 2016 - 2035 (December 2018)

8.4 Chichester District Council adopted the Chichester Local Plan: Key Policies 2014- 2029 on 14 July 2015. The Council is currently reviewing and updating its Local Plan as required by Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012, to provide up to date planning policies which are consistent with the National Planning Policy Framework (NPPF) 2019. The Council consulted on the Local Plan Review 2016-2035 Preferred Approach (LPR) document between December 2018 and February 2019 under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012. Following consideration of all responses to the consultation period, the Council anticipates that the Submission Local Plan will be published for consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 in Spring 2021, and that following this the Plan will be submitted to the Secretary of State for Independent Examination. It is currently anticipated that after following all necessary procedures the new Local Plan will be adopted during 2022.

8.5 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
S20 Design
S23 Transport and Accessibility
S24 Countryside
S26 Natural Environment
S27 Flood Risk Management
S29 Green Infrastructure
S32 Design Strategies for Strategic and Major Development Sites
AL10 Chidham and Hambrook Parish

Part 2 - Development Management Policies

DM2 Housing Mix

DM3 Housing Density

DM8 Transport, Accessibility and Parking

DM16 Sustainable Design and Construction

DM18 Flood Risk and Water Management

DM22 Development in the Countryside

DM29 Biodiversity

DM30 Development and Disturbance of Birds in Chichester, Langstone and Pagham

Harbours Special Protection Areas

DM32 Green Infrastructure

DM34 Open Space, Sport and Recreation including Indoor Sports Facilities and Playing Pitches

National Policy and Guidance

8.6 Government planning policy now comprises the revised National Planning Policy Framework (NPPF 2019), which took effect from 1d9 February 2019. Paragraph 11 of the revised Framework states that plans and decisions should apply a presumption in favour of sustainable development, and for decision-taking this means:

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

8.7 Consideration should also be given to the following paragraph and sections: Sections 2, 4, 5, 8, 9, 11, 12, 14 and 15. The relevant paragraphs of the National Planning Practice Guidance have also been taken into account.

Other Local Policy and Guidance

8.8 Consideration has also been given to:

o Surface Water and Foul Drainage SPD

o Planning Obligations and Affordable Housing SPD

o CDC PGN3: Design Guidelines for Alterations to Dwellings and Extensions

o CDC Waste Storage and Collection Guidance

o Natural England Advice On Achieving Nutrient Neutrality For New Development In The Solent Region March 2020

o Interim Policy Statement for Housing

Interim Policy Statement for Housing Development May 2020

- 8.9 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 15 July 2020 there is a potential housing supply of 2,831 net dwellings over the period 2020-2025. This compares with an identified housing requirement of 3,297 net dwellings (equivalent to a requirement for 659 homes per year). This results in a deficit of 466 net dwellings which is equivalent to 4.3 years of housing supply. The inability to demonstrate a 5 year supply of housing contrary to the requirements of government policy triggers the presumption in favour of permitting sustainable development, as set out in paragraph 11 of the National Planning Policy Framework.
- 8.10 To pro-actively manage this situation prior to the adoption of the Local Plan Review, the Council has brought forward an Interim Policy Statement for Housing (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 Interim Policy Statement 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 are currently being processed. It is intended to bring a report back to Planning Committee in due course, including any proposals for revisions. New housing proposals considered under the IPS, such as this application, will therefore need to be assessed against the 12 criteria set out in the IPS document. The IPS is a development management tool to assist the Council in delivering appropriate new housing at a time when it cannot demonstrate a 5 year supply of housing land. 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 in the determination of relevant planning applications. It is a document that the decision maker shall have regard to in the context of why it was introduced i.e. to try and manage the submission of speculative housing applications on appropriate sites. Where new housing proposals score well against the IPS criteria, this needs to be taken into account in decision making.
- 8.11 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:
- Encourage and support people who live and work in the district and to adopt healthy and active lifestyles
 - 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.

9.0 Planning Comments

- 9.1 The main issues arising from this proposal are:
- i. The Principle of Development and Policy Position
 - ii. Change of use of the land
 - iii. Highways Safety and Parking
 - iv. Residential Amenity
 - v. Surface Water Drainage
 - vi. Ecology
 - vii. Habitat Regulations Assessment
 - viii. Pollution
 - ix. Impact on trees
 - x. Other Matters

i. Principle of Development and Policy Position

Entry Level Exception Site

- 9.2 Policy 35 of the CLP states that 'where there are no available and deliverable sites within a settlement affordable housing may be permitted on exception sites outside of settlement boundaries to meet a specific local need'. Policy LP1 of the made Chidham and Hambrook Neighbourhood Plan (CHNP) states development of affordable units on rural exception sites where this can be demonstrated to meet local needs will be supported. Following the adoption of the CLP and CHNP, the National Planning Policy Framework (NPPF) was updated in 2018. Paragraph 71 introduced the provision for Entry Level Exception Sites (ELES) and provided a wider definition for affordable housing to the 2012 version. Unlike rural exception sites, ELES are specifically focused on a lack of housing suitable for first time buyers or renters in an area, on sites which are not already allocated for housing. This application is specifically made in response to paragraph 71 of the NPPF.
- 9.3 Paragraph 71 of the NPPF states:
'Local Planning Authorities should support the development of entry-level exception sites, suitable for first time buyers (or those looking to rent their first home), unless the need for such homes is already being met within the authority's area. These sites should be on land which is not already allocated for housing and should:
a) comprise of entry-level homes that offer one or more types of affordable housing as defined in Annex 2 of this Framework; and
b) be adjacent to existing settlements, proportionate in size to them, not compromise the protection given to areas or assets of particular importance in this Framework, and comply with any local design policies and standards.'
- 9.4 This is prefaced by footnotes 33 and 34 of the NPPF which require that ELES should not be larger than 1 hectare in size or exceed 5% of the existing size of the settlement and should not be permitted within National Parks (or Broads Authority), AONBs or land designated as Green Belt.

- 9.5 The proposed application site would measure a total of 1.6ha (1.3ha excluding the existing access and the proposed landscape buffers), thus would be larger than 1 hectare in size. The settlement area is shown in Map 2 of the Chidham and Hambrook Neighbourhood Plan. This shows that there are two pockets of settlement in the Neighbourhood Plan area. The application site would directly abut the settlement boundary of Nutbourne East, which measures 18ha. The proposed development would therefore equate to an extension of 7.2% of the settlement (based on the developable area of the application site). The applicant in their rebuttal dated 10/03/2020 has included both Nutbourne East and Hambrook and the intervening land in their calculation. Officers have recalculated the percentage taking both the settlement areas of Nutbourne East (18ha) and Hambrook (17ha) into consideration. In this scenario the proposal would equate to an extension of 4.6% of the settlement. Under these assumptions the proposal would meet the requirements of footnote 33 of the NPPF. The site would also be outside the South Downs National Park and Chichester Harbour AONB designations, in accordance with the requirements of footnote 34 of the NPPF. Therefore if taking Nutbourne East only as the settlement the application site would exceed the 5% requirement in the NPPF but if taking both the settlements of Nutbourne East and Hambrook it would comply. The NPPF does state in footnotes 33 and 34 that the settlement should not exceed 5% of the "existing size of the settlement" and as this is in singular and the settlement boundaries of Nutbourne East and Hambrook are not physically attached, on balance officers believe the assessment should be made against the settlement of Nutbourne East on its own.
- 9.6 In addition to the size area, paragraph 71 of the NPPF also requires there to be a need for the housing proposed. The principle of an ELES was first established within the revised NPPF in 2018. No further guidance has been published within the planning practice guidance. As such, there is no established method for assessing the need.
- 9.7 As originally submitted the application proposed 42 dwellings of discounted market sales housing only, with the following mix 52% 1 bedroom, 31% 2 bedroom, 12% 3 bedroom, 2% 4 bedroom and 2% 5 bedroom. This mix was unacceptable as it didn't meet the needs of the parish and district because it didn't provide affordable and social rented properties. The applicant has amended the mix during the course of the application to better reflect the requirement. The Council's Housing Enabling Officer has reviewed the amended mix and has commented that this is responsive to the need for more affordable/social rented properties within the parish, as established by the Chidham and Hambrook Housing Needs Survey. This mix would need to be secured within a section 106 agreement with suitable local connection restrictions in place on both the affordable housing for rent and the affordable home ownership dwellings in perpetuity.
- 9.8 In light of the above, it is considered that the application does not comply with the maximum size requirements (when using the settlement boundary of Nutbourne East on its own). However as outlined above in the policy section, the Council does not currently have a 5 year housing land supply and therefore assessment of the application should also have regard to this situation.

Assessment against the current planning position - no 5 year housing land supply

- 9.9 The application proposes 35 no. new dwellings outside any defined Settlement Boundary. When considered against the policies of the adopted Local Plan, the application is considered contrary to policies 2 and 45 in that proposing new housing development outside the settlement boundary for Chidham and Hambrook in the countryside or Rest of Plan Area and would not meet an 'essential, small scale and local need' (policy 45). Additionally the site is not identified in the made Chidham and Hambrook Neighbourhood Plan and so it conflicts with policy LP1 of that Plan. Furthermore the proposal, in combination with the 4 housing sites identified with planning permission within the Chidham and Hambrook Neighbourhood Plan, would be significantly in excess of the indicative housing numbers for the Parish of Chidham and Hambrook as set out in Policy 5 of the Local Plan (25 homes). Therefore, and following a s.38(6) development plan approach, this application is contrary to policy.
- 9.10 However, as from 15 July 2020, the Council's housing policies in the Local Plan are no longer up-to-date and so no longer have full weight. The Local Plan Inspector in 2015 agreed that for a period of 5 years from the date of the Plan being adopted, i.e. by 15 July 2020, the Council could rely on a suppressed housing delivery target of 435 dwellings per annum (dpa) because of acknowledged strategic constraints in relation to transport capacity issues on the A27 and foul drainage capacity issues. The agreed delivery target of 435 dpa was on condition that the Council committed to undertaking a Review of the Plan and the changed housing requirements of the Plan area within the 5 year period. That review is well underway but it is not complete. The Chichester Local Plan Review - Preferred Approach for the period up to 2036 has yet to reach the stage where it can be submitted to the Secretary of State for examination and the Council's timetable indicates that this is not now anticipated until the Spring of 2021. The housing numbers stated in the Local Plan Review indicate the proposed direction of travel, the 'preferred approach' but they are not confirmed. The provisional allocation for Chidham and Hambrook Parish is 500 new homes (policy AL9). Consequently in terms of the decision-making process, the decision maker cannot rely or place any weight on these emerging policies. The Council is effectively therefore in a state of transition between an adopted Local Plan with out of date housing policies and allocations and a Review of that Plan which is not sufficiently advanced in the process towards adoption to be afforded any weight in decision making. Added to that the government requires Councils to now calculate their housing need through the standard method which on the basis of the Updated Position Statement on the Five Year Housing Land Supply at 15 July shows a need of 628 dpa i.e. significantly in excess of the previous 435 dpa.
- 9.11 As the housing policies in the Local Plan are 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 of permitting 35 houses on this site would significantly and demonstrably outweigh the benefits.

9.12 In acknowledging the current status of the Local Plan in terms of its out-of-date housing policies and the absence of a 5 year housing supply and to effectively bridge the gap up to the point where the Local Plan Review is adopted sometime in 2021, and to avoid where possible the submission of inappropriate ad hoc applications for housing development in the countryside, the Council has committed to using the Interim Policy Statement for Housing development (IPS). When considered against the 12 criteria in the IPS which define what the Council considers good quality development in the Local Plan area and accepting that this is an application only in outline, the current application scores well and the Council has not identified any adverse impacts (see Appendix 1 for further details). In this context and for the reasons outlined above the 'principle' of housing development is considered acceptable.

ii. Change of use of the land

9.13 The existing lawful use of the land is agricultural, which is listed as Grade 2 on the Agricultural Land Classification database. The applicant's agent has argued that given the extent of the other Grade 2 and Grade 1 land available within the locality, the loss of 1.3 ha would be insignificant. Whilst they have failed to demonstrate that the development of poorer quality agricultural land has been considered in preference to the best and most versatile land in accordance of criterion 4 of Policy 48 of the CLP this harm would need to be weighed against the benefits of the provision of affordable housing.

iii. Highways Safety and Parking

9.14 Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Additionally, Policy 39 of the CLP asserts that development should be designed to minimise additional traffic generation.

9.15 Aside from the principle of development in this location, 'access' is the only matter for consideration on this application with all other matters being reserved. A single point of vehicle and pedestrian access is proposed, this would utilise an existing access road serving Hambrook Place from Broad Road to the west. This access was granted for the Hambrook Place development under planning permission 16/04148/FUL and currently serves a residential development of 11 dwellings. This access has visibility splays of 2.4m x 40m and pavements on the southern side. The proposal seeks an extension to the estate road only and there are no amendments proposed to the access on to Broad Road. The main carriage way into the site would measure 5.5m in width.

9.16 The Local Highway Authority (LHA) does not consider that the estimated traffic increase will have a severe impact on the local road network. There are no specific off-site improvements required to make the application acceptable. It is noted that the Council's Environmental Protection Officer has encouraged the provision of pedestrian and cycle links on site and linking to nearby off-site routes. The LHA has responded that it is in the early stages of developing a pedestrian and cycle improvements scheme along Broad Road to connect into the A259. No specific S106 contribution would be sought from this site but CIL could be used to contribute towards these improvements.

- 9.17 Whilst layout will be addressed at reserved matters stage, officers are satisfied on the basis of the indicative plans that an appropriate layout could come forward with estate roads that would allow for appropriate turning of vehicles within the site. The indicative plans show road widths of 5.5m (including shared surfaces). The Council's Contracts Services Officer has commented that the submitted vehicle tracking plans for the indicative layout show a very tight turning area within the site between block 19-22 and 23 and as such a perimeter block design would be more appropriate. The LHA has indicated that it has no issues with this suggestion. Officers are satisfied that such a layout could be achieved at reserved matters stage, whilst maintaining the number of units proposed and the required infrastructure.
- 9.18 Adequate provision could be provided on site to meet the requirements of the WSCC Parking Calculator for 65 vehicle parking spaces and bicycle parking. The indicative layout plan shows 58 allocated vehicular parking spaces and 10 visitor parking spaces.
- 9.19 Highways England have been consulted as part of this proposal and raise no objection to the scheme, on the basis that the applicant makes a relevant contribution to the A27 Local Plan mitigations in line with CDC's SPD 'Approach for securing development contributions to mitigate additional traffic impacts on the A27 Chichester Bypass'.
- 9.20 In light of the above, the proposal would be acceptable in terms of its impact on highway safety and would not result in severe residual cumulative impacts on the road network and therefore meet the definition of sustainable development set out within the NPPF in this regard and accord with Policy 39 of the CLP.

iv. Residential Amenity

- 9.21 The NPPF states at Paragraph 127 that planning should ensure a good quality of amenity for existing and future users (of places), and Policy 33 of the CLP requires that new residential development provides a high quality living environment for future occupants, in keeping with the character of the surrounding area and includes requirements to protect the amenities of neighbouring properties.
- 9.22 Whilst the layout and scale of the development is not considered at the outline stage, the indicative layout plan suggest that sufficient distances between the proposed development and the existing neighbouring properties could be achieved at reserved matters stage, without resulting material harm to the amenities of neighbours by way of loss of light, overbearing impact or loss of privacy.
- 9.23 The indicative plan shows approximately 20-22m back to back separation distances between the plots 1-6 and the existing properties on Hambrook Place. This would broadly be in accordance with the guidance contained with the Council's Design Guidelines for Alterations to Dwellings and Extensions, and therefore acceptable in terms of preventing a material loss of privacy to neighbouring occupiers. The other neighbouring properties only Broad Road have long gardens, as such there would also be no material harm to the amenities of the occupiers to the west of the site.

- 9.24 The rear elevations of plots 25-28 would face the side of the garden space of Downsview, with a separation distance of approximately 14.5m. This again accords with the guidance contained within the Council's Design Guidelines for Alterations to Dwellings and Extensions. Furthermore, a landscape buffer measuring 5m in depth would be secured through the S106 agreement along this boundary.
- 9.25 As previously set out it is considered that two storey development would not be materially harmful to the surrounding character of the area. Third party concerns have been raised with regards to the impact on neighbouring bungalows, however for the reasons given above it is considered that there would be no material harm to these neighbouring occupiers.
- 9.26 Having regard to the above it is considered that an acceptable layout could come forward at reserved matters stage that would prevent material harm to residential amenity. The proposed development is therefore in accordance with the aims and objectives of the NPPF and Policy 33 of the CLP.

v. Ecology

- 9.27 In support of the application the applicant has submitted a Preliminary Ecological Appraisal, Reptile Survey and Mitigation report and Phase II Bat Surveys, prepared by ecosupport. The Council's Environmental Strategy Officer has reviewed the submitted information and is satisfied with the conclusions of the report.
- 9.28 The Council's Environmental Strategy Officer states that the hedgerows on site are used by bats for commuting and foraging and will need to be retained and enhanced. The indicative plans show a 5m landscape buffer to the existing hedgerow on the southern boundary of the site, there would also be a 15m buffer along the northern boundary of the site. The proposal would result in the loss scrub and small trees close to the eastern site however this would be replaced by a 5m landscape buffer, landscape buffers would be secured by the S106 agreement. Furthermore a detailed landscaping scheme would be required at reserved matters stage. The existing western boundary comprises fencing, trees and scrub. The indicative plan shows the proposed dwellings 11m from the boundary of the site as such officers are satisfied that a suitable scheme could come forward at reserved matters stage.
- 9.29 A sensitive lighting scheme having regard to the presence of bats in the area could be secured by condition by the Inspector. Reptile mitigation in accordance with Reptile Survey and Mitigation report (Oct 2019) could also be secured by condition by the Inspector.
- 9.30 At reserved matters stage it would be expected that a scheme for ecological enhancements be provided within the landscaping proposals. Conditions to secure bat and bird boxes within the application site within buildings and on existing trees could be conditioned by the Inspector.
- 9.31 In light of the above the proposal would accord with Policy 49 CLP, Policy EM3 of the CHNP and paragraph 175 of the NPPF 2018.

vi. Impact on trees

- 9.32 The applicant has submitted an Arboricultural Report prepared by Johnston Tree Consultancy dated November 2018. This is a replicate of the report submitted with withdrawn application 19/00874/OUT. The Council's Tree Officer commented on this withdrawn application and noted that it proposed the removal of 6 trees out of a group of 11. These trees proposed to be removed were of average quality (graded C's) apart from the 1 no. Horse Chestnut tree (T3) which was graded a B but has no public amenity. The other 5 trees are fast growing and regenerative species (Poplar and Willow), the Council's Tree Officers had no objection to the removal of these trees. It is considered that an appropriate landscaping scheme could come forward as reserved matters stage for appropriate replacement trees. These could be sited within the 5m wide landscape buffers along the southern and eastern boundaries of the site.
- 9.33 The Arboricultural Report also sets out tree protection measures for the trees to be retained within the site, compliance with this could be secured by planning condition by the Inspector.

vii. Habitat Regulations Assessment

- 9.34 The site is located within 5.6km buffer zone of the Chichester and Langstone Harbours Special Protection Area.
- 9.35 The European Court of Justice (CECJ) ruling in April 2018 disbars planning and other competent authorities when screening a plan or project for Habitats Regulations Assessment (HRA) from taking account of any measures intended to avoid or reduce the harmful effects on such a site.
- 9.36 This means that projects which previously would not have been subject to a full HRA are now required to undertake an appropriate assessment. Under Article 6(3) of the Habitats Directive an appropriate assessment is required where a plan or project is likely to have a significant effect upon a European site.
- 8.37 Within the Chichester Local Plan Area, any net increase in dwellings within the zone of influence would require an appropriate assessment to be carried out by the Council and consultations carried out with Natural England as the appropriate nature conservation body.

Nitrates

- 9.38 The proposal comprises new development with overnight accommodation, where the treated effluent from the development will discharge into a Solent European site, or any water body that subsequently discharges into such a site.

- 9.39 In support of the application the applicant has prepared an updated Nitrogen Assessment prepared by Baker Consultants dated August 2020. This concludes that the development would generate an increase in nitrogen load to the SPA of 32.07kgN/year (Officer note: this was based on 37 dwellings, not the current 35 proposed). The applicant has stated that they intend to revert an area of agricultural land in the vicinity of the application site to woodland in order to offset nitrogen from the proposal. Baker Consultants suggest that the area required for compensation woodland is 2.5ha if low land grazing land is used or a reduced area if the land has a more intensive use. For example, if an area of cereal production (31.2 kg/ha/yr) was taken out of use, then the compensation area would need to be 1.03 ha. The applicant is offering 1.03 ha of land used for cereal growing at Broadreed Farm, Stansted Park, Rowlands Castle, Hants PO9 6DZ.
- 9.40 According to Natural England's mapping system, Broadreed Farm is within the surface water catchment of Emsworth Channel. As the proposal will connect to Thornham WwTW, the mitigation land would ideally be in the Thorney Channel sub-catchment. However, Natural England recognises that sub-catchment is quite small, so may be difficult to find land within it. Therefore, as an alternative, the location in the Emsworth Channel sub-catchment is appropriate, as it is the adjacent harbour arm within the Chichester and Langstone Harbours Special Protection Area (SPA).
- 9.41 Natural England recommends that the mitigation land is planted with trees (in line with Advice on Achieving Nutrient Neutrality in the Solent Region v5, June 2020) as it is easy to see from aerial photography and site visits that woodland has been created and is being maintained.
- 9.42 Natural England has commented that a nitrogen leaching rate from woodland planting is likely to equate to 5 kg/ha/yr. Therefore, this needs to be taken into account in the calculation of the area required for offsetting, and would result in a requirement for 1.23ha of cereal cropping to be taken out of production.
- 9.43 Officers note that this calculation was based on 37 dwellings being proposed, not the 35 dwellings currently proposed. As such, officers have requested that the applicant submit an updated nitrogen assessment with an updated calculation and adequate land provision for mitigation. This has not been submitted at the time of drafting this committee report. As such, the officer recommendation is that this information would need to be submitted to allow officers to undertake a final appropriate assessment and reconsult with Natural England prior to any appeal. Furthermore, as set out in the heads of terms below, the location and long term management of the area for mitigation would need to be appropriately secured through a S106 agreement.

Recreational disturbance

- 9.44 The proposal would result in an increase in population living on the site which could result in recreational pressure on the SPA and disturbance to protected bird populations. A contribution of £18,057 to the Bird Aware Solent scheme is required in order to mitigate recreational disturbance as a result of the proposal.

Sub conclusion

- 9.45 In principle the proposed strategy to revert an area of agricultural land in the vicinity of the application site to woodland is acceptable to mitigate the impact of the development on nitrates in the Chichester and Langstone Harbours SPA. However, final details of the exact size of this piece of land needs to be submitted. The officer's recommendation is that a further updated nitrate assessment (with an updated calculation and adequate land for mitigation) would need to be submitted, to allow the local planning authority to complete a final appropriate assessment. The appropriate assessment would need to conclude (in consultation with Natural England) that project will not have an Adverse Effect on the Integrity of the European protected site. Further to this, a completed S106 agreement is required to secure both the financial contribution to the Bird Aware Solent scheme and the proposed compensation woodland.
- 9.46 Without the above, the proposal would be contrary to Policies 49 and 50 of the CLP and conflict with the requirements of the Habitats Directive.

viii. Land, air, light and noise pollution

Land contamination

- 9.47 The Council's Environmental Protection Officer considers that the risk of land contamination is low owing to the existing agricultural use of the site. However, given the sensitivity of the proposed development, a land quality assessment prior to the commencement of development could be secured by condition by the Inspector.

Air quality

- 9.48 The Council's Environmental Protection Officer has recommended that an air quality assessment is secured by planning condition. This should include air quality mitigation measures during the construction phase and operation phase of the development and should include electric vehicle charging points and cycle parking provision. Electric vehicle charging points in line with WSCC's Guidance on Parking at New Developments (June 2020) could be secured by planning condition by the Inspector. Sufficient cycle parking provision would be secured at reserved matters stage.
- 9.49 It is noted that the Council's Environmental Protection Officer has encouraged the provision of pedestrian and cycle links on site and linking to nearby off-site routes. This has been discussed further in the highways section of this report.

Light pollution

- 9.50 In order to control light spill to nearby residential areas (including properties on the development itself) a condition to secure a lighting scheme could be conditioned by the Inspector.

Noise

- 9.51 The Council's Environmental Protection Officer has noted that the proposed development is less than 200 metres from the railway line which includes a level crossing, both of which are potentially significant, frequently occurring sources of environmental noise. A scheme of noise protection for internal and external areas is required, this could be secured by condition by the Inspector to be submitted at reserved matters stage. The Council's Environmental Protection Officer is satisfied that given the separation distance, it is unlikely that the orientation of the buildings would be affected and mitigation such as an acoustic fence could be appropriate in this instance. As such, officers are satisfied that this could be addressed at reserved matters stage.
- 9.52 It is noted that a number of third party comments have been raised with regards to the proximity of the development to Pylons. As discussed in the principle section of this report (criterion 9 of the IPS) the indicative plans suggest a separation distance of 13m between the proposed dwellings to the north of the site and the existing electricity cables, furthermore the rear gardens of these properties would face away from the pylons.
- 9.53 The Council's Environmental Protection Officer has commented that the environmental noise that can arise from overhead power lines that are positioned at the north end of the site should be considered as part of the noise assessment, which is required to be submitted with the first reserved matters application. Following a site visit, the Environmental Protection Officer has commented that this 'snapshot' indicates that noise from the powerlines is unlikely to be a concern for this application.
- 9.54 A sustainability condition requiring technical details of the proposed air source heat pumps, including acoustic performance and details on their positioning, which would ensure that any noise generated would not cause a nuisance to occupiers of the development or neighbours, could be conditioned by the Inspector.

ix. Other Matters

- 9.55 Officers have carefully considered the comments made by third parties and these have been addressed in the relevant sections above.
- 9.56 The onus is on the applicant to complete the certificate of ownership correctly, furthermore landownership checks will be carried out as part of the S106 preparation process.

CIL

- 9.57 The development is CIL liable, however as the applicant is providing the residential units as affordable housing, there is an opportunity to exempt themselves from charges.

Planning Obligations

9.58 At the time of preparing this report a S106 is still to be drafted. The required heads of terms are:

- Provision of 35 dwelling units for first time buyers/renters with the following mix:
 - Affordable/Social Rented:
 - 10 x 1 bedroom
 - 9 x 2 bedroom
 - 5 x 3 bedroom
 - 2 x 4 bedroom
 - Discounted market sales housing:
 - 2 x 1 bedroom
 - 3 x 2 bedroom
 - 4 x 3 bedroom
- Appropriate management by an approved body and a nominations agreement to ensure compliance as an entry level exception site.
- Financial contribution of £63,105 (£1,803 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'.
- Open Space (minimum of 317 sqm separate to landscape buffers) - provision, management and on-going maintenance.
- 5m wide landscape buffers along the southern and eastern site boundaries and 10m wide landscape buffer along the northern boundary - provision, management and on-going maintenance.
- Financial contribution of £18,057 for recreational disturbance mitigation, in accordance with Planning Obligations and Affordable Housing SPD (as of 1st April 2020).
- Nitrates mitigation - this will need to be informed by the final appropriate assessment (in consultation with Natural England) following the submission of an updated nitrates assessment. The S106 would need to set out the size and location of land currently used for cereal and secure its conversion to woodland. It should also secure its management and on-going maintenance in perpetuity (80/120 years).
- S106 monitoring fee of £1,692

Significant Conditions

9.59 The significant conditions that officer recommend to make this development acceptable have been discussed in the relevant sections of this report. These conditions would include those to secure details of levels, foul drainage details, a SUDs scheme, pollution control, noise mitigation, electric vehicle charging facilities, sustainable construction, soft landscaping, an external lighting scheme, ecological mitigation and enhancements. These conditions would be submitted to the Inspector for consideration as part of the appeal.

Conclusion

- 9.60 As outlined above, the site when assessed as an ELES under paragraph 71 of the NPPF does not comply with the maximum size requirements. However, the Council does not currently have a 5 year housing land supply. In the absence of an up-to date Local Plan, the Council cannot rely on a plan-led approach to decision making on major applications as it ordinarily would. The IPS provides an appropriate development management tool for assessing such applications. The proposed development insofar as it is submitted in outline is considered to meet all the relevant criteria in the IPS. In this context and for the reasons outlined above the 'principle' of housing development is considered acceptable.
- 9.61 In applying paragraph 11 of the NPPF there are no adverse impacts that would demonstrably outweigh the benefits of the provision of much needed affordable housing, specifically aimed at first time buyers and renters. As such, subject to an updated nitrates assessment identifying an appropriately sized area of land for mitigation, the completion of a final appropriate assessment and the applicant entering a S106 agreement to secure the affordable housing, SPA mitigation, nitrate mitigation in perpetuity and infrastructure it is recommended that the appeal is not contested.

Human Rights

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

RECOMMENDATION

NOT TO CONTEST THE APPEAL, SUBJECT TO AN APPROPRIATE ASSESSMENT BEING PASSED (IN CONSULTATION WITH NATURAL ENGLAND) AND COMPLETION OF S106 AGREEMENT and subject to the following conditions and informatives being put to the Inspector for consideration:-

1) (i) Approval of the details of the layout of the site, the scale and the appearance of the building(s) or place, and the landscaping of the site (hereinafter called "reserved matters") shall be obtained from the Local Planning Authority before any development is commenced.

Plans and particulars of the reserved matters referred to in paragraph (i) above, relating to the layout of the site, the scale and the appearance of the building(s) or place, to be erected and the landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

(ii) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

2) The development hereby permitted shall be begun before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

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

3) 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.

4) **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 and the disposal of litter,
- (q) provision of temporary domestic waste and recycling bin collection point(s) during construction,
- (r) hours of construction.

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 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 ensure that a satisfactory relationship results between the new development and adjacent buildings and public areas. It is considered necessary for this to be a pre-commencement condition as these details relate to the construction of the development and thus go to the heart of the planning permission.

6) No development shall commence unless and until details of the proposed means of foul water sewerage disposal including any proposals for associated off-site infrastructure improvements (if required) and an agreed timetable for the works have been submitted to and been approved in writing by the Local Planning Authority acting reasonably in consultation with Southern Water. Thereafter all development shall be undertaken in accordance with the approved details and in accordance with the approved timetable for implementation. Should off-site works be required, then there shall be no occupation of any dwelling until those approved off-site works have been completed. In the event that the agreed off-site works are not completed in full by the time of the first occupation, detailed interim on-site measures for the disposal of foul water sewerage shall be agreed writing by the Local Planning Authority in consultation with Southern Water and shall be installed prior to the first occupation of the site.

Reason: To ensure adequate provision for drainage. It is considered necessary for this to be a pre-commencement condition as such details need to be taken into account in the construction of the development and thus go to the heart of the planning permission.

7) **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.

8) **No development shall commence** until a scheme to deal with contamination of land and/or controlled waters has been submitted to and approved in writing by the Local Planning Authority (LPA). Unless the local planning authority dispenses with any such requirement specifically in writing the scheme shall include the following, a Phase 1 report carried out by a competent person to include a desk study, site walkover, production of a site conceptual model and human health and environmental risk assessment, 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. This is a pre-commencement condition as it goes to the heart of the permission.

9) If the Phase 1 report submitted pursuant to condition 8, identifies potential contaminant linkages that require further investigation then **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. This is a pre-commencement condition as it goes to the heart of the permission.

10) If the Phase 2 report submitted pursuant to condition 9, 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. This is a pre-commencement condition as it goes to the heart of the permission.

11) **No development shall commence** until an air quality assessment shall be carried out for the proposed development and a scheme for protecting the future residential occupiers of the dwellings from the effects of air pollution nitrogen dioxide/airborne particulate matter (PM10) arising from road traffic has been submitted to and approved in writing by the local planning authority, this shall include a timetable for implementation of mitigation measures. All works which form part of the approved scheme shall be completed in accordance with the approved details and approved timetable and thereafter maintained for the lifetime of the development.

Reason: In order to safeguard the health of the occupiers of the proposed dwelling(s) in respect of atmospheric pollution. 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. This is a pre-commencement condition as it goes to the heart of the permission.

12) A noise mitigation scheme for the development, demonstrating that appropriate standards are met for the approved use, shall be submitted with the **first application for reserved matters** and any subsequent applications for reserved matters shall demonstrate how the details are to be implemented in accordance with the noise mitigation scheme. Any site wide noise mitigation measures shall be implemented **prior to the first occupation of the site** and any noise mitigation measures specific to an individual dwelling shall be implemented prior to the first occupation of that dwelling, unless alternative implementation arrangements are agreed. The noise mitigation measures shall be maintained thereafter. The applicant's attention is drawn to the attached informatives which offer clarification with regard to the specific requirements of this Condition.

Reason: In order to safeguard an appropriate standard of amenity for any future occupants and existing uses. This is a pre-commencement condition as it goes to the heart of the permission.

13) **No development shall commence on site** until, details showing the proposed location of one fire hydrant or stored water supply (in accordance with the West Sussex Fire and Rescue Guidance Notes) has been submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Service. Prior to the first occupation of the development hereby permitted, the developer at their own expense shall install the fire hydrant in the approved location to BS 750 standards or stored water supply and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of firefighting. The fire hydrant shall thereafter be maintained as part of the development by the water undertaker at the expense of the Fire and Rescue Service if adopted as part of the public mains supply (Fire Services Act 2004) or by the owner / occupier if the installation is retained as a private network.

Reason: In the interests of fire safety and in accordance with Chichester Local Plan (2014 - 2029) Key Policies 8 and 9 and in accordance with The Fire & Rescue Service Act 2004. This is a pre-commencement condition as it goes to the heart of the permission.

14) **No development shall commence on site**, including demolition, until protective fencing has been erected around all trees, shrubs and other natural features not scheduled for removal in accordance with Arboricultural Report prepared by Johnston Tree Consultancy dated November 2018. Thereafter the protective fencing shall be retained for the duration of the works and in accordance with the Arboricultural Report prepared by Johnston Tree Consultancy dated November 2018 and the recommendations of BS5837:2012, unless otherwise agreed in writing by the Local Planning Authority. No unauthorised access or placement of goods, fuels or chemicals, soil or other materials shall take place inside the fenced area; soil levels within the root protection area of the trees/hedgerows to be retained shall not be raised or lowered, and there shall be no burning of materials where it could cause damage to any tree or tree group to be retained on the site or on land adjoining at any time.

Reason: To ensure that trees, shrubs and other natural features to be retained are adequately protected from damage to health and stability. 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.

15) Notwithstanding the submitted Energy and Sustainability Statement prepared by SRE dated April 2020, **no development shall commence** until a sustainability statement has been submitted to and approved in writing by the Local Planning Authority with the **first reserved matters application**. This shall set out how the development would comply with criterion 8 of the Council's Interim Policy Statement, specifically it shall provide details on;

- o 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;

- o 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.

The details shall include the proposed location, form, appearance and technical specification of the air source heat pumps (including acoustic performance) and the form and siting of the solar PV panels which shall be designed to be inset and flush fitting with the plane of the roof. The development thereafter shall be carried out in accordance with the approved details.

Reason: To ensure the development delivers carbon reductions and a sustainable development in accordance with policy 40 of the Chichester Local Plan Key Policies 2014-2029 and the Council's Interim Planning Statement for Housing Development (July 2020) and to accord with the terms of the application. This is a pre-commencement condition as it goes to the heart of the permission.

16) **Before construction of any dwelling above slab level** the developer shall provide details of how the development will accord with the West Sussex County Council: Guidance on Parking at New Developments (June 2020) in respect of the provision of Electric Vehicle (EV) charging facilities. These details shall be approved in writing by the Local Planning Authority and carried out as approved. Specifically the development shall provide passive provision through ducting to allow EV charging facilities to be brought into use at a later date for the whole site. Active EV charging facilities shall be provided in accordance with the table at Appendix B of the West Sussex County Council: Guidance on Parking at New Developments (June 2020) and no dwelling which is to be provided with an active charging facility shall be first occupied until the EV charging facility for that dwelling has been provided and is ready for use.

Reason: To accord with current parking standards and the sustainable development objectives of Policy 40 of the Chichester Local Plan: Key Policies 2014-2029.

17) **No development shall commence on the Sustainable Urban Drainage System (SUDS)** until full details of the maintenance and management of the SUDS system, set out in a site-specific maintenance manual, has been submitted to and approved in writing by the Local Planning Authority. The manual shall include details of financial management and arrangements for the replacement of major components at the end of the manufacturers recommended design life. Upon completed construction of the SUDS system serving each phase, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.

Reason: To ensure the efficient maintenance and ongoing operation for the SUDS system and to ensure best practice in line with guidance set out in the SUDS Manual CIRIA publication ref: C687 Chapter 22. The details are required pre-commencement to ensure the SUDS are designed appropriately and properly maintained and managed as soon as they are installed.

18) Notwithstanding the indicative plans submitted with the application **no construction of any dwelling above slab level** shall take place unless and until a detailed scheme of soft landscaping for the whole site has been submitted to and been approved in writing by the Local Planning Authority. The scheme shall include a planting plan and schedule of plants noting species, plant sizes and proposed numbers/densities, and shall include a program/timetable for the provision of the landscaping. In addition all existing trees and hedgerows on the land shall be indicated including details of any to be retained, together with measures for their protection during the course of development. The scheme shall make particular provision for the conservation and enhancement of biodiversity on the application site and boundary fencing shall include gaps underneath to enable the passage of small mammals (hedgehogs). The works shall be carried out in accordance with the approved details and planting timetable and in accordance with the recommendations of the appropriate British Standards or other recognised codes of good practice. Any trees or plants which, within a period of 5 years after planting, 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: In the interests of amenity and of the environment of the development.

19) **No development shall commence above ground level** until a scheme for ecological enhancements, including timescales for implementation shall be submitted to and approved in writing by the Local Planning Authority and thereafter shall be complied with in full. The scheme of ecological enhancements shall give consideration should be given to the following;

- Replacement trees at a ratio of 2:1
- Wildflower meadow planting
- Filling any gaps in tree lines or hedgerows with native species
- Bat boxes installed within the retained trees onsite as detailed within the submitted Phase 2 Bat Surveys (Oct 2019) and bat tiles or bricks to be integrated into the new dwellings onsite. Bat roosting features should be placed facing south/south westerly positioned 3-5m above ground.
- Bird boxes installed on the site (to be installed on the new buildings / and or trees within the gardens)
- Grassland areas managed to benefit reptiles.
- Hibernaculum and log pile (as detailed within the submitted reptile mitigation)
- Gaps provided at the bottom of the fences to allow movement of small mammals across the site
- Two hedgehog nesting boxes included on the site

Reason: In the interest of conserving and enhancing biodiversity.

20) **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.

21) **Before first occupation of any dwelling** full details of how the site will be connected to all relevant utilities and services infrastructure networks (including fresh water, electricity, gas, telecommunications and broadband ducting) shall be submitted to and be approved in writing by the Local Planning Authority. These details shall demonstrate the provision of suitable infrastructure to facilitate these connections and the protection of existing infrastructure on the site during works. The development will thereafter only proceed in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the development benefits from appropriate infrastructure

22) The dwellings hereby permitted shall be designed to ensure the consumption of wholesome water by persons occupying a new dwelling must not exceed 110 litres per person per day, as set out in 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). **No dwelling hereby permitted shall be first occupied** until the requirements of this condition for that dwelling have been fully implemented, including fixtures, fittings and appliances.

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.

23) **Before first occupation of any dwelling** details of any proposed external lighting of the site shall be submitted to and be approved in writing by the Local Planning Authority. This information shall include a layout plan with beam orientation and schedule of equipment in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed, maintained and operated in accordance with the approved details, unless the Local Planning Authority gives its written consent to any variation. The lighting scheme shall take into consideration the presence of bats in the local area and shall minimise potential impacts to any bats using trees and hedgerows by avoiding unnecessary artificial light spill through the use of directional lighting sources and shielding.

Reason: To protect the appearance of the area, the environment and foraging bats, and local residents from light pollution.

Note: Any proposed external lighting system should comply with the Institute of Lighting Engineers (ILE) guidance notes for the Reduction of Light Pollution.

24) Any works to the trees or vegetation clearance on the site shall 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 must check the site before any works take place (within 24 hours of any work).

Reason: In the interest of ecology.

25) The development hereby permitted shall not be carried out other than in full accordance with the mitigation measures set out in section 6.0 of the submitted Reptile Survey and Mitigation report prepared by Ecosupport and dated October 2019.

Reason: In the interest of ecology.

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
PLANS - Plans PLAN -	18149-01	B	20.08.2020	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) S106

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

2) For further information and technical guidance regarding land contamination the applicant should contact the District Council's Environmental Protection Team (01243 785166).

3) When submitting lighting details for approval, it is requested that a report from a competent Lighting Professional is provided, confirming that the external lighting installation meets the Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone (to be specified for the circumstances) as set out in the "Guidance Notes for the Reduction of Obtrusive Light GN01:2011" issued by the Institute of Lighting Professionals.

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) The applicant is reminded that the prior written consent of the Lead Local Flood Authority (WSSCC) 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.

6) A scheme, shall be submitted, that details measures to secure internal sound levels within all habitable rooms that do not exceed 35dB LAeq,16hours (07:00-23:00); that secure internal sound levels within all bedrooms that do not exceed 30dB LAeq,8hours (23:00-07:00) and a level of 45dB LA[F]max shall not be exceeded on a regular basis (10 times) during night-time (23:00-07:00) within bedrooms. Where it is evident that windows shall be required to be closed, to achieve these internal sound level criteria, all practicable measures shall be explored as viable alternatives. Practicable measures include the orientation of buildings, the siting of rooms and physical screening. Where all other means have been exhausted, and windows are required to be closed, adequate ventilation shall be specified.

7) Mitigation measures shall be detailed to ensure sound levels, within any external amenity areas, do not exceed 55dB LAeq, 16hours (07:00-23:00). A higher level, not to exceed 60dB LAeq, 16hours (07:00-23:00), is deemed appropriate for external balcony areas, where all practicable mitigation measures have been explored.

8) There are Overhead Power lines at the north of the site. The applicant should carry out the development in accordance with the "Sense of Place" Design Guidelines from the National Grid. <http://www.nationalgrid.com/uk/senseofplace>

9) As part of the Building Regulations 2004, adequate access for firefighting vehicles and equipment from the public highway must be available and may require additional works on or off site, particularly in very large developments. (BS5588 Part B 5) for further information please contact the Fire and Rescue Service.

For further information on this application please contact Kayleigh Taylor on 01243 534734

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Q5LMQSERFRR00>

APPENDIX 1

Assessment against the Interim Policy Statement for Housing Development (IPS)

1) The site boundary in whole or in part is contiguous with an identified Settlement Boundary (i.e. at least one boundary must adjoin the settlement boundary or be immediately adjacent to it).

The western site boundary would adjoin the settlement boundary of Nutbourne East and as such the proposal meets this point.

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

It is considered the proposal meets this point, Hambrook/Nubourne is classed under service villages in Policy 2 of the CLP. Furthermore it is noted that the application site was considered 'achievable' in the Chichester Housing and Economic Land Availability Assessment (HELAA) August 2018 reference HCH0019b for 31 dwellings deliverable in 1-5 years. The purpose of the HELAA is to identify a future supply of land which is suitable, available and achievable for housing and economic development (such as employment, retail and leisure) over the plan period.

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 a Landscape and Visual Impact Assessment.

It is considered the proposal meets this point. The application is supported by a Landscape and Visual Appraisal prepared by Fabrik dated March 2020. This concludes that the site is of low landscape value, devoid of significant landscape features and heavily influenced by the settlement edge, and detracting features, including electricity cables and pylons. The site is enclosed by static caravans that form part of Hambrook Holiday Park to the north, dense vegetation separating the site from the rear gardens of dwellings to the south and by residential development along Broad Road to the west. The site is open to the landscape to the east, as such, the proposal would in effect bring the settlement edge closer in views achieved from the east (public bridleway 260). However, the development would be read in the context of existing development and as such, there would be no coalescence. The indicative plans submitted with this application show landscape buffers on the northern, eastern and southern boundaries. Furthermore, landscaping would be fully addressed at reserved matters stage. This would help to soften the development when viewed from the east and could enhance the transition between the settlement edge of Hambrook and the surrounding landscape.

Officers are therefore satisfied that there would be no material increase in coalescence of Nutbourne East and Hambrook.

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.

The proposal seeks 35 dwellings and the developable area of the site is approximately 1.3ha. This would result in a density of 26.9 dph, this is modestly greater than 24dph suggested in the 2018 HELAA for this site (ref: HCH0019b), however it is lower than the 35dph suggested paragraph 17.6 of the supporting text for policy 33 of the CLP. On balance, officers consider this to be an appropriate density for a rural edge of settlement location. Given that a large number of maisonettes are proposed (12no. 1 bed units), the blocks of built form on the submitted indicative plans are fewer than that on development with a traditional housing mix (i.e. not a ELES site). When comparing to the smaller development to the west (Hambrook Place) the development would appear more spacious with opportunities for soft landscaping between the blocks of built form. This would help to provide a transition to the countryside to the east.

The application site comprises the entire 2018 HELAA site and forms a field bound by Hambrook Holiday Park to the north and existing dwellings to the west and south. Officers are therefore satisfied that the development would not result in the artificial sub-division of a larger parcel of land.

5) Proposals should demonstrate consideration of the impact of development 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.

The site is in the countryside and comprises an undeveloped, open field. As such, the introduction of residential development would fundamentally alter the appearance of the application site and local landscape views. It is acknowledged that there is urban development along the northern, southern and western boundaries; however there are views of the site from Drift Lane to the east.

Whilst Chichester Harbour Conservancy has objected to the proposal due to the site's location outside the settlement boundary no concerns are raised with regards to the setting of the Chichester Harbour AONB, given the 0.5km separation distance, the two storey height of the development and intervening vegetation. The site is also a sufficient distance from the South Downs National Park.

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.

Not applicable in this instance.

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. Wastewater disposal will be through the statutory undertaker. Whilst it is noted that the Parish and third parties have commented about foul drainage capacity, Southern Water has raised no objection to the proposal. The site would connect to the Thornham WwTW, nutrient neutrality issues will be address later in this report.

The proposal seeks entirely affordable housing provision. The proposed mix would be secured by S106 agreement.

The indicative plans indicate an area of open space measuring approximately 345sqm in the centre of the site. This would be in addition to the landscape buffers and meets the requirements of the Council's open space calculator. Whilst the plans are only indicative at this stage the landscape buffers and a minimum of 317sqm open space (in line with the requirements of the Council's open space calculator) would be secured by S106 agreement.

A contribution towards the A27 Local Plan mitigation works has been requested by Highways England, this would also be secured by a S106 agreement.

Full details of the Heads of Terms for the S106 agreement are set out later in this report.

- 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:**
- o Achieving the higher building regulations water consumption standard of a maximum of 110 litres per person per day including external water use;**
 - o 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;**
 - o 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**
 - o Incorporates electric vehicle charging infrastructure in accordance with West Sussex County Council's Car Parking Standards Guidance.**

The applicant has submitted an Energy and Sustainability Statement prepared by SRE dated April 2020. This sets out 10% fabric first approach. Air source heat pumps and a solar PV are proposed with a 36.5-68% improvement per dwelling over baseline CO2 emissions. The standards above are clear that they require at least a 19% improvement in terms of minimising energy consumption together with an additional 10% of energy supplied from renewable resources. Whilst this has not been demonstrated at outline stage, it is considered that as a development on a green field site it would be capable of achieving this requirement. A condition is therefore, recommended to require compliance with these requirements. This would require the submission of a sustainability statement at reserved matters stage to demonstrate that the layout of the proposed development takes into consideration solar gain and there would be a sufficient number of south facing roofs across the development.

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 application is submitted in outline meaning that judgements regarding the scale, design, layout, appearance and landscaping are deferred for the reserved matters application(s). Notwithstanding this, officers are satisfied that a development that accords with this guidance could come forward at reserved matters stage. The indicative block plan gives some basic information about the parameters for development including the quantity and scale of the proposed development. Whilst this is an indicative plan, it clearly demonstrates how development could fit on the site with appropriate infrastructure and landscaping.

During the course of the application the number of units on the site has been reduced from 42 to 35. The indicative plans show that there would be appropriate landscaping buffers on the northern, eastern and southern boundaries of the site. The indicative plans suggest a separation distance of 13m between the proposed dwellings to the north of the site and the existing electricity cables. The indicative plans also show that the rear gardens of these properties would face away from the pylons. In comparison on the Hambrook Place site the closest dwellings and gardens are also 13m from the electricity cables, but are in closer proximity to the pylon associated with these cables and are oriented at 90 degrees so that the closest garden is parallel to the cables.

Third parties and the Parish have raised concerns about two storey development in this location. The surrounding area comprise a mix of single and two storey developments, as such, two storey development would not be materially harmful to the character of the area. The Council's Housing Enabling Officer has requested that the houses meet the DCLG's Technical housing standards - nationally described space standard. The scale and design of individual units would be considered at reserved matters stage.

Having regard to the indicative plans, officers are satisfied that an appropriate layout, scale and design could come forward at reserved matters stage that responds appropriately to the constraints of the site.

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 will be accessed from Broad Road which is a two-way single carriageway road linking Nutbourne in the south, with Hambrook to the north. Approximately 620m south of the site access, Broad Road meets the A259 Main Road at a staggered crossroads with Cot Lane. The A259 is the main route between Havant and Chichester and is a single carriageway road, suitable to accommodate simultaneous two-way movements along the entirety of its length.

A footway is provided along the eastern side of Broad Road, connecting the site access with Nutbourne Station. The nearest bus stop to the site is located on the A259, approximately 680m south of the site access, this is for the 700 service that provides connections between Bognor Regis and Portsmouth, including Chichester and Havant. Nutbourne Railway Station is located approximately 280m walking distance south of the site access. The station is located on the West Coastway Line that runs between Brighton and Southampton. During the peak period, regular services are available to destinations such as Southampton Central, Portsmouth & Southsea, Brighton and London Victoria.

In light of the above, the proposal meets this criterion and is sustainably located.

11) Development 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 LPA 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 natural function of the flood plain, either by impeding flood flow or reducing storage capacity. All flood risk assessments should be informed by the most recent climate change allowances published by the Environment Agency.

It is considered the application satisfies this point. The application site is entirely within Flood Zone 1, where there is a low probability of river or sea flooding.

Council's Drainage Engineer is satisfied with the principle of surface water being disposed of by a Sustainable Drainage System. Conditions are recommended to ensure on-site infiltration is investigated and backed up by winter groundwater monitoring and winter percolation testing. The results of such investigations will be needed to inform the design of any infiltration structures, or alternatively be presented as evidence as to why on-site infiltration has not been deemed viable for this development. If on-site infiltration is not possible, drainage via a restricted discharge to a suitable local watercourse may be acceptable. The applicant would require ordinary watercourse consent for all alterations or discharges to ordinary watercourses.

There is a watercourse on the northern boundary of the site which could be used for discharge. This is also adjacent to the landscape buffer under the power lines, which would provide adequate onsite space for a surface water storage solution, if infiltration is not feasible. Given that this landscape buffer is in addition to the proposed open space in the centre of the site there would be no conflict in the use of this land. This is the approach that has also been taken by the recent housing development to the west of this site.

In light of the above, the Local Planning Authority is satisfied that a suitable scheme for surface water drainage could be accommodated within the application site. Officers are satisfied that there is sufficient room on site for any necessary drainage if required. The proposal would therefore accord with this criterion, as well as, Policy 42 of the CLP and Policy EM1 of the CHNP.

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.

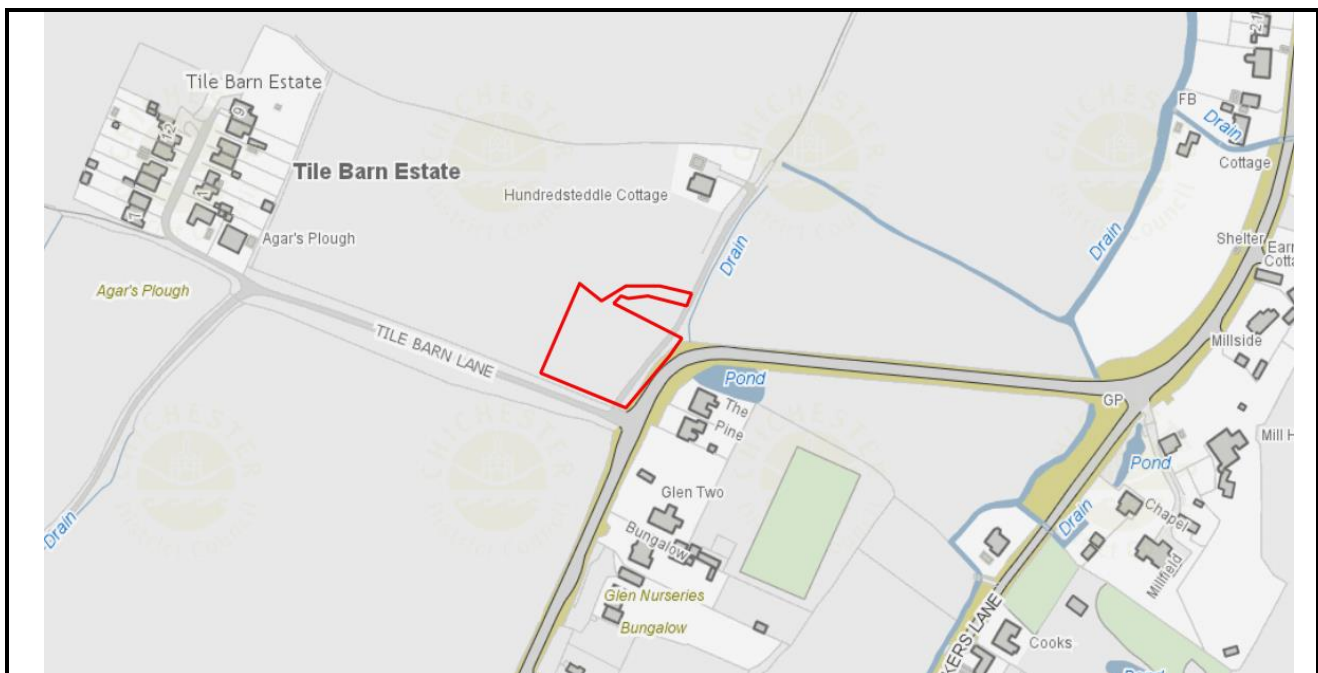
The applicant has submitted an updated report prepared by Baker Associates that sets out mitigation measures to achieve nutrient neutrality (see assessment below).

Parish: East Wittering And Bracklesham	Ward: The Witterings
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EWB/19/00431/AGR

Proposal	Grain store and machinery store.		
Site	Hundredsteddle Farm Hundredsteddle Lane Birdham Chichester West Suss PO20 7BL		
Map Ref	(E) 481599 (N) 98740		
Applicant	Mr A Strange	Agent	Mr Stephen Jupp

RECOMMENDATION TO REFUSE



	<p>NOT TO SCALE</p>	<p>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</p>
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1.0 Reason for Committee Referral

- 1.1 Parish Objection – Officer recommends Permit.

The application was deferred at the planning committee held on the 11 March 2020 for further investigations, and information as to the alternative siting of the building.

2.0 The Site and Surroundings

- 2.1 The application site is located outside of any settlement boundary and is, therefore, within the countryside. Hundredsteddle Farm is located within the Somerley Conservation Area and includes part of the main farmhouse and a number of agricultural buildings, all of which are located within the Conservation Area and the Parish of Birdham.
- 2.2 The application site itself is located 0.5 km to the south of the main farm, within the Parish of East Wittering and outside of the Conservation Area. The application site lies to the west of Bracklesham Lane (B2198), with public rights of way to the south and to the north east. To the south of the site is Title Barn Lane, with a mature hedge between. The site has an existing track off Tile Barn Lane, which serves a property to the north of the site known as Hundredsteddle Cottage This lies outside of the applicant's ownership.

3.0 The Proposal

- 3.1 An application was submitted seeking confirmation as to whether prior approval would be required for the erection of an agricultural building under application 19/00114/PNO. The Council issued a decision, confirming that prior approval would be required to consider the siting, design and external appearance of the building. Further information was then provided relating to these matters, which forms the current application.
- 3.2 This application proposes an agricultural building measuring 36.4 metres in length, 18.2 metres in width and with an eaves height of 6.8 metres and a ridge height of 9.2 metres. The building would be located on a concrete base, with an access track and a turning area to the north and west.

4.0 History

94/00087/DOM	PER	Detached garage.
94/00153/LBC	WDN	Detached double garage.
94/01487/DOM	PER	Re-site previously approved detached garage.
BI/00024/92	PER	Alterations to BI/38/89, windows, chimney and roof lines
BI/00025/77	PER	Outline - wooden garage

BI/00026/92LB	PER	Alterations to BI/40/89LB, windows, chimney and roof lines
BI/00038/89	ALLOW	Rear roof slope to provide dormer window extension
BI/00040/89LB	ALLOW	Rear roof slope altered to provide dormer window extension
05/01887/PE	REC	Proposal for change of use
05/02881/COU	REF	Change of use of agricultural machinery storage to B1/B8 use (business/industrial storage/distribution).
05/04136/COU	PER	Change of use of former agricultural barns to B1 (Business) use.
18/03294/PNO	PPREQ	Grain store and machinery store
19/00114/PNO	PPNRQ	Grain store and machinery store.
19/02070/PASUR	ADVGIV	Change of use for paddock for a campsite with 8 tents.

5.0 **Constraints**

Listed Building	NO
Conservation Area	NO
Rural Area	YES
AONB	NO
Strategic Gap	NO
Tree Preservation Order	NO
EA Flood Zone	NO
Historic Parks and Gardens	NO

6.0 **Representations and Consultations**

6.1 **Parish Council's**

Birdham Parish Council

Original comments (21/02/2019)

Birdham Parish Council raised a considerable number of concerns this application but after much debate, a decision of No Objection was raised. However, a number of conditions were requested;

1. The colour pallet chosen should reflect that of the Harbour conservancy design guide.
2. Construction should not begin until a suitable landscaping design has been created and once agreed it should be enforced.
3. Any lighting employed on and in the site should be low energy and suitably controlled so as to reduce light pollution.

East Wittering and Bracklesham Parish Council

Further comments (11/12/2019)

Having viewed the substitute plan, East Wittering and Bracklesham Parish Council cannot see how our previous objections have been addressed (outlined below) and, as such, does not support the application:

1. The development will have an adverse impact upon the character and street scene of the neighbourhood, creating over-massing on the site. It will have a deleterious impact upon the semirural aspect of the neighbouring properties in Bracklesham Lane and Tile Barn Lane.
2. The development is contrary to policy 45 of the Local Plan, as it is not well related to the existing farm house and outbuildings on Hundredsteddle Farm, it takes prime arable farming land out of productive use and its scale, siting and design will have a considerable impact upon the landscape of the area. It is also contrary to policy 48 of the local plan, as it will have severe negative impacts upon the openness of the views in and around the coast towards to the South Downs.
3. We have significant concerns about the safety of large articulated vehicles safely completing the turn out of Tile Barn Lane and onto the B2198, particularly those heading North-East towards Chichester. The double bends at Somerley are a well-known accident black spot, and we do not believe that a large vehicle could complete the turning movement without crossing the median line onto the opposite carriageway.

The proposed access to the new development is a public footpath (route no.13) which provides a safe off-road walking route to the beach for holiday makers staying at the nearby caravan parks in Birdham and which is particularly busy in the summer and autumn. This poses a risk to safety as pedestrian users, including families and small children will conflict with large farm vehicles and trailers during the harvest, when activity at the site will be most intensive.

Original comments (13/03/2019)

East Wittering and Bracklesham Parish Council OBJECTS to this application on the following basis:

1. The development will have an adverse impact upon the character and street scene of the neighbourhood, creating over-massing on the site. It will have a deleterious impact upon the semi-rural aspect of the neighbouring properties in Bracklesham Lane and Tile Barn Lane.
2. The development is contrary to policy 45 of the Local Plan, as it is not well related to the existing farm house and outbuildings on Hundredsteddle Farm, it takes prime arable farming land out of productive use and its scale, siting and design will have a considerable impact upon the landscape of the area. It is also contrary to policy 48 of the local plan, as it will have severe negative impacts upon the openness of the views in and around the coast towards to the South Downs.
3. We have significant concerns about the safety of large articulated vehicles safely completing the turn out of Tile Barn Lane and onto the B2198, particularly those heading North-East towards Chichester. The double bends at Somerley are a well-known accident black spot, and we do not believe that a large vehicle could complete the turning movement without crossing the median line onto the opposite carriageway.

The proposed access to the new development is a public footpath (route no.13) which provides a safe offroad walking route to the beach for holiday makers staying at the nearby caravan parks in Birdham and which is particularly busy in the summer and autumn. This poses a risk to safety as pedestrian users, including families and small children will conflict with large farm vehicles and trailers during the harvest, when activity at the site will be most intensive.

6.2 WSCC Highways

Further comments (13/08/2019)

This latest consultation response seeks to bring together all the recently submitted documents provided in support and in representation of the application.

It is important to note that the prior notification application before me is made under Schedule 2, Part 6, Class A of the General Permitted Development Order (GPDO) for the erection of a building reasonably necessary for the purpose of agriculture. This only allows the Local Planning Authority (LPA) to consider the siting, design or external appearance of the building.

It is not within the remit of the Local Highways Authority (LHA) to determine if the proposed meets the conditions set out within Schedule 2, Part 6, Class A of the GPDO.

On this basis the comments in this consultation response should be considered as advice only at this stage.

Context:

The proposal seeks the erection of a grain store and machinery store at Hundredsteddle Farm, Hundredsteddle Lane, Birdham. Access will be achieved via a point of access from a private access track, part of which is also considered a public right of way FP13. This track then adjoins Tile Barn Lane, a private access way, before immediately adjoining the maintained highway network via Backlesham Lane (B2198). Backlesham Lane is subject to a 40 mph speed limit at this point, though given the alignment of the road approaching vehicle speeds would not be anticipated at 40 mph.

Overtaking is prohibited in this location by the presence of double solid white lines. The LHA accepts the principle that the provision of such a storage building will allow the farm to store produce and equipment on site more efficiently potentially reducing the need for delivery and collection from the site by large HGV's.

Current Access Arrangements:

The applicant has stated that currently unloading and servicing takes place from the public highway near the former Bell Inn circa 700 metres north of the application site. There is a clear highway benefit in reducing or removing such a practice from the public highway. However, there is some conjecture from local representations as to how much this is practice is occurring or if it is required.

The applicant has submitted a statement from Bosham Transport Limited which states that they have used the Backlesham Lane / Tile Barn Lane access arrangements for a number of years serving the site. This statement also indicates that the Hundredsteddle access is not suitable for larger vehicles due to its single track nature. A similar statement has been provided by G Gentle & Sons indicating that the Backlesham Lane / Tile Barn have been used to serve the site as existing.

Vehicle tracking plans (1871-002 and 1871-003) have been provided to demonstrate the limitations of access via Hundredsteddle Lane. These show that 3rd party land would be required to improve these internal access arrangements. The LHA is minded to view that such limitations of access are an existing situation. (This was primarily intended to relate to the corner annotated that the track needed widening at a 90 degree bend in Hundredsteddle Lane. On review of the location plan, this corner is within the blue edge and, therefore, 3rd party land would not be needed to improve this. 3rd Party Land would be needed to implement any additional widening Hundredsteddle Lane towards Bell Lane, again these 'limitations' as previously discussed would be considered existing situations.)

Intended Access Arrangements:

Access to the proposed building would be directly achieved via an existing internal farm track part of which is also considered a public right of way FP13. This track then adjoins Tile Barn Lane, a private access way, via an exiting, albeit unmade, point of access from the internal farm track. Tile Barn Lane then immediately adjoining the maintained highway network via Backlesham Lane (B2198) via an informal bellmouth type junction. Such an arrangement will result in large farm vehicles being required to perform a hairpin turn manoeuvre if access the site from the north or leaving the site and heading north.

Tile Barn Lane itself current serves 16 houses and a substantial caravan park at Stubcroft Farm. A bus stop is located immediately south of the access point. The applicant has provided swept path tracking plans 1587-002 and 1587-003 to demonstrate movements of a tractor and trailer and tractor and grain trailer at the Backlesham Lane / Tile Barn Lane access arrangements. These plans reveal that the geometry of the access is suitable to facilitate such vehicle movements.

It should be noted that for such movements a left hand turn out of the site will require the vehicle to cross the centreline of the Backlesham Lane carriageway. The applicant states that the building sought would allow for operational efficiencies that would overall reduce movements and spread the vehicular activity at the site. While in principle the LHA accept this the applicant has not quantified this statement with actual vehicle movements.

The LHA would question if a tractor and trailer / tractor and grain trailer would be the largest vehicles accessing in the site. Other supporting documentation states that the site is being served via articulated HGV's so it is questioned why tracking for such vehicles has not been provided?

The applicant has not provided any visibility splays at this access point, or demonstrated the forward visibility approaching from either direction.

Intensification of Use:

In order for any unacceptable impact on highway safety, contrary to the National Planning Policy Framework (paragraph 109), to be substantiated, it must first be demonstrated that a material intensification of use is occurring at the site access point. The principle of the application seems to be to relocate some of the existing farming operations to the new building and provide additional storage provision. The applicant has not quantified how many movements will be relocated to the Bracklesham Lane / Tile Barn access. While, in principle, it may be the case, is not clear from the documents provided if this proposal will result in a significant decrease in vehicular activity for the site in general.

This has not been quantified by the applicant. It also needs to be taken into account that the Tile Barn Lane junction does seem to already facilitate some vehicular activity associated with the site in addition to those created by 16 dwellings and the caravan park.

Local Representations:

There has been significant local representation to the proposal, including the submission of a Transport Technical Note prepared by Highway Planning Limited. The key findings from this document are:

If the existing practice of HGVs stopping on Bell Lane to unload is creating a safety problem, this can be addressed via the involvement of the police.

No explanation as to why smaller vehicles could not be used to serve the site with the existing access arrangements.

Swept path tracking of a 15.5m articulated lorry and grain tanker would require significant widening of the existing access and bellmouth.

Swept path tracking of a 15.5m articulated lorry and grain tanker performing a left turn out of the site requires significant overrun into the opposing flow of vehicles on Bracklesham Lane.

North of the access, a maximum visibility splay of 2.4 x 73 metres is achievable. Design Manual for Roads and Bridges Standards for a 40 mph road would require visibility splays of 120 metres.

The LHA is minded to agree with the principle findings of this Technical Note. It should be noted that visibility splays of 73 metres would be considered acceptable, using the Design Manual for Roads and Bridges (DMRB) calculation coefficients for stopping sight distance, for approach speeds of 33 mph.

WSCC operates a departure from standards to allow recorded road speeds to be used with DMRB stopping sight distance calculation coefficients; this departure from standards would require the support of a 7 day automated speed survey. The LHA would also advise that if 85th percentile wet weather speeds were recorded below 40 mph there would likely be justification to apply the Manual for Streets (MfS) calculation coefficient for stopping sight distance. For 39 mph this would equate to 63 metres. Given the alignment of Bracklesham Lane at this point such speeds may exist but a 7 day automated speed survey would be required to demonstrate this with any certainty. Splays south of the access have not been demonstrated by either the applicant or the objectors.

Conclusions:

On balance, the LHA would advise that the documents provided to date do not allow for determination that safe and suitable access is achievable. The LHA appreciates that highways matters are not to be considered under Schedule 2, Part 6, Class A of the GPDO. As such, if the LPA is minded to conclude that the application does not meet the conditions of Schedule 2, Part 6, Class A of the GPDO, any subsequent full application should be supported by way of a Transport Statement. Within this, the applicant should either demonstrate that the access point will not be subject to a material change in type / quantity of vehicle movements or demonstrate that the access is safe and suitable. The applicant may wish to consider creating a new point of access which does not require hairpin type movement and accords to current guidance and standards. The applicant may also wish to enter into pre-application discussions with WSCC as the LHA.

Original comments (26/03/2019)

Context:

The proposal seeks the erection of a grain store and machinery store at Hundredsteddle Farm, Hundredsteddle Lane, Birdham.

Access will be achieved via a new point of access from a private access track, part of which is also considered a public right of way F.P.13. This track then adjoins Tile Barn Lane, a private access way, before adjoining the maintained highway network via Backlesham Lane (B2198). Backlesham Lane is subject to a 40 mph speed limit at this point, though given the alignment of the road approaching vehicle speeds would not be anticipated at 40 mph.

The Local Highway Authority accepts that the provision of such a storage building will allow the farm to store produce and equipment on site more efficiently reducing the need for delivery and collection from the site by large HGV's. There is a clear highway benefit to this particularly with the existing arrangements where unloading takes place from the public highway near The Bell Inn circa 700 metres north of the application site.

Access:

Access from Backlesham Lane onto the access ways that lead to the application site seem restricted. The applicant should provide swept path tracking to demonstrate how large agricultural / articulated vehicles will manoeuvre from Backlesham Lane onto Tile Barn Lane and then onto the access way and into the site.

The applicant should also clarify if this point of access is currently used to access and service the farm.

While it is appreciated this proposal will not in itself increase vehicular activity for the farm it would be beneficial to have a view as to how much vehicular activity the buildings will generate.

The Local Highway Authority would then be able to determine to what extent an intensification of use is occurring at this access point onto the maintained highway network. This is in order to determine if other adequacies of the access point, such as visibility, need to be demonstrated.

Agricultural Advisor

Having regard to paragraph 83 of the NPPF and policy 45 (Development in the Countryside) of CDC Local Plan, I discussed with Dan both the application and additional submissions from the Applicant (namely photos of existing farm buildings, farm plan, further details on business activity and the proposal, barn floor plan showing use it will be put to with assessment of areas required, email dated 5/6/20 indicating prospect of additional arable land for 20/21 season, plan of Somerley Conservation area, NFU letter 4/11/19, letter from NFU Branch Chairman 20/12/19, email from Red Tractor Assessor 27/4/20 and email from Mike Dare Highways 15/4/20).

Following our last discussion a farm business tenancy agreement of additional land has been provided directly and the Applicant has since advised of other submissions he has made/ has been made on his behalf via the website.

By way of brief summary, I commented as follows:-

1. Requirement for the proposed barn

- As a general comment it is understood that the barn is required to improve the viability of the existing farm business and the diversification enterprises and to enable the overall business operation to expand. The intention to expand the arable enterprise is evident from the new tenancy that has been entered into, which gives increased weight to the need for a grain storage facility.

- It is understood there is no existing grain storage facility at the farm and it is understood there are limitations in creating one within the existing farmstead, having regard to existing buildings and access issues. There are other options for treatment and storage of grain, such as those referred to in the Red Tractor Assessors comments, for example some smaller scale arable enterprises may sell off the back of the combine, seek storage at a third party facility or acquire grain bins. It is appreciated however that an owned storage facility is generally preferable if the enterprise is of adequate scale as it gives greater flexibility in timing in the handling and sale of grain and hence can improve viability of the enterprise. In this case it is understood the arable enterprise has expanded and it is the intention to develop further if other land can be secured.

- In this case it is noted that the proposed barn will also be utilised for other purposes as well, namely fertiliser, machinery and equipment storage. It is understood that the existing buildings available to the farm business are of limited size and scale and are unable to adequately accommodate existing equipment. It is further understood that in addition to the farm arable enterprise the machinery is also used by the applicant for their agricultural contracting business, which includes some land drainage works on farms and for sports pitches (which also uses some specific equipment).

2. Location of proposed barn in relation to farmstead and farming activity

- I understand from both Dan and the Applicant that access to the property is a limiting factor in siting a new barn of this nature having regard to vehicles needing to access it. As it is proposed to be a machinery and grain store, which is designed to provide secure storage, there is no requirement for the barn to be located in close proximity to a farmhouse, which may be different if it were to be utilised for livestock accommodation. It is not uncommon for grain stores to be 'off-lying' from main farmstead. Having regard to the 'owned' land, the proposed location appears sensible from a practical farming perspective, if access to the main road is available.

- It is noted that additional arable land is to be farmed from September 2020, albeit located away from Hundredsteddle Farm. It is not uncommon for blocks of arable land to be farmed away from the main farmsteads, and consequently for grain to be hauled for storage.

- I understand the Applicant has provided additional information on Highway issues.

3. Design and size of the proposed barn

- It is proposed that the barn would be used for grain storage, straw storage, fertiliser storage, machinery storage.

- Based on the original design, I raised queries regarding ventilation and also in respect of the height of the concrete panels (for example whilst grain can be stored in piles, it is usual for grain storage facilities to have higher solid walls than those originally proposed to allow for greater storage capacity and ease of handling). It is noted that the original plan appears to show 'roof lights', the roof cladding is described as fibre cement sheets only which is more consistent with grain storage facilities.

- The Applicant has since advised of changes to the design, for example the height of the grain store walls will be increased, however it is stated this will be an internal configuration and the external appearance will remain as designed. It has also been stated there will also be grain cooling and extractor fans utilised.

• **The Applicant has also provided information on perceived space requirements. This has been reviewed against standard data from the Agricultural Budgeting and Costings Book 88th Edition, which has resulted in smaller space requirements for grain storage than assessed by the Applicant, (however it is noted that this is taken from average yield data as opposed to actual yield) together with some variances in other storage requirements. It is noted there should be scope for vehicle movements when moving stocks and equipment. On balance however it is considered that the proposed size is not unreasonable, now that additional arable land has been secured.**

On balance, it is considered that there is justification from an agricultural perspective for the proposed barn.

6.3 Third Party Representations

39 letters of objection have been received (including comments from the Tile Barn Lane Residents Association and the Campaign to Protect Rural England- Sussex), which are summarised as follows:

- The accident safety record for the B2198 is worse than the national average
- The proposal would have a significant harmful impact on highway safety.
- The existing access is unsafe.
- No assessment has been provided to demonstrate that there are no other existing facilities which are suitable and available to meet any identified storage need.
- The proposed siting is in a green field site away from the existing farmstead or group of buildings.
- The proposed building is more than four times larger than is required to store the average maximum yield.
- The isolated location of the application site has a harmful impact on the landscape and the rural character of the area.
- The application is for a very large machinery and grain store, to serve what is a very small farm. There are buildings available at the farm which could be used for this use or where new ones could be built.
- No evidence that transport to a grain store needs to be in such vehicles.
- This would be a very dominant structure in an open and rural part of Somerley (much of which is a Conservation Area).
- The development is out of scale, being far too large for this small farm.
- Light pollution/Noise pollution
- Misleading points in the Agricultural Justification

10 further third party letters of objection have been received (including comments from the Tile Barn Lane Residents Association), which are summarised as follows:

- **That they continue to object and support the comments made by the Tile Barn Lane Residents Association**
- **Highway Safety**
- **Questioning who would be responsible if there was a serious accident**
- **There should be a more suitable site which does not use this junction**
- **Concerns about the feasibility of articulated HGVs entering forwards**

- **Proposals would result in material change in usage type and an intensity of the access**
- **It is possible for large vehicles to access the current site**
- **Size of the proposal is out of keeping**
- **Loss of open countryside**
- **The Planning Committee have the option to grant the application, recommend re-siting the development, or reject the application if the farm unit was said to have nowhere else that was suitable for the development.**
- **That the current farm track leading from Tile Barn Lane would be re-structured and would not be Permitted Development.**
- **Using the verge would widen an access onto a classified road and would not be Permitted Development**
- **It is possible for large vehicles to access the current site**

11 letters of support have been received (including from the National Farmers Union), which are summarised as follows:

- No doubt that the applicant needs a large barn to store the farm machinery with which he works, and also to store grain at certain times of the year.
- We have to take into account that the entrance/exit to Tile Barn Lane is used frequently by caravanners staying at Stubcroft Camp site. Some of these caravans are very large, and are slow to get to the correct carriageway on the road. This has been going on for many years now
- Good to see this investment into local agricultural business
- Farmers need to have a suitable and fit for purpose yard for their operations and would create jobs
- It is still essential, that in order to function efficiently it needs to have modern storage facilities for growing crops such as :- Wheat, Barley, Peas, Beans, and Oil Seed Rape.
- Great for the local economy
- Would reduce traffic and support our local farmers
- Sympathetically sits in the landscape
- Planning Practice Guidance describes prior approval as a *“light-touch process which applies where the principle of the development has already been established.... [where] It is important that a local planning authority does not impose unnecessarily onerous requirements on developers and does not seek to replicate the planning application system”*.

6 further third party letters of support have been received which are summarised as follows:

- **Current location of the barn is inadequate for modern farm machine and delivery and there isn't enough space to manoeuvre safely or without trespass. The proposed site would alleviate this safety hazard and would be better for residents of Hundredsteddle Lane.**
- **The proposal would improve the product of the farm and allow machinery to be maintained under good cover**
- **Road use would be reduced as it would not require transport to hired barns**

- **Many vehicles use the Tile Barn Lane exit onto Bracklesham Lane**
- **Could lead to increased employment**
- **As it is permitted development Highways aspects cannot influence the decision**
- **The need is essential and we should be supporting local farmers**
- **Grain lorries from Stubbcroft Farm had used Tile Barn Lane as their access onto Bracklesham Lane.**

7.0 Planning Policy

- 7.1 The proposal should comply with the criteria set out within Class A - agricultural development on units of 5 hectares or more, Part 6 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). In considering the merits of the application, Part 6 limits the Council's consideration to siting, design and external appearance of the building. In consequence, the planning policies relevant to the consideration of this application are as follows:

Policy 45: Development in the Countryside

Policy 48: Natural Environment

Chichester Local Plan Review Preferred Approach 2016 - 2035

- 7.2 Work on the review of the adopted Local Plan to consider the development needs of the Chichester Plan Area through to 2036 is now well underway. Consultation on a Preferred Approach Local Plan has taken place and following detailed consideration of all responses to the consultation, the Council had planned to publish a Submission Local Plan under Regulation 19 in March **2021**. However, this is currently under review and a revised timetable will be published, in due course. Following consultation, the Submission 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 **2022**. In the light of the above, at this stage, it is considered that very limited weight should be attached to the policies contained within the Local Plan Review.

National Policy and Guidance

- 7.3 Government planning policy now comprises the National Planning Policy Framework, February 2019 (NPPF), paragraph 11 of which states:

At the heart of the NPPF is a presumption in favour of sustainable development,
For decision-taking this means:

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

b) 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 or 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.

7.4 Consideration should also be given to Sections 2 (Achieving Sustainable Development), Section 4 (Decision-Making), Section 12 (Achieving Well-Designed Places).

7.5 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:

- 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 considerations are as follows:

- i) Principle of the development
- ii) Siting, design and external appearance of the building
- iii) Other matters and material considerations

i) Principle of the development

8.2 An application was submitted to the Council seeking confirmation as to whether prior approval would be required for the erection of an agricultural building under Part 6 of the GDPO (Planning reference: 19/00114/PNO). The Council confirmed that prior approval would be required. Whilst recognising that the principle of the development is established through the provisions of the GPDO, this enables it to consider the siting, design and external appearance of the building. Further information was then provided relating these matters and this now forms part of the current application. Any final approval must accord with the requirements of Part 6 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

8.3 Part 6 of Schedule 2 of the General Permitted Development Order (GDPO) Class A permits the erection of an agricultural building on units of 5 hectares or more, provided that it is not within a separate parcel of land which is less than 1ha in area and if it is considered to be reasonably necessary for the purposes of agriculture within the unit. Based on the information submitted to the Council, it is considered that the requirements set out within Part 6 of the 2015 GPDO (as amended) have been met and the principle of the development is considered to be acceptable.

The application was deferred at the planning committee held on the 11 March 2020 for further investigations, and information as to the alternative siting of the building.

A legal opinion from David Lintott was submitted by the applicants in October 2019, prior to the previous committee meeting and this is appended to this report. This legal opinion concluded that having determined the development is permitted development, is required to confirm that the visual impact can be adequately mitigated, and cannot consider highway matters.

The report before committee on 11 March 2020 stated that *‘As the principle of the development is established through the GPDO the remit of the Local Planning Authority is limited to establishing the most favourable siting of the building, rather than the consideration as to whether the principle of development in itself is acceptable.’*

Two further legal opinions have been submitted following the consideration of this item by the planning committee and both are appended to this report:

- A legal opinion from Horatio Waller dated 14 July 2020, instructed and submitted by third parties; and
- A further legal opinion from David Lintott dated 28 July 2020 was submitted by the applicants

In undertaking further investigations, officers have had regard to whether the proposals would constitute permitted development and advice has been provided by the Council’s Principal Solicitor. This update to the committee report therefore considers the principle of whether the proposal would be permitted development and whether the proposal would be acceptable in terms of the matters that can be considered under the prior approval process.

Principle of whether the proposal constitutes permitted development

The legal opinions are available in full in the appendices to this report. However for ease some passages of the legal opinions received and the response from the applicants is provided below.

If the proposal includes development that would be within 25 metres of a metalled part of a trunk road or classified road then it cannot be permitted development. With regard to this matter paragraphs 8-11 of the legal opinion from Horatio Waller state: ***“8. Access to the proposed building is proposed via a gap in the southern boundary hedgerows on an existing gravel track, a picture of which is included in the Agricultural Justification document. The proposed siting plan (drawing no. 5 rev. E) shows that a new track would be constructed connecting to the existing gravel track, and a turning area would be constructed next to the proposed building. That drawing indicates 25m distances from the adjacent B2198, in order to demonstrate that the new track, which would connect to the existing one, and the building proposed would be more than 25m from a classified road.”***

“9. SAC nevertheless accepts that the existing farm track, which drawing no.5 shows to be partially within 25m of the B2198, will need restructuring to be suitable to accommodate articulated HGVs. That is unsurprising given the appearance of the surface of the track shown in the picture I describe above. In the further information it submitted on 2 July, SAC recognises that:”

““To facilitate better access for HGV lorries, the current farm track leading from Tile Barn lane will be suitable re-structured to better facilitate HGV use and avoid encroachment onto any other area of land to enable manoeuvres to be completed” (sic).”

“10. A site plan showing one method of re-structuring the existing farm track was set out in an earlier application for prior approval under reference 1803294PNO (drawing no. 5 rev. A). On the basis of this plan which shows the resurfacing and rerouting of the existing farm track, constituting development within 25m of the B2198, the Council decided, in relation to that earlier application, that the development proposed would not benefit from permitted development rights due to the prohibition in GPDO, Part 6, A.1 (h).”

“11. No plan or details describing the proposed re-structuring of the existing farm access appear to have been provided in relation to the latest application. The siting plan (drawing no. 5 rev. E) provided with the present application shows no restructuring or rerouting with respect to the existing farm track, and no development within 25m of the B2198.”

The full quote of the information submitted by the applicant referred to in the legal opinion states:

“6. Tile Barn Lane resident’s Association correctly state that the land to the south of the intended Tile Barn lane access is not owned by the Applicant. The land to the North however is owned by the Applicant and this is currently lined by a significant hedge in excess of 12 foot.

To facilitate better access for HGV lorries, the current farm track leading from Tile Barn lane will be suitable re-structured to better facilitate HGV use and avoid encroachment onto any other area of land to enable manoeuvres to be completed.

Regardless, the HGV lorry in this picture was an extended lorry used to transport an extremely rare and large item of equipment and as such this type of lorry is not used frequently if at all.”

Further information was submitted by the applicant’s on 6th August, stating:

“The Applicant submitted detail at the outset of this Application as to the layout for the proposed barn, together with access. These proposals do not in any way alter existing highways within a 25m proximity of any classified road and are available for perusal both on the portal and below within the attached image.

The proposed barn with access from the existing farm track outside of a 25m proximity to any classified road enables articulated HGV’s to manoeuvre and return onto the B2198 without encroachment onto any parcel of land not within the Applicant’s ownership in keeping with the swept path analysis. The new access is what was being referred to by the previous ‘restructuring’ comment.

The existing farm track is already currently in use by articulated HGV’s. There is no requirement for the existing farm track to be altered to facilitate such use.”

Having had regard to the available legal opinions and the information submitted by the applicant it is considered that although the description of the proposal does not refer to alterations to an access there are inconsistencies with the references to the need to restructure the existing track, and the swept path analysis submitted suggests that there would at least be the need to widen the existing surface of the

access onto Tile Barn Lane, even if that is within the applicant's ownership. In considering this, officers have also had regard to application 18/03294/PNO which included revisions to the access onto Tile Barn Lane, which is a further indication that the proposals would most probably require alterations to the access.

As such, officers consider that due to the location of the alterations which would be required as a direct result of the proposal, they would fail to comply with criterion (h) of Part 6 of the GDPO which states that development is not permitted if: *“any part of the development would be within 25 metres of a metalled part of a trunk road or classified road”*.

In addition, it important to take into account Article 3(6) of the GDPO which restricts permitted development rights in certain circumstances related to highways where there is a danger to those using the highway. Article 3(6) states that *‘The permission granted by Schedule 2 does not, except in relation to development permitted by Classes A, B, D and E of Part 9 and Class A of Part 18 of that Schedule, authorise any development which requires or involves the formation, laying out or material widening of a means of access to an existing highway which is a trunk road or classified road, or creates an obstruction to the view of persons using any highway used by vehicular traffic, so as to be likely to cause danger to such persons.’*

The swept path analysis submitted with the application demonstrates that it would not be possible for vehicles to enter/exit the site without causing an obstruction to vehicles using Bell Land as a result of the vehicles crossing the central line when turning out of the site, and this is of particular concern due to the visibility available when travelling along Bell Lane due to the significant bend north of the junction with Tile Barn Lane. It is therefore considered that the proposal would likely cause danger to uses of the highway. On this basis the proposal would conflict with Article 3(6) of the GPDO and therefore the proposal does not constitute permitted development.

Consideration of prior approval matters

Notwithstanding the above, a further assessment of the matters considered as part of the prior approval process has also been undertaken. Where the principle of the development is established Article 3(1) of the GPDO is clear in that planning permission is granted for the classes of development described as permitted development in Schedule 2 . By article 3(2), any permission granted by paragraph (1) is subject to any relevant exception, limitation or condition specified in Schedule 2, and in this instance the conditions include the requirement to seek prior approval. The legal opinions provided present opposing views as to whether highway safety can be considered as part of the consideration of the siting of the development where the principle of a development is established by the GPDO such that an application for prior approval can be refused or whether since the principle has been established for an agricultural building the siting presenting least harm should be accepted.

In respect of this consideration Horatio Waller states ‘... the author of the report assumes incorrectly that the remit of the Council is establishing the “most favourable siting” or the siting that would result in the “least harm”, in light of the site constraints that exist in relation to this farmholding. That in my view is a legally erroneous approach. It presupposes that it is not open to the Council to conclude that there is no adequate location on the farmholding in which the building could be located, considering siting, design and external appearance matters and the constraints of the farmholding.’ The opinion concludes that unlike the consideration following an Outline permission, ‘... where prior approval is required for Class A agricultural development, the GPDO does not require the authority to start from the premise that the agricultural unit in question can appropriately accommodate the proposed development, and its remit is limited to identifying the most favourable location and access having regard to siting, design and external appearance. The authority can lawfully find that there are no acceptable locations on the agricultural unit for the proposed development, having regard to siting, design and external appearance.’

In the legal opinion of Mr David Lintot dated 28 July 2020 it is stated that: ‘Article 3(1) of the GPDO provides that planning permission is granted for the classes of development described as permitted development in Schedule 2 . By article 3(2), any permission granted by paragraph (1) is subject to any relevant exception, limitation or condition specified in Schedule 2 . Schedule 2, Part 6, Class A relates to agricultural development and is set out insofar as is relevant in my previous advice. Permission is granted for Class A development provided it comes within the detailed limitations set out in A and does not fall foul of the detailed exceptions in A.1. The detailed exceptions in A.1 form part of the development for which permission is granted: see Regina 3 (Marshall) v East Dorset District Council [2018] EWHC 226 (Admin) [2018] P.T.S.R. 1508 at [33].’

and

‘In Regina (Marshall) v East Dorset District Council [2018] EWHC 226 (Admin) [2018] P.T.S.R. 1508 at [58] Lang J. noted (obiter) that issues of “siting, design and external appearance of the building” could properly include the impact on neighbouring properties and a particular listed building. Nowhere does she purport to state that such issues could operate so as to enable a Council to withhold prior approval for any form of permitted development. Such a conclusion would conflict with the conclusions of Richards L.J. set out above that the conditions, including that relating to prior approval, cannot affect the principle of development. It would ignore the fact that the GDPO has already taken a position on the issue of principle in recognition of the importance of agriculture and its operational needs. In doing so the GDPO has included a detailed list of exceptions which prescribe the extent of the development for which permission is granted.’

The legal opinion from David Lintott dated 28 July 2020 therefore concludes that ‘... the planning officer has in my view correctly recognised both that highways considerations are only relevant to the extent that they are affected by the siting of any development, and that the principle of the development is established through the GDPO.’

Having regard to Article 3(6) of the GPDO which restricts permitted development where such development would cause a danger to highway users and following careful consideration of the proposal and the opinions provided, officers are of the view that it is relevant to consider highways matters which are linked to the siting of the development. Whilst the principle may be established for an agricultural building under part 6 of the GPDO, although not in this case for the reasons presented above, the Local Planning Authority can determine that there are no acceptable locations on the agricultural unit for the proposed development, having regard to siting, design and external appearance.

In conclusion, it is considered that the proposals would require the material widening of an existing access. The proposed development therefore requires or involves the formation, laying out or material widening of a means of access to an existing highway which is a trunk road or classified road, so as to be likely to cause danger to such persons and therefore Article 3(6) of the GPDO prohibits the proposal. Furthermore, the proposal would include works within 25m of a metalled classified road or trunk road and as such the proposal would fail to meet the requirements of Part 6 of the GPDO. Further, in the event it were to be determined that the proposal would constitute permitted development, it is considered that it is reasonable for the local planning authority to consider highway safety as part of the prior approval process, and the proposal would not be acceptable in this respect.

- ii) Siting, design and external appearance of the building
- 8.4 The application has been amended since its original submission, re-orienting the building with its length along the hedge row to the south. The dimensions of the proposed building are set out in paragraph 3.2 of this report would measure 36.4 metres in length, 18.2 metres in width and would have an eaves height of 6.8 metres and a ridge height of 9.2 metres.
- 8.5 The steel portal framed building would be used to accommodate two large tractors, four trailers of varying size, a seed drill, fertiliser spinner, a plough, five secondary cultivation equipment, three rollers, an excavator, sprayer, two rotorvators and a pick-up truck. The proposed barn would have 3 bays, each of which would be divided by retaining concrete walls. Each bay would have its own roller shutter door and personnel door. As the farm is larger than 30 hectares in area, the farm is required to grow a minimum of three different crops in order to meet compliance with regulations. Each crop is sold at different times of the year and this creates the need to store the crop in the proposed bays.
- 8.6 It is understood that the family business growing combinable crops such as wheat, oil seed rape, beans, peas and barley, with wheat capable of yielding well above the national average at 12.5 tonnes per hectare.

Siting of the Development

- 8.7 There are a number of existing agricultural buildings located at the main farm but because of their limited size and poor accessibility, they are understood not to be suitable for the demands of modern agriculture. They still have limited potential use for the storage of smaller machinery and for a small proportion of bagged seed. These buildings are accessed from Hundredsteddle Lane, which is a narrow road and which passes close by several privately owned dwellings. The road is not accessible for articulated lorries, as demonstrated by the fact that the applicant has provided tracking to demonstrate this. The existing farm buildings could not be used to store grain, because the walls are not sufficiently reinforced and the barns are not watertight. The applicant has advised that the capacity of the barns only allows storage of approximately 30% of their machinery. The remaining items are left outside, leaving farm machinery outside negatively affects farm profitability.
- 8.8 The current access road is not capable of handling articulated lorries as it is too narrow and the corner is too sharp. Notwithstanding the above, if the existing buildings were to be used or a new building proposed at the main grouping, this would require a new access road from the southern end of the farm. This would have a visual impact on the landscape, located within the Conservation Area and would be in close proximity to neighbouring houses. Deliveries to the Farm currently occur via Hundredsteddle Lane, which is unable to accommodate articulated HGV's. HGVs are therefore currently offloaded on the main B2198, which is likely to cause highway concerns. WSCC Highways have expressed some concerns with use of the existing access on to Tile Barn Lane, however, there are no preferable existing access points to the farm that could accommodate the required vehicular movements and would result in a better or safer access. As the principle of the development is established through the GPDO the remit of the Local Planning Authority is limited to establishing the most favourable siting of the building, rather than the consideration as to whether the principle of development in itself is acceptable.
- 8.7 The applicant has provided detailed information in order to demonstrate that there is a need for the new grain store. During the previous prior notification application, the issue of need was considered in terms of whether there was agricultural justification for the development. Whilst this application also considered that prior approval was required, the issue of need was not raised as a concern and it is considered that the need for the barn has been demonstrated to be necessary.
- 8.8 If a new building were to be located close to the existing complex of buildings, a new access track would be required crossing the field. This would have a greater impact to the Conservation Area. The applicant has provided reasons as to why the proposal can't be located within the main farm grouping. The location of building isolated from the main farm group is not uncommon within a countryside setting.
- 8.9 The location of the building has been amended since its submission re-orientating the building in line with the hedge to the south. The building would therefore be partly screen to the south by the existing mature hedge row. There are also public right of ways to the immediate east of the site which forms the access to Hundredsteddle Cottage, and further to the west of the site. In order to mitigate the visual impact of the development, the applicant has included a landscaping scheme to the west, north and east, incorporating new tree belts and meadow land.

8.10 Given the buildings orientation, along the hedge row and landscaping to other elevations, the building mass and bulk would be reduced. While the building would be visible from public view points and it is not considered with would be harmful to the wider landscape. Any visual harm would be limited aided by mitigation in the form of landscaping.

As detailed above the need for the development was considered in the previous prior notification application and was found to be acceptable. The need for the building was not raised as an issue in the previous committee report.

The Agricultural Advisor instructed by the Council considers that on balance, it is considered that there is justification from an agricultural perspective for the proposed barn. Therefore, officers consider that this still remains acceptable.

As stated in the Principle of Development section, officers are of the view that it is relevant to consider highways matters which are linked to the siting, which differs from the previous report. WSCC commented in the original report that the documents provided to date do not allow for determination that safe and suitable access is achievable.

Since this time, the applicant has submitted further information for consideration.

The proposed siting of the barn is directly related to highway matters in that the location has been selected as the access from Hundredsteddle Lane is not capable of handling articulated lorries as it is too narrow and the corner is too sharp. In addition, if the existing buildings where to be used or a new building proposed at the main grouping, this would require a new access road from the southern end of the farm. This would have a visual impact on the landscape, located within the Conservation Area and would be in close proximity to neighbouring houses. Deliveries to the Farm currently occur via Hundredsteddle Lane, which is unable to accommodate articulated HGV's. HGVs are therefore currently offloaded on the main B2198, which is likely to cause highway concerns.

In term of access from Tile Barn Lane details have been submitted to demonstrate that existing farm traffic does cross the centre line of the carriageway when turning left (north) from Tile Barn Lane onto Bracklesham Lane.

Enquiries have been made by the applicant as to whether warning signage and/or a 'no left turn' from Tile Barn Lane.

Comments provided directly to the applicant on these matters from WSCC have been submitted as part of the application:

'With regards to advisory no right [sic] turn sign. This would be down to you to risk asses in that if you felt that signs where necessary, then you could potentially consider private advisory signage which could be sited on private land subject to suitability; although the signage should not be the mandatory signs used on the highway as this could cause confusion, although in addition to this you could also consider briefing drivers / update works operations (method statements risk assessment).'

'With regards to warning signs, then depending on the situation for example if you had periods of heavy usage planned you could potentially consider temporary signage to cover the period of operation. Although given that there is a good safety record at this location and that you will be utilising an existing access then unless the level or type of usage has altered significantly then this may not be necessary.'

Details have been submitted to demonstrate that existing farm traffic does cross the centre line of the carriageway when turning left (north) from Tile Barn Lane.

The applicants have also submitted information to assert that there would be no material intensification of the use of the access and that proposals would allow a reduction in traffic movements from the Tile Barn Lane entrance/exit:

'The access point at Tile Barn Lane is already a farm access route used by articulated HGV lorries on occasion. This access is also currently used by tractors and trailers during harvest to transport grain and/or cereal to suitable external storage facilities.'

'Hundredsteddle Farm is an arable farm of 79 acres. Using a broad-brush approach, in the event that the entire farm was used to produce wheat, 395 tonnes of grain would be harvested.'

'Hundredsteddle farm has never had on site storage facilities for grain and/or cereal intended for consumption. Mr Stuart Strange (The Applicant's father) has lived on the farm for in excess of 55 years and is able to confirm either external facilities or storage facilities on other farms also within his ownership prior to 2016 were used for this purpose. This was due to the age and inappropriate structure of the existing barn buildings at Hundredsteddle Farm, even in the 1950's.'

'Tractors and trailers currently remove grain and/or cereals to external storage facilities during harvest at Hundredsteddle farm. Each tractor and trailer carries 14 tonnes of grain and/or cereal. This equates to 21 loads or manoeuvres in a northerly direction or left hand 'hairpin' turn direction along the B2198. This is all within the season of the heaviest use of the B2198 for tourists.'

'The proposed development will enable grain and/or cereal to be stored on site at Hundredsteddle farm. This grain would not be removed from Hundredsteddle farm until optimal selling markets.'

'When grain is sold, it is only transported in bulk, to reduce overheads. This is done via HGV articulated lorries, which on average transport 29 tonnes. As such, through the use of the proposed development for storage, only 13 loads would be required to transport Hundredsteddle farms' grain and/or cereal, which reduces use of the entrance / exit by 8 occasions for this purpose.'

'Even when a good market is available, a shrewd farmer retains some grain and/or cereal in case the market still further improves. As such, theoretically 12 calendar months are available for completing the 13 manoeuvres as opposed to a concentration of use when the roads are already at capacity.'

The Agricultural Advisor references that the proposed barn will also be utilised for grain and other purposes ‘...namely fertiliser, machinery and equipment storage. It is understood that the existing buildings available to the farm business are of limited size and scale and are unable to adequately accommodate existing equipment. It is further understood that in addition to the farm arable enterprise the machinery is also used by the applicant for their agricultural contracting business, which includes some land drainage works on farms and for sports pitches (which also uses some specific equipment).’

Supporting information has been submitted to assert that the applicant has chosen to create a further company called AMS Plant Limited to simply hold all equipment used by Hundredsteddle Farm. There will be no hire of equipment to third parties. This equipment is also used by AMS Contracting, which is a company designed to enable farm diversification. All machinery used by AMS Contracting off site is already transported using the Tile Barn Lane Access.

Notwithstanding the above, the siting of the proposed building is directly relevant to the above use, and the traffic generation and type has not been quantified. The provision of a larger building could reasonably lead to an intensification of that business or hire taking place, ancillary to the agricultural activities. The result is that it is considered the proposal would result in a form of development that would cause danger to such persons, by virtue of crossing the centre line of the carriageway, and insufficient information has been submitted to demonstrate that this would not be the case or that the proposals would not result in a material intensification of use.

Design and external appearance of the building

- 8.11 The proposed building would be constructed from box profile steel sheet with a cement fibre roof, the existing colour of the walls would be green with a grey roof. The building would measure 36.4 metres in length, 18.2 metres in width, with an eaves height of 6.8 metres and a ridge of 9.2 metres. The design of the building reflect its use as an agricultural building. The height of the building is a requirement for the movement of material and trackers within and around the building. The design and external appearance is therefore considered acceptable.

Comments on the design have been by the Agricultural Advisor commissioned by the Council.

They comment that they raised queries regarding ventilation and also in respect of the height of the concrete panels (for example whilst grain can be stored in piles, it is usual for grain storage facilities to have higher solid walls than those originally proposed to allow for greater storage capacity and ease of handling). It is noted that the original plan appears to show ‘roof lights’, the roof cladding is described as fibre cement sheets only which is more consistent with grain storage facilities.

The Applicant has since advised of changes to the design, for example the height of the grain store walls will be increased, however it is stated this will be an internal configuration and the external appearance will remain as designed. It has also been stated there will also be grain cooling and extractor fans utilised.

As such the design and external appearance remains acceptable.

Other Matters

- 8.12 The principle of the development is considered acceptable under Part 6 of the GDPO, the only matters to consider are sitting, design and external appearance of the building. In considering these matters the council considered other locations for the development, while having regard to the constraints of the existing farm complex, access and highways implications, ecological matters, light pollution and neighbouring impact. It is therefore considered that given the development is acceptable in principle, under Part 6 of the GDPO the sitting, design and external appearance of the building would result in the least harm having regard to those matters.
- 8.13 Comments have been received that the hardstanding would exceed the 1000 sq metres limited by Part 6 of the GDPO. However, Part 6 Class A, paragraph A.2 (2) (c) gives permitted development right for the deposit of material to form a hard surface necessary for agricultural purposes, with the proviso that if the area to be covered exceeds 0.5 ha the prior notification procedure applies. Therefore this can be considered under the current application but is not considered under the 1000 sq metres limit.

Conclusion

- 8.14 The proposed development by way of its size, siting and design of the development within an open would not result in adverse impacts to the character and appearance of the rural area. The proposed development would therefore accord with Policies 45 and 48 of the Local Plan and the guidance contained within the National Planning Policy Framework.

The proposed development would require works to an existing private way as part of this development which is within 25 metres of a metalled part of a trunk road or classified road and therefore the development is not permitted under Part 6 Class A of the GPDO by virtue of A.1(h), and as such the works do not constitute Permitted Development.

In addition the siting would require works which would requires or involves the formation, laying out or material widening of a means of access to an existing highway which is a trunk road or classified road, so as to be likely to cause danger to such persons and so Article 3(6) of the General Permitted Development Order prohibits the proposal.

Insufficient information to demonstrate that the siting of the proposal would not result in a material intensification of use to the access from Tile Barn Lane onto Bracklesham Lane in a manner that would create an obstruction to the view of persons using the highway by vehicular traffic, so as to be likely to cause danger to such persons, by virtue of crossing the centre line of the carriageway. Therefore this application is recommended for refusal.

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 - Proposed Elevations and Floor Plans	18-51667		14.01.2019	Refused
PLAN - The Location Plan	1A		14.01.2019	Refused
PLAN - Block Plan	2A		14.01.2019	Refused
PLAN - SUBSTITUTE PLAN 15.11.19 PROPOSED SITING (A1)	05	REV E	06.12.2019	Refused

For further information on this application please contact Martin Mew on 01243 534734

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PMM2WUER0UX00>

IN RE: Prior Approval application at
Hundredsteddle Farm, Bell Lane, Somerley,
Chichester, PO20 7BL

ADVICE

*Stephen Jupp MRTPI,
Sally Field Lodge,
Rotten Row,
Sidlesham,
PO20 7QB*

IN RE: Prior Approval application at Hundredsteddle Farm, Bell Lane, Somerley, Chichester, PO20 7BL

ADVICE

1. I have been instructed on behalf of Somerley Agricultural Contractors, The Granary, Hundredsteddle Farm, Hundredsteddle Lane, Somerley, Chichester, PO20 7BL (“the Applicant”) to provide advice on an agricultural prior approval notification for a barn which was submitted to Chichester District Council (“the Council”).
2. The particular matter on which advice is sought is what the Council is entitled to take into account on a prior approval notification such as this.

Factual Background

3. The proposal is for the erection of a steel portal framed general purpose agricultural storage building at Hundredsteddle Farm, Bell Lane, Somerley, Chichester, PO20 7BL (“the site”).
4. The dimensions of the building are 36.576 metres x 18.288 metres and the floor area is 668.90 square metres.

Legal Framework

5. Schedule 2, Part 6, Class A of the GPDO provides, insofar as is relevant, as follows:

“Class A – agricultural development on units of 5 hectares or more

A. Permitted development

The carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of—

(a) works for the erection, extension or alteration of a building; or

(b) any excavation or engineering operations,

which are reasonably necessary for the purposes of agriculture within that unit.

A.1 Development not permitted

Development is not permitted by Class A if—

(a) the development would be carried out on a separate parcel of land forming part of the unit which is less than 1 hectare in area;

(b) it would consist of the erection or extension of any agricultural building on an established agricultural unit (as defined in paragraph X of Part 3 of this Schedule) where development under Class Q or S of Part 3 (changes of use) of this Schedule has been carried out within a period of 10 years ending with the date on which development under Class A(a) begins;

(c) it would consist of, or include, the erection, extension or alteration of a dwelling;

(d) it would involve the provision of a building, structure or works not designed for agricultural purposes;

(e) the ground area which would be covered by—

(i) any works or structure (other than a fence) for accommodating livestock or any plant or machinery arising from engineering operations; or

(ii) any building erected or extended or altered by virtue of Class A,

would exceed [1,000 square metres], calculated as described in paragraph D.1(2)(a) of this Part;

(f) the height of any part of any building, structure or works within 3 kilometres of the perimeter of an aerodrome would exceed 3 metres;

(g) the height of any part of any building, structure or works not within 3 kilometres of the perimeter of an aerodrome would exceed 12 metres;

(h) any part of the development would be within 25 metres of a metalled part of a trunk road or classified road;

(i) it would consist of, or include, the erection or construction of, or the carrying out of any works to, a building, structure or an excavation used or to be used for the accommodation of livestock or for the storage of slurry or sewage sludge where the building, structure or excavation is, or would be, within 400 metres of the curtilage of a protected building;

(j) it would involve excavations or engineering operations on or over article 2(4) land which are connected with fish farming; or

(k) any building for storing fuel for or waste from a biomass boiler or an anaerobic digestion system—

(i) would be used for storing waste not produced by that boiler or system or for storing fuel not produced on land within the unit; or

(ii) is or would be within 400 metres of the curtilage of a protected building.

A.2— Conditions

...

(2) Subject to sub-paragraph (3), development consisting of—

(a) the erection, extension or alteration of a building;

...

is permitted by Class A subject to the following conditions—

*(i) the developer must, before beginning the development, apply to the local planning authority **for a determination as to whether the prior approval of the authority will be required as to the siting, design and external appearance of the building,** the siting and means of construction of the private way, the siting of the excavation or deposit or the siting and appearance of the tank, as the case may be;*

(ii) the application must be accompanied by a written description of the proposed development and of the materials to be used and a plan indicating the site together with any fee required to be paid;

(iii) the development must not begin before the occurrence of one of the following—

(aa) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;

(bb) where the local planning authority give the applicant notice within 28 days following the date of receiving the applicant's application of their determination that such prior approval is required, the giving of such approval; or

(cc) the expiry of 28 days following the date on which the application under subparagraph (2)(ii) was received by the local planning authority without the

local planning authority making any determination as to whether such approval is required or notifying the applicant of their determination;

(iv) where the local planning authority give the applicant notice that such prior approval is required, the applicant must—

...

(v) the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out—

(aa) where prior approval is required, in accordance with the details approved;

(bb) where prior approval is not required, in accordance with the details submitted with the application; and

(vi) the development must be carried out—

(aa) where approval has been given by the local planning authority, within a period of 5 years from the date on which approval was given;

(bb) in any other case, within a period of 5 years from the date on which the local planning authority were given the information referred to in paragraph (d)(ii). ”

(my highlighting)

6. It follows that Class A enables as permitted development the erection of a building reasonably necessary for the purposes of agriculture, subject to certain limitations and conditions. Those limitations are listed at (a) to (k) and are extensive. They include for example at (h) a limitation where any part of the development would be within 25 metres of a metalled part of a trunk road or classified road. None of the limitations apply here.
7. Condition A.2(2)(i) is that, before beginning the development, an application must be made to the local planning authority for a determination as to whether their prior approval will be required in respect of “*the siting, design and external appearance of the building*”.
8. The PPG provides [Reference ID: 13-027-028-20140306] as follows:

“What types of development require prior approval?”

*Prior approval is required for some change of use permitted development rights. Certain other types of permitted development including the erection of new agricultural buildings, demolition and the installation of telecommunications equipment also require prior approval. **The matters which must be considered by the local planning authority in each type of development are set out in the relevant Parts of Schedule 2 to the General Permitted Development Order.***

Is a prior approval application like a planning application?

The statutory requirements relating to prior approval are much less prescriptive than those relating to planning applications. This is deliberate, as prior approval is a light-touch process which applies where the principle of the development has already been established. Where no specific procedure is provided in the General Permitted Development Order, local planning authorities have discretion as to what processes they put in place.”

(my highlighting)

9. It follows that the GPDO sets out those matters that can be considered under a prior approval application. This is deliberate because prior approval is a light touch process where the principle of development has already been established. Where, as here, a specific procedure is provided in the GDPO the matters which can be considered are those set out in that procedure.

Summary of the effect of Class A

10. Where the authority does determine to exercise its power of approval, the permission under Class A assumes the character of an outline planning permission. Although the right to carry out the development is granted in principle, it is subject to the authority’s approval of the siting, design and external construction of the building (or the siting and means of construction of the private way, or the siting of the excavation or deposit and appearance of the tank, as the case may be). The authority has no power to refuse approval on other grounds. Nor does the Order confer power to impose conditions on approval: it is a power merely to approve or not approve the details submitted by the applicant.

11. In *Murrell v SSCLG* [2010] EWCA Civ 1367 [2012] 1 P. & C.R. 6 the Court of Appeal held that a planning inspector had erred when considering a determination of an application for prior approval of a permitted development under the Town and Country Planning (General Permitted Development) Order 1995 Sch.2 Pt 6 para.A2(2) by focusing on policies where the principle of development was a main issue and thereby treating the matter more as concerning a determination of an ordinary planning application. The appellants (M) proposed to erect a cattle shelter. Under the Town and Country Planning (General Permitted Development) Order 1995 Sch.2 Pt 6 paragraph A the development was permitted subject to conditions in para.A2(2) including M applying to the local authority for a determination as to whether its prior approval was required in relation to the siting, design and external appearance of the building (as in this case).

12. The appeal was upheld on a procedural ground. But the court went on to also hold (in relation to the principle of development) that when an application was submitted, it engaged a two-stage process. Firstly, it was to be considered whether prior approval was required. If the local authority determined that such approval was not required it should notify the applicant accordingly. If it determined that such approval was required and notified the applicant of that decision, it then moved on to the second stage in which it had eight weeks, or such longer period as might be agreed in writing, to decide whether to give its approval. The question of prior approval under paragraph A2(2) of the Order only arose in respect of a permitted development within Class A. Such development was permitted subject to the conditions in paragraph A2, which did not affect the principle of development. If the requirements under the Order were met, the principle of whether the development should be permitted was not for consideration in the prior approval procedure. However, in the instant case, the inspector had considered policies where the principle of development was very much in issue and in relation to the impact on visual amenity her decision read more like the determination of an ordinary planning application than that of an application for prior approval. It could therefore not be said that the inspector adopted the correct approach. The inspector's decision was quashed (paragraphs [46]-[51]).

13. It is of central relevance that in the ratio of this decision as expressed in the paragraphs referred to above their Lordships were at pains to point out that if the GPDO requirements are met, “*the principle of whether the development should be permitted is not for consideration*” in the prior approval procedure. Furthermore, an analogy with outline planning permission has a real value in underlining the point that the assessment of siting, design and external appearance has to be made in a context where the principle of the development is not itself in issue. Indeed, even in relation to siting, design and appearance the decision maker must exercise care because “*An approach premised, for example, on the need for strict controls over development in the countryside could produce a different result from an approach premised on an acceptance of the principle of development in the countryside.*”

Application to this case

14. The question of prior approval under paragraph A2(2) can only arise in respect of “permitted development” within Class A. The Council considered the prior notification application and decided that the development is permitted development and that prior approval was required. The Councils prior approval request letter dated 8 February 2019 clarifies that the single issue for seeking prior approval was that:

“insufficient information has been provided to demonstrate that the visual impacts of the combined size, siting and designed the development within an exposed and open landscape can be adequately mitigated”.

15. I am instructed that this was expanded on in the case officer’s email of 8 February 2019 wherein he requested a more detailed landscaping plan including a landscape management plan. 2.

16. It follows from the above not only that the Council is extremely limited in what it can consider under the Prior Approval application, but that it has recognised this fact and (correctly) tailored its request accordingly. The Council therefore, having determined that the development is permitted development and that prior approval is required to confirm that the visual impact can be adequately mitigated, cannot consider highway matters.

17. Please contact me with anything further arising out of this advice.

David Lintott

Cornerstone Barristers

1/10/19

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IN RE: Prior Approval application at
Hundredsteddle Farm, Bell Lane, Somerley,
Chichester, PO20 7BL

FURTHER ADVICE

*Stephen Jupp MRTPI,
Sally Field Lodge,
Rotten Row,
Sidlesham,
PO20 7QB*

FURTHER ADVICE

1. I have been instructed on behalf of Somerley Agricultural Contractors, The Granary, Hundredsteddle Farm, Hundredsteddle Lane, Somerley, Chichester, PO20 7BL (“the Applicant”) to provide further advice on an agricultural prior approval notification for a barn which was submitted to Chichester District Council (“the Council”). This advice should be read with my previous advice.
2. My original advice related to the extent of any considerations which the Council was entitled to take into account on a prior approval notification such as this. Since providing that advice the Council has produced an officer’s report recommending that prior approval be granted. An advice has also been provided to the Tile Barn Lane Residents association (“TBLRA”) by Counsel whom they have instructed. I am asked to provide this further advice in respect of one aspect of that advice namely that:

“the officer’s report that has been prepared adopts a legally erroneous approach in being premised on the assumption that the Council’s remit is to identify the most suitable location for the proposed store on the site, in light of the various constraints that apply. The report fails to recognise that (it) is open to the Council to withhold prior approval on the basis that the proposed location is not an appropriate siting for the store, notwithstanding that there may be no better locations for the store elsewhere on the farmholding”.

3. As set out below, my advice is that the GPDO operates so as to grant permitted development rights for the development set out in Class A subject only to the exclusions in A.1 and the conditions in A.2. Highways considerations are not relevant in and of themselves. As correctly discussed in the officer's report, they only become relevant to the extent that the "siting, design and external appearance" of the barn has an impact on them. Furthermore, because development which comes within the detailed limitations set out in Class A and does not fall foul of the detailed exceptions in A.1 is permitted in principle, although the Council can control where development may be sited and how it is designed and appears, it cannot withhold prior approval for the siting of the barn which comprises permitted development somewhere on the application site.

The Operation of the GDPO

4. By section 57(1) of the Town and Country Planning Act 1990 ("TCPA 1990"), planning permission is required for the carrying out of development. By section 58(1)(a), planning permission may be granted by a development order made by the Secretary of State. By section 60, planning permission granted by a development order may be granted either unconditionally or subject to such conditions or limitations as may be specified in the order, including conditions as to prior approval.
5. Article 3(1) of the GPDO provides that planning permission is granted for the classes of development described as permitted development in Schedule 2. By article 3(2), any permission granted by paragraph (1) is subject to any relevant exception, limitation or condition specified in Schedule 2. Schedule 2, Part 6, Class A relates to agricultural development and is set out insofar as is relevant in my previous advice. Permission is granted for Class A development provided it comes within the detailed limitations set out in A and does not fall foul of the detailed exceptions in A.1. The detailed exceptions in A.1 form part of the development for which permission is granted: see *Regina*

(Marshall) v East Dorset District Council [2018] EWHC 226 (Admin) [2018] P.T.S.R. 1508 at [33].

6. The way in which the conditions operate was addressed by Richards LJ in *Murrell v SSCLG [2010] EWCA Civ 1367* at [2012] 1 P & CR 6, para 45:

“The question of prior approval under paragraph A2(2) can only arise in respect of “permitted development” within Class A (i e development falling within the terms of Class A and not excluded by paragraph A1). Such development is permitted subject to the conditions in paragraph A2, including the condition relating to prior approval, but those conditions do not affect the principle of development. In recognition of the importance of agriculture and its operational needs, the GPDO has already taken a position on the issue of principle. Thus, as the guidance in Annex E spells out, if [the GPDO 1995] requirements are met, “the principle of whether the development should be permitted is not for consideration” in the prior approval procedure (paragraph E15).”

7. In *Regina (Marshall) v East Dorset District Council [2018] EWHC 226 (Admin) [2018] P.T.S.R. 1508* at [58] Lang J. noted (obiter) that issues of “siting, design and external appearance of the building” could properly include the impact on neighbouring properties and a particular listed building. Nowhere does she purport to state that such issues could operate so as to enable a Council to withhold prior approval for any form of permitted development. Such a conclusion would conflict with the conclusions of Richards L.J. set out above that the conditions, including that relating to prior approval, cannot affect the principle of development. It would ignore the fact that the GDPO has already taken a position on the issue of principle in recognition of the importance of agriculture and its operational needs. In doing so the GDPO has included a detailed list of exceptions which prescribe the extent of the development for which permission is granted. They include for example at (h) a limitation where any part of the development would be within 25 metres of a metalled part of a trunk road or classified road.

8. It follows that the capacity of the application site, taking into consideration any highways considerations, to accommodate agricultural development of the type

proposed by this application is determined as a matter of principle by the operation of the GDPO which grants permission for Class A agricultural development.

The Officer's Report

9. The gravamen of the planning officer's committee report on the issue of siting provides as follows:

“8.8 The current access road is not capable of handling articulated lorries as it is too narrow and the corner is too sharp. Notwithstanding the above, if the existing buildings were (sic) to be used or a new building proposed at the main grouping, this would require a new access road from the southern end of the farm. This would have a visual impact on the landscape, located within the Conservation Area and would be in close proximity to neighbouring houses. Deliveries to the Farm currently occur via Hundredsteddle Lane, which is unable to accommodate articulated HGV's. HGVs are therefore currently offloaded on the main B2198, which is likely to cause highway concerns. WSCC Highways have expressed some concerns with use of the existing access on to Tile Barn Lane, however, there are no preferable existing access points to the farm that could accommodate the required vehicular movements and would result in a better or safer access. As the principle of the development is established through the GPDO the remit of the Local Planning Authority is limited to establishing the most favourable siting of the building, rather than the consideration as to whether the principle of development in itself is acceptable.”

10. It follows that the planning officer has in my view correctly recognised both that highways considerations are only relevant to the extent that they are affected by the siting of any development, and that the principle of the development is established through the GDPO.

11. Please contact me with anything further arising out of this advice.

David Lintott

Cornerstone Barristers

28/07/20

Philip Birch

From: dcplanning shared
Subject: FW: Planning Application - 19/00431/agr
Attachments: FINAL TILE BARN ADVICE 23.07.20.pdf

From: Emma Montlake
Sent: 23 July 2020 12:23
To: Daniel Power
Subject: RE: Planning Application - 19/00431/agr

Dear Daniel,

I am attaching the newly named substitute advice – so there can be no confusion, it is dated today's date. This is the one that should go up on the portal.

The headline from this and extracting from Counsel's advice is that:-

- a. the documents and details provided suggest that the development that is proposed here would, when built out, include the restructuring and/or re-routing of an existing farm track within 25m of the B2198;
- b. if that transpires, irrespective of whether prior approval is granted based upon the drawings provided (which show no works in relation to the existing farm track), the totality of the development would not benefit from permitted development rights because part of it includes development within 25m of the B2198, in breach of condition;
- c. it would be sensible for the Council to advise SAC that this development, if built out, would probably be unlawful and liable to enforcement;
- d. when considering the siting of the development, it would be irrational and unlawful for the Council to ignore the concerns that are raised in respect of the proposed access via the B2198 in relation to highways safety;
- e. the officer's report that has been prepared adopts a legally erroneous approach in being premised on the assumption that the Council's remit is to identify the most suitable location for the proposed store on the site, in light of the various constraints that apply. The report fails to recognise that is open to the Council
- f. to withhold prior approval on the basis that the proposed location is not an appropriate siting for the store, notwithstanding that there may be no better locations for the store elsewhere on the farmholding.

Thanks for your help with this and sorry to have gone rather round the houses. I am grateful to you.

Best wishes,

Emma Montlake
ELF

itored or recorded to secure effective system operation and for other lawful purposes.

Proposal for a grain and machinery store

Hundredsteddle Farm, Bell Lane, Somerley, Chichester

Prior approval

ADVICE

Introduction

1. I am instructed by Emma Montlake of the Environmental Law Foundation on behalf of the Tile Barn Lane Residents' Association (TBLRA) to advise in respect of a proposal by Somerley Agricultural Contractors (SAC) to develop a grain and machinery store at Hundredstreddle Farm.

2. In particular, I am asked to advise on the considerations that pertain when Chichester District Council (the Council) decides whether to grant prior approval for the proposal, in particular whether highways safety issues are relevant to the siting of the proposal, and to advise whether the officer report that has been prepared adopts a legally adequate approach in its considerations of the issues that arise.

3. By way of short summary, my advice is that:
 - a. the documents and details provided suggest that the development that is proposed here would, when built out, include the restructuring and/or re-routing of an existing farm track within 25m of the B2198;
 - b. if that transpires, irrespective of whether prior approval is granted based upon the drawings provided (which show no works in relation to the existing farm track), the totality of the development would not benefit from permitted development rights because part of it includes development within 25m of the B2198, in breach of condition;
 - c. it would be sensible for the Council to advise SAC that this development, if built out, would probably be unlawful and liable to enforcement;
 - d. when considering the siting of the development, it would be irrational and unlawful for the Council to ignore the concerns that are raised in respect of the proposed access via the B2198 in relation to highways safety;
 - e. the officer's report that has been prepared adopts a legally erroneous approach in being premised on the assumption that the Council's remit is to identify the most suitable location for the proposed store on the site, in light of the various constraints that apply. The report fails to recognise that is open to the Council

to withhold prior approval on the basis that the proposed location is not an appropriate siting for the store, notwithstanding that there may be no better locations for the store elsewhere on the farmholding.

Background

Prior approval application

4. SAC intend to rely on permitted development rights conferred by Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) to erect the proposed grain and machinery store. Where the intention is, as is the case here, to rely on Class A permitted development rights to erect a building and private right of way, the GPDO requires an application to be made to the local planning authority for determination as to whether its prior approval is required in relation to the siting, design and external appearance of the proposal (GPDO, Part 6, Class A, A.2 (2)(i)).
5. In accordance with that condition, several applications have been made by SAC to the Council for determination as to whether its prior approval is required in relation to the proposal. The design of the building and associated landscaping has developed during these applications. The Council is currently considering what I understand is the third application for prior approval, the reference to which is 19/00431/AGR.
6. By a delegated decision made by one of its officers, the Council on 8 February 2019 determined that its prior approval is required in relation to this proposal. Accordingly the development cannot lawfully proceed unless the owner secures the approval of the Council as to the siting, design and external appearance of the building and the siting and means of construction of the private way (GPDO, Part 6, Class A, A.2 (2)(iii)).
7. The agricultural justification statement enclosed with the application states the purpose of the building as being to enable storage of grain and farm machinery. It is suggested that the existing buildings towards the north of the farmholding are unsuitable for these purposes and the access to these buildings, via Hundredstrettle Lane, is unsuitable for articulated HGVs. The proposed building would be large enough to be suitable for grain and machinery whilst also capable of being accessed by articulated HGVs.
8. Access to the proposed building is proposed via a gap in the southern boundary hedgerows on an existing gravel track, a picture of which is included in the Agricultural Justification document. The proposed siting plan (drawing no. 5 rev. E) shows that a

new track would be constructed connecting to the existing gravel track, and a turning area would be constructed next to the proposed building. That drawing indicates 25m distances from the adjacent B2198, in order to demonstrate that the new track, which would connect to the existing one, and the building proposed would be more than 25m from a classified road.

9. SAC nevertheless accepts that the existing farm track, which drawing no.5 shows to be partially within 25m of the B2198, will need restructuring to be suitable to accommodate articulated HGVs. That is unsurprising given the appearance of the surface of the track shown in the picture I describe above. In the further information it submitted on 2 July, SAC recognises that:

“To facilitate better access for HGV lorries, the current farm track leading from Tile Barn lane will be suitable re-structured to better facilitate HGV use and avoid encroachment onto any other area of land to enable manoeuvres to be completed” (sic).

10. A site plan showing one method of re-structuring the existing farm track was set out in an earlier application for prior approval under reference 1803294PNO (drawing no. 5 rev. A). On the basis of this plan which shows the resurfacing and rerouting of the existing farm track, constituting development within 25m of the B2198, the Council decided, in relation to that earlier application, that the development proposed would not benefit from permitted development rights due to the prohibition in GPDO, Part 6, A.1 (h).
11. No plan or details describing the proposed re-structuring of the existing farm access appear to have been provided in relation to the latest application. The siting plan (drawing no. 5 rev. E) provided with the present application shows no restructuring or rerouting with respect to the existing farm track, and no development within 25m of the B2198.
12. One of the key concerns TBLRA have raised in relation to the proposals concerns highways safety, in particular the safety of articulated HGVs accessing the grain store through the access described above. Several documents and submissions have been presented to the Council on this point, and these have generated responses from SAC. TBLRA has additionally submitted swept path analysis to demonstrate the possibility of HGV access via Hundredstrettle Lane to the existing buildings. The position of SAC throughout this process has been that the Council may not lawfully consider highway matters when determining whether to grant its prior approval to the proposal.

13. In support of its position, SAC provided to the Council an opinion from counsel, David Lintott, dated 1 October 2019, which advises that the Council is extremely limited in what it can consider under the prior approval application and in particular cannot consider highway matters.

Officer report

14. A detailed officer report has been prepared which outlines the concerns that have been raised in relation to the proposals, including in relation to design & appearance and highways safety. It summarises the concerns raised by highways officers. Ultimately the report recommends that prior approval is granted, notwithstanding the concerns raised. I understand that the Council's planning committee will make the final decision on the application in due course.

15. In relation to highways matters, the officer report cites the views of the highways authority in relation to the proposals, and in particular notes the highways authority's view:

- a. that access "will result in large farm vehicles being required to perform a hairpin turn manoeuvre if access the site from the north or leaving the site and heading north" (sic);
- b. agreeing with the principal findings of a technical note prepared by Highway Planning Ltd, on behalf of TBLRA, which raises concerns as to the safety of the proposed access; and
- c. that "the documents provided to date do not allow for determination that safe and suitable access is achievable".

16. The relevant highways issues are analysed in the officer report at para 8.8. The report draws attention to the constraints noted by SAC in relation to Hundredstreddle Road, the existing access to the buildings to the north of the farmholding, in particular its narrow width, and concludes that facilitating safe access by HGVs to those buildings would require a new access road from the southern end of the farm, which would have an unacceptable impact on the landscape and the conservation area. This analysis is challenged by TBLRA.

17. The concerns raised by the highways authority as to the proposed access to the barn at the south of the unit are noted, however the report goes on to dismiss those concerns for the following reasons (underlining added):

“there are no preferable existing access points to the farm that could accommodate the required vehicular movements and would result in a better or safer access. As the principle of the development is established through the GPDO the remit of the Local Planning Authority is limited to establishing the most favourable siting of the building, rather than the consideration as to whether the principle of development in itself is acceptable.”

18. Later at paragraph 8.12 the officer report repeats the proposition that the Council’s remit is in identifying the most desirable location and access for the proposed grain store, taking account of all relevant considerations and site constraints.

“The principle of the development is considered acceptable under Part 6 of the GDPO, the only matters to consider are sitting, design and external appearance of the building. In considering these matters the council considered other locations for the development, while having regard to the constraints of the existing farm complex, access and highways implications, ecological matters, light pollution and neighbouring impact. It is therefore considered that given the development is acceptable in principle, under Part 6 of the GDPO the sitting, design and external appearance of the building would result in the least harm having regard to those matters.”

Legal framework

19. It has been held that a planning authority considering whether to grant prior approval is not tasked with considering whether the proposal would in fact meet the conditions for the class of permitted development in question. Its role is limited to considering whether to grant approval in relation to the siting, design and external appearance of the proposal. Lang J in *R (Marshall) v East Dorset DC* [2018] PTSR 1508 said as follows at [44-45]:

“... The appropriate time for the local planning authority to consider [whether or not the proposed development comes within the description of the relevant class in the GPDO] is in response to an application for a certificate of lawfulness of existing use or development under section 191 of the TCPA 1990 or proposed use or development under section 192 of the TCPA 1990 or an application for planning permission. If no such applications are made, the authority has power to consider whether a development is within permitted development rights in the context of enforcement proceedings”.

20. However, it is permissible for the authority, when determining a prior approval application, to advise the applicant of its views as to whether the proposed development is likely to constitute permitted development, provided it does not purport to decide the matter (*ibid* [46]).

Advice

21. The documents and details provided suggest that the development that is proposed here would, when built out, include the restructuring and/or re-routing of the existing farm track which is within 25m of the B2198. In my view, irrespective of whether prior approval is granted based upon the drawings provided, which only show the proposed grain store and new access track but not the upgrading/re-routing of the existing track, the totality of the development would not benefit from permitted development rights if part of it includes development within 25m of the B2198.

22. The strategy may be to secure planning permission for the re-routing / re-structuring of the existing farm track, following determination of the prior approval application. That salami-slicing approach would not in my view be legally acceptable. For one thing that would make a farse of the condition on Class A prohibiting all development from qualifying as permitted development if part of it is within 25m of a classified road. For another, if the proposed grain store is given prior approval, this will not be tantamount to a grant of planning permission for that proposal. There are two important points that flow from that reality.

23. First, any future development on the site will need to meet the conditions set out in Class A in order to be permitted development and lawful. Thus, if the development actually carried out includes development within 25m of the B2198, as appears to be the intention, the totality will not comply with the conditions set out under Class A, and will be unlawful and liable to enforcement action. Furthermore, the planning authority when determining any future planning application on proposed works to upgrade / re-route the existing farm track, to reach a lawful decision, would need to do so on the correct premise that the proposed store which the access would serve does not benefit from planning permission.

24. Second, any future development would need to be carried out in accordance with the details provided to the Council when making its determination on prior approval to benefit from permitted development (GPDO, Part 6, Class A, A.2 (2)(v)). That would include amongst other things the proposed siting plan (drawing no. 5 rev. E) which

shows no works in relation to the existing gravel track. Thus the construction of the grain store with a greater extent of access works than is shown within that drawing would not constitute permitted development.

25. For these reasons, the development that is proposed does not appear to meet the conditions set out in Class A to constitute permitted development. The case-law confirms that the Council is not entitled to withhold prior approval on the basis that the development, when constructed, will not meet the conditions set out in Class A (Lang J in *R (Marshall) v East Dorset DC* [2018] PTSR 1508 said as follows at [44-46]). It is however open the Council to advise the applicants in relation to this application that the proposal advanced here falls outside the scope of Class A permitted development rights, and if the grain store is eventually constructed together with works to the field track within 25m of the BS2198, that development would be unlawful and liable to enforcement action by the Council.
26. In relation to the matters that are relevant to the Council's determination of prior approval, the relevant considerations are set out in the GPDO, namely the siting, design and external appearance of the proposal. In disagreement with Mr Lintott's advice, my view is that highway considerations can in principle be relevant when considering the siting of a proposed building. Whether or not highways considerations are relevant to the siting of a proposal will depend upon the circumstances of the development in question and that will be a matter for the planning judgement of the planning authority.
27. There is no case-law I am aware of establishing this proposition. Nor is there any case-law that I am aware of that establishes highways concerns are, in principle, irrelevant when considering siting, or that (as Mr Lintott implies) siting is limited to considerations of visual impact. The term siting is not defined in the GPDO. The normal meaning of the word siting, it seems to me, is relating to location. It seems to me that highways matters may be considerations that are important when considering the appropriateness of the location of development. It matters not in my view that highways matters are not explicitly listed in the GPDO as relevant matters for the authority to consider when considering whether to grant prior approval. On that point, in the case cited above, Mrs Justice Lang at [58] accepted that the impact of a proposal upon a neighbouring Grade II listed building may be a relevant consideration when considering the siting, design and external appearance of the proposal, notwithstanding that there is no express legislative basis to take account of heritage

impacts. Heritage impacts could be relevant if they relate to the siting, design and external appearance of the proposal. Likewise, highways matters can be relevant if they relate to the siting of a proposal.

28. Furthermore, it seems to me that this is a case where it would be irrational to ignore the concerns that have been raised in relation to highways safety when considering the acceptability of the siting of this proposal. The concerns might (as is suggested) make the proposed location of the grain store, at the south of the farmholding, unacceptable, and consequently they have considerable relevance.
29. I furthermore note that the justification for the siting of the grain store in this location advanced by SAC is premised on the highways constraints that it states apply in relation to access to the existing buildings via Hundredstredde Lane. If highway constraints in relation to the existing access are relevant to siting, it is in my view inconsistent to suggest the constraints that apply to the proposed access are not relevant to siting. These are all relevant matters in my view and they should be considered by the Council when making its decision on the proposal.
30. For these reasons, my view is that the Council would be liable to err in law were it to decide that the concerns raised in relation to highways safety are irrelevant to its consideration of the siting of the proposal. That is not however what the officer's report appears to have done. The officer report highlights and considers the concerns in relation to the proposed access, which is correct as a matter of approach. However, whilst those concerns are considered, the report ultimately adopts a legally erroneous approach in my view by basing its analysis on an erroneous premise.
31. At paragraphs 8.8 and 8.12, copied above, the author of the report assumes incorrectly that the remit of the Council is establishing the "most favourable siting" or the siting that would result in the "least harm", in light of the site constraints that exist in relation to this farmholding. That in my view is a legally erroneous approach. It presupposes that it is not open to the Council to conclude that there is no adequate location on the farmholding in which the building could be located, considering siting, design and external appearance matters and the constraints of the farmholding.
32. It appears in this regard that the author has conflated the nature of permitted development rights under the GPDO with that of outline planning permissions. Whilst there are some similarities between these concepts, one difference is that in the case of outline permissions a determination has already been made that the development

is in principle acceptable on the site in question. Following a grant of outline permission it is no longer open to the authority to decide that the development is not acceptable on the site in principle.

33. By contrast, where prior approval is required for Class A agricultural development, the GPDO does not require the authority to start from the premise that the agricultural unit in question can appropriately accommodate the proposed development, and its remit is limited to identifying the most favourable location and access having regard to siting, design and external appearance. The authority can lawfully find that there are no acceptable locations on the agricultural unit for the proposed development, having regard to siting, design and external appearance.

34. For these reasons, my view is that the officer report adopts a legally erroneous approach.

Conclusion

35. My advice is set out above.

Horatio Waller
Francis Taylor Building, Inner Temple
14 July 2020

Chichester District Council

Planning Committee

Wednesday 07 October 2020

Report of the Director Of Planning and Environment Services

Schedule of Planning Appeals, Court and Policy Matters

Between 19-Aug-2020 and 21-Sep-2020

This report updates Planning Committee members on current appeals and other matters. It would be of assistance if specific questions on individual cases could be directed to officers in advance of the meeting.

Note for public viewing via Chichester District Council web site To read each file in detail,

including the full appeal decision when it is issued, click on the reference number (NB certain enforcement cases are not open for public inspection, but you will be able to see the key papers via the automatic link to the Planning Inspectorate).

* - Committee level decision.

1. NEW APPEALS (Lodged)

Reference/Procedure	Proposal
<u>20/00950/FUL</u> Funtington Parish Case Officer: Calum Thomas Written Representation	Field West Of Beachlands Nursery Newells Lane West Ashling West Sussex - Use of land for the stationing of a caravan for residential purposes, together with the formation of hardstanding and associated landscaping.
<u>20/01045/FUL</u> Plaistow And Ifold Parish Case Officer: Rebecca Perris Written Representation	Moyana The Drive Ifold Loxwood RH14 0TD - Erection of 1 no. dwelling house.
<u>20/01071/OUT</u> Selsey Parish Case Officer: Calum Thomas Written Representation	Land At Ursula Avenue Selsey West Sussex PO20 0HT - Outline planning permission all matters reserved - erection of 2 no. bungalows.

2. DECISIONS MADE

Reference/Procedure	Proposal
<p data-bbox="197 288 485 322"><u>16/00320/CONCOU</u></p> <p data-bbox="197 327 408 360">Earnley Parish</p> <p data-bbox="197 387 587 421">Case Officer: Steven Pattie</p> <p data-bbox="197 459 552 492">Written Representation</p>	<p data-bbox="639 288 1485 360">Witsend Nursery Third Avenue Batchmere Chichester West Sussex PO20 7LB - Appeal against E/32</p>
<p data-bbox="392 517 1294 551">Appeal Decision: APPEAL DISMISSED - NOTICE MODIFIED</p>	
<p data-bbox="181 562 1481 1435">"...there is very little evidence to demonstrate on the balance of probabilities why the appellant storing his own such items on what was a ménage, would not amount to a breach of planning control as a matter of fact...., and the appellant accepts that a storage use had occurred at the time the notice was issued. The appeal on ground (b) therefore fails. ... It is asserted that the appellant should have the right to store his own caravans and trailers on his land. However, no planning permission or evidence that such a use would, for example, not constitute development, have been brought to my attention. ... That they are simply owned by the appellant and are said to be used in connection with his use and occupation of the land is not adequate evidence to demonstrate on the balance of probabilities that there has not been a breach of planning control ... The appeal on ground (c) therefore fails. In light of the evidence about the previous condition of the land, and which in many cases an appellant will be the person with the best knowledge of what that previous condition was, it would be excessive for the area concerned to be levelled and reseeded with grass. In order to remedy the breach of planning control it is therefore only necessary to require the hardcore/road planning be removed, which facilitated the unauthorised use, and for the land to be restored to its former level and condition. The ground (b) and (c) appeals have already failed and therefore it is not excessive for items that are stored in contravention of the requirements of the notice, irrespective of their ownership, to be removed. The appeal on ground (f) therefore succeeds to the extent described above. However, an additional month for compliance will provide the appellant with some additional flexibility, without unnecessarily perpetuating the breach of planning control. The appeal on ground (g) therefore succeeds to this limited extent. For the reasons given above I conclude that the appeal should not succeed. I shall therefore uphold the enforcement notice with corrections and variations. "</p>	

Reference/Procedure	Proposal
<p data-bbox="196 230 451 297">19/01103/LBC Sidlesham Parish</p> <p data-bbox="196 327 475 394">Case Officer: Maria Tomlinson</p> <p data-bbox="196 423 552 456">Written Representation</p>	<p data-bbox="639 230 1487 297">Highleigh Farmhouse Highleigh Road Sidlesham PO20 7NR - Installation of replacement windows to match existing.</p>
<p data-bbox="549 465 1134 495">Appeal Decision: APPEAL DISMISSED</p>	
<p data-bbox="180 506 1487 1422">“... Windows and doors are one of the most prominent features of a building and are often an integral part of their design, as is the case here, as demonstrated particularly by the front elevation of the original property. Part of the significance of Highleigh Farmhouse is derived from its historic windows. Albeit perhaps not all are original, they nevertheless contribute to the significance of the building, not only in terms of their traditional materials and craftsmanship but also from their age and patina, which, to no small degree, provides interest. ...The works before me include the replacement of all windows in these historic two storey elements of the property with contemporary slimline glazing units. Although these would replicate the window they would replace in terms of materials, style and detailing they would be of modern, engineered construction which would give them a wholly different appearance to the more traditional hand craftsmanship employed in many of the existing windows. Consequently they would appear incongruous when set against the traditional appearance of the historic building. ... Given the number of windows proposed to be replaced such works would significantly erode the special architectural and historic interest of Highleigh Farmhouse. ... I accept that the existing windows are in need of a complete overhaul in terms of repairs but that does not, of itself, justify their replacement which, for the reasons set out above, would pose a threat to the long-term preservation of the building. Rotting wood can be cut out and replaced with sound treated timber. It is also possible to repair and/or replace ironmongery. Replacement windows may well increase the energy efficiency of the property, but it has not been demonstrated that such improvements could not be achieved through alternative means, for instance, through draft proofing, thereby avoiding the harm I have identified. Finally, any perceived harm from existing double glazing or secondary glazing in the property does not justify the harm I have found. Taking these points together I find that the public benefits would not outweigh the harm that I have identified, harm which must be given considerable importance and weight...”</p>	

Reference/Procedure	Proposal
<p data-bbox="196 230 459 264"><u>19/00070/CONHH</u></p> <p data-bbox="196 271 448 304">Tangmere Parish</p> <p data-bbox="196 327 552 360">Case Officer: Sue Payne</p> <p data-bbox="196 398 552 432">Written Representation</p>	<p data-bbox="639 230 1471 371">12A Nettleton Avenue Tangmere Chichester West Sussex PO20 2HZ - Appeal against development of a wind turbine and gates in excess of 1m height adjacent to highway, subject to Enforcement Notice TG/24.</p>
<p data-bbox="392 443 1294 477">Appeal Decision: APPEAL DISMISSED - NOTICE MODIFIED</p>	
<p data-bbox="180 488 1445 958">"... At the appeal site the length of original fencing has been completely removed and replaced with a much higher timber structure which, even if of high quality, forms an alien and obtrusive feature in the streetscene and conservation area ...National Policy Framework the harm caused would be classed as 'less than substantial' harm, where public benefits need to be considered. The appellant identifies the need to provide a safe inclusive environment for his family and that there is a freedom for homeowners to alter their properties as addressed by article 8 of the Human Rights Act. I have taken into consideration the Human Rights Act 1998 and the European Convention of Human Rights and I recognise that dismissal of the appeal could potentially interfere with rights under Article 8. However, given the harm identified, the action is in accordance with the law and pursues legitimate aims of protecting the environment and is proportionate to the situation and the Council's Policies. The entire fence is a new construction and not repair and is unacceptable."</p>	
<p data-bbox="196 1014 488 1048"><u>18/00100/CONCOU</u></p> <p data-bbox="196 1055 499 1088">West Itchenor Parish</p> <p data-bbox="196 1111 587 1144">Case Officer: Steven Pattie</p> <p data-bbox="196 1182 552 1216">Written Representation</p>	<p data-bbox="639 1014 1445 1088">Northshore Yacht Limited The Street Itchenor Chichester West Sussex PO20 7AY - Appeal against WI/16</p>
<p data-bbox="403 1227 1283 1261">Appeal Decision: APPEAL DISMISSED - NOTICE UPHELD</p>	
<p data-bbox="180 1272 1495 1803">"... The appeal is dismissed and the enforcement notice is upheld. ... in order to make an assessment of whether any material change of use has occurred, a notice does not need to identify the planning unit. ... The notice is clear in that it tells the recipient what the Council consider to be the alleged breach and what must be done to remedy that breach the appellant accepts that the storage use has occurred and so the ground (b) appeal must fail. ... The appellant contends that condition 13 of planning permission WI/07/00188/FUL (the planning permission) allows for the storage of boats at the appeal site. ... However, that planning permission does not relate to a use of land, but the demolition of an office building and the erection of an office/boat building and extension and recladding of an existing boat manufacture building. As both parties recognise, there was then a requirement to plant and maintain landscaping at the appeal site; in accordance with condition 17 of the planning permission. ... The fact that it was included in the red line as part of the application site, does not grant planning permission for the change of use of the land or confirm its automatic incorporation into the planning unit. It is simply an area of land where planting is required. ... The appeal on ground (c) therefore fails...."</p>	

3. CURRENT APPEALS

Reference/Procedure	Proposal
<p><u>17/00356/CONMHC</u> Birdham Parish</p> <p>Case Officer: Shona Archer</p> <p>Informal Hearing</p>	<p>Plot 12 Land North West Of Premier Business Park Birdham Road Appledram West Sussex - Without planning permission, change of use of the Land to the storage of a caravan and a highway maintenance vehicle used for white line painting.</p> <p>Linked to <u>17/00361/CONMHC</u> & <u>17/00362/CONMHC</u></p>
<p><u>17/00361/CONMHC</u> Birdham Parish</p> <p>Case Officer: Shona Archer</p> <p>Informal Hearing</p>	<p>Plot 13 Land North West Of Premier Business Park Birdham Road Appledram West Sussex - Without planning permission, change of use of the Land to the storage of a caravan and a diesel fuel oil tank.</p> <p>Linked to <u>17/00356/CONMHC</u> & <u>17/00362/CONMHC</u></p>
<p><u>17/00362/CONMHC</u> Birdham Parish</p> <p>Case Officer: Shona Archer</p> <p>Informal Hearing</p>	<p>Plot 14 Land North West Of Premier Business Park Birdham Road Appledram West Sussex - Without planning permission change of use of the land to use as a residential caravan site.</p> <p>Linked to <u>17/00361/CONMHC</u> & <u>17/00356/CONMHC</u></p>
<p><u>19/00845/FUL</u> Birdham Parish</p> <p>Case Officer: Martin Mew</p> <p>Written Representation</p>	<p>Common Piece Main Road Birdham West Sussex - Use of land for the stationing of a static caravan.</p>
<p><u>19/01352/DOM</u> Bosham Parish</p> <p>Case Officer: Oliver Naish</p> <p>Householder Appeal</p>	<p>The Old Town Hall Bosham Lane Bosham PO18 8HY - Construction of an outdoor swimming pool.</p>

Reference/Procedure	Proposal
<p>* <u>20/00128/FUL</u> Bosham Parish</p> <p>Case Officer: William Price</p> <p>Written Representation</p>	<p>Lower Hone Farm Lower Hone Lane Bosham Chichester West Sussex PO18 8QN - Change use of storage barn to 1 no. dwellinghouse and associated works, including natural swimming pond and landscaping.</p>
<p>* <u>19/03008/FUL</u> Chichester Parish</p> <p>Case Officer: Martin Mew</p> <p>Written Representation</p>	<p>23 Lavant Road Chichester PO19 5RA - Erection of 5 no. flats and parking, landscaping and associated works.</p>
<p><u>20/00188/FUL</u> Chichester Parish</p> <p>Case Officer: William Price</p> <p>Written Representation</p>	<p>L A Fish 110 The Hornet Chichester West Sussex PO19 7JR - Change of use of residential accommodation above fish & chip shop from 1 no. habitable flat to 3 no. habitable flats, including extended first floor area partially implemented approval CC/08/00137/FUL.</p>
<p><u>20/00609/DOM</u> Chichester Parish</p> <p>Case Officer: William Price</p> <p>Written Representation</p>	<p>3 Franklin Place Chichester PO19 1BL - First floor rear extension and replacement conservatory.</p>
<p><u>20/00610/LBC</u> Chichester Parish</p> <p>Case Officer: William Price</p> <p>Written Representation</p>	<p>3 Franklin Place Chichester PO19 1BL - First floor rear extension and replacement conservatory.</p>

Reference/Procedure	Proposal
<p><u>20/00967/FUL</u> Earnley Parish</p> <p>Case Officer: Maria Tomlinson</p> <p>Written Representation</p>	<p>101A First Avenue Almodington Batchmere West Sussex PO20 7LQ - Proposed cladding to walls and roof of existing horticultural building (greenhouse) and additional internal works.</p>
<p><u>19/02922/DOM</u> East Wittering And Bracklesham Parish</p> <p>Case Officer: Calum Thomas</p> <p>Householder Appeal</p>	<p>Cornerpiece 18 Coney Road East Wittering PO20 8DA - Proposed entrance porch and loft conversion including 2 no front dormers.</p>
<p><u>17/00011/CONBC</u> Funtington Parish</p> <p>Case Officer: Tara Lang</p> <p>Informal Hearing</p>	<p>Land South Of The Stables Newells Lane West Ashling West Sussex - Appeal against Enforcement Notice FU/71</p>
<p><u>18/00323/CONHI</u> Funtington Parish</p> <p>Case Officer: Sue Payne</p> <p>Written Representation</p>	<p>West Stoke Farm House Downs Road West Stoke Funtington Chichester West Sussex PO18 9BQ - Appeal against HH/22</p>
<p>* <u>19/00445/FUL</u> Funtington Parish</p> <p>Case Officer: Martin Mew</p> <p>Written Representation</p>	<p>Land South East Of Tower View Nursery West Ashling Road Hambrook Funtington West Sussex - Relocation of 2 no. existing travelling show people plots plus provision of hard standing for the storage and maintenance of equipment and machinery, 6 no. new pitches for gypsies and travellers including retention of hard standing.</p>

Reference/Procedure	Proposal
<p><u>20/00878/FUL</u> Funtington Parish</p> <p>Case Officer: Maria Tomlinson</p> <p>Written Representation</p>	<p>Stockers Farm Salthill Road Fishbourne PO19 3PY - Removal of existing storage containers and erection of 1 no. storage barn for storage purposes ancillary to the residential property.</p>
<p><u>19/01400/FUL</u> Loxwood Parish</p> <p>Case Officer: William Price</p> <p>Written Representation</p>	<p>Moore's Cottage Loxwood Road Alfold Bars Loxwood Billingshurst West Sussex RH14 0QS - Erection of a detached dwelling following demolition of free-standing garage.</p>
<p><u>19/02781/OUT</u> Loxwood Parish</p> <p>Case Officer: Jeremy Bushell</p> <p>Public Inquiry 03/11/2020 The Vicars Hall Cathedral Cloisters Chichester PO19 1PX</p>	<p>Land South Of Loxwood Farm Place High Street Loxwood West Sussex - The erection of up to 22 no. residential dwellings with all matters reserved, except for access (excluding internal estate roads).</p>
<p><u>19/00141/CONHH</u> Oving Parish</p> <p>Case Officer: Emma Kierans</p> <p>Written Representation</p>	<p>Oakham Farmhouse Church Lane Oving Chichester West Sussex PO20 2BT - Appeal against a fence in excess of 1 metre in height erected adjacent to the highway, subject to Enforcement Notice O/30.</p>
<p><u>17/00104/CONBC</u> Plaistow And Ifold Parish</p> <p>Case Officer: Sue Payne</p> <p>Written Representation</p>	<p>Burgau Barn Plaistow Road Ifold Loxwood Billingshurst West Sussex RH14 0TZ - Appeal against Enforcement Notice PS/68 and planning permission refusal for 18/01685/FUL. Linked to <u>18/01685/FUL</u></p>

Reference/Procedure	Proposal
<p><u>18/01685/FUL</u> Plaistow And Ifold Parish</p> <p>Case Officer: Martin Mew</p> <p>Written Representation</p>	<p>Burgau Barn Plaistow Road Ifold Loxwood RH14 0TZ - Retrospective single storey side extension. Linked to <u>17/00104/CONBC</u></p>
<p><u>20/00926/FUL</u> Plaistow And Ifold Parish</p> <p>Case Officer: Rebecca Perris</p> <p>Householder Appeal</p>	<p>Barton Farm The Forestry Road Plaistow RH14 0PA - Erection of replacement timber entrance gate.</p>
<p><u>20/00046/PA3Q</u> Sidlesham Parish</p> <p>Case Officer: William Price</p> <p>Written Representation</p>	<p>Land North Of 66 Street End Lane Sidlesham Chichester West Sussex PO20 7RG - Change of use of 2 no. agricultural buildings to 2 no. dwellings (Class C3).</p>
<p><u>19/01859/FUL</u> Southbourne Parish</p> <p>Case Officer: Calum Thomas</p> <p>Written Representation</p>	<p>Land Rear Of Mayfield Prinsted Lane Prinsted Southbourne PO10 8HS - 1 no. dwelling.</p>
<p><u>19/02691/FUL</u> Southbourne Parish</p> <p>Case Officer: Maria Tomlinson</p> <p>Written Representation</p>	<p>Thornham Products Thornham Lane Southbourne PO10 8DD - Retrospective grant of planning permission to station existing single mobile home on the land and to continue to use it for the applicant's place of residence. (Variation of condition 2 of permission SB/15/01837/FUL - Change of wording of the condition to enable the occupiers to remain on site under a personal permanent permission).</p>

Reference/Procedure	Proposal
<p><u>20/00541/DOM</u> Southbourne Parish</p> <p>Case Officer: Maria Tomlinson</p> <p>Householder Appeal</p>	<p>44 Bramley Gardens Southbourne PO10 8AN - Erection of fencing along side of garden to edge of drive to continue existing.</p>
<p>* <u>19/02365/FUL</u> Tangmere Parish</p> <p>Case Officer: Martin Mew</p> <p>Written Representation</p>	<p>Land To The West Of Hangar Drive Tangmere West Sussex - Erection of 6 no. flats with associated parking, bin and cycle store, landscaping and open space (consistent with scheme approved under 16/00444/FUL).</p>
<p><u>16/00251/CONBC</u> West Wittering Parish</p> <p>Case Officer: Steven Pattie</p> <p>Written Representation</p>	<p>Land East Of Brook House Pound Road West Wittering Chichester West Sussex PO20 8AJ - Appeal against breach of condition 2 to 13/02676/DOM - use of outbuilding subject to Enforcement Notice WW/49.</p>
<p>* <u>18/02708/DOM</u> West Wittering Parish</p> <p>Case Officer: Fjola Stevens</p> <p>Written Representation</p>	<p>Dolphins Rookwood Lane West Wittering Chichester West Sussex PO20 8QH - Proposed steps down through garden to a 1.5 metre long tunnel beneath public footpath rising through to another set of steps to the foreshore garden.</p>
<p>* <u>19/01622/FUL</u> West Wittering Parish</p> <p>Case Officer: Fjola Stevens</p> <p>Written Representation</p>	<p>Surbitonia 45 Howard Avenue West Wittering PO20 8EX - Demolition of an existing bungalow with a garage and erection of 2 no. replacement two storey dwellings with separate access and parking.</p>

Reference/Procedure	Proposal
<p><u>19/02136/FUL</u> West Wittering Parish</p> <p>Case Officer: Maria Tomlinson</p> <p>Written Representation</p>	<p>Land East Of Brook House Pound Road West Wittering Chichester West Sussex PO20 8AJ - Construction of 1 no. boat house with ground floor storage ancillary to first floor self-contained residential unit.</p>
<p><u>13/00163/CONWST</u> Westbourne Parish</p> <p>Case Officer: Shona Archer</p> <p>Public Inquiry 05/01/2021 Chichester City Council North Street Chichester PO19 1LQ</p>	<p>The Old Army Camp Cemetery Lane Woodmancote Westbourne West Sussex - Appeal against WE/40, WE/41 and WE/42</p>
<p><u>19/00117/CONMHC</u> Westbourne Parish</p> <p>Case Officer: Steven Pattie</p> <p>Informal Hearing</p>	<p>Land North Of The Grange Woodmancote Lane Woodmancote Emsworth Hampshire - Appeal against stationing of 2 mobile homes (see permission 19/00606/FUL) and subject to Enforcement Notice WE/47. Linked to <u>20/00237/FUL</u></p>
<p><u>20/00237/FUL</u> Westbourne Parish</p> <p>Case Officer: Calum Thomas</p> <p>Informal Hearing</p>	<p>Land North Of The Grange Woodmancote Lane Woodmancote Emsworth Hampshire - Erection of a polytunnel to house fish tanks for a hydroponic / aquaponic fish farm. Linked to <u>19/00117/CONMHC</u></p>
<p><u>20/00366/FUL</u> Westbourne Parish</p> <p>Case Officer: Maria Tomlinson</p> <p>Written Representation</p>	<p>Woodmancote Meadow Woodmancote Lane Westbourne West Sussex PO10 8RF - Erection of a 1 no. 3 bedroom dwelling.</p>

4. VARIATIONS TO SECTION 106 AGREEMENTS

None.

5. CALLED-IN APPLICATIONS

Reference	Proposal	Stage

6. COURT AND OTHER MATTERS

Injunctions		
Site	Breach	Stage
Land North West of Birdham Farm	Of 4 Enforcement Notices	Injunction Order made by the High Court on 5 August 2020. Some of the Defendants have applied for Permission to Appeal the Order. Legal Services is waiting for details. No court date given yet. Please note this is for Permission to Appeal not for the Appeal yet.

High Court Hearings		
Site	Matter	Stage
23 Southgate, Chichester (The Vestry)	Challenge to issue of planning permission dated 9 th December 2019	Virtual hearing held on 15 th September 2020. Judgement awaited.

Prosecutions		
Site	Breach	Stage
Land West of Newells Lane	Breach of Temporary Stop Notice	Court date obtained for 13 November 2020 at Brighton Magistrates' Court. Legal working with Department on evidence

7. POLICY MATTERS

South Downs National Park

Planning Committee

Report of the Director Of Planning and Environment Services

Schedule of Planning Appeals, Court and Policy Matters

Date between 19/08/20 and 21/09/20

This report updates Planning Committee members on current appeals and other matters. It would be of assistance if specific questions on individual cases could be directed to officers in advance of the meeting.

Note for public viewing via Chichester District Council web site To read each file in detail, including the full appeal decision when it is issued, click on the reference number (NB certain enforcement cases are not open for public inspection, but you will be able to see the key papers via the automatic link to the Planning Inspectorate).

* - Committee level decision.

1. NEW APPEALS

Reference/Procedure	Proposal
<p><u>SDNP/20/00335/PA16</u> Stoughton Parish Council Parish Case Officer: Derek Price Written Representation</p>	<p>Church Farm, Stoughton Dairy Wildham Lane Stoughton PO18 9JQ - Prior Notification for the erection of a 12.97m high mast with 3 antennas within a shroud, one 0.3m dish, to be painted Bitter Chocolate, together with equipment cabinets, satellite dish and ancillary apparatus. Linked to <u>SDNP/20/01881/PA16</u></p>
<p><u>SDNP/20/01881/PA16</u> Stoughton Parish Council Parish Case Officer: Derek Price Written Representation</p>	<p>Church Farm, Stoughton Dairy Wildham Lane Stoughton PO18 9JQ - Proposed mast, antennas and cabinets. Linked to <u>SDNP/20/00335/PA16</u></p>
<p><u>SDNP/20/01881/PA16</u> Stoughton Parish Council Parish Case Officer: Derek Price Written Representation</p>	<p>Church Farm, Stoughton Dairy Wildham Lane Stoughton PO18 9JQ - Proposed mast, antennas and cabinets. Linked to <u>SDNP/20/00335/PA16</u></p>

2. DECIDED

Reference/Procedure	Proposal
<p><u>SDNP/19/02832/FUL</u> Fernhurst Parish Council Parish</p> <p>Case Officer: Derek Price</p> <p>Written Representation</p>	<p>Baldwins Ropes Lane Fernhurst GU27 3JD - Reconstruction of the former stables and storage building to provide a single holiday let for tourist accommodation.</p>
<p>Appeal Decision: APPEAL DISMISSED</p>	
<p>The rural aesthetic, historic and architectural qualities form the defining characteristics and are of significance and value, and are of special interest to the Conservation Area. Despite the hardstanding and remnants of the former building, the appeal site has a distinct rural quality because of the lack of substantial development. On the rural quality of the existing site contributes positively to the character and appearance of the Conservation Area. The new development would occupy an exposed position adjacent to open fields where there has been an absence of the former building for some considerable time. It would introduce a new built form with a domestic appearance in a distinctly rural context. ... Although not an independent dwelling, the building's use for tourism would also result in domestic type use being apparent in and around the new building. This would take the form of light, noise, activity and paraphernalia around the building. The plans do show some hatching annotation on the windows facing the countryside, as well as on the front entrance doors of the building light would inevitably spill out into the surrounding area which would intrude into the dark night sky in this area. Furthermore, activity and noise would also upset the rural tranquillity of the area. It is an area where human background noise would be minimal due to its countryside location. Occupiers would generate noise in everyday use of accommodation which would be difficult to control. There would also be domestic paraphernalia, such as tables and chairs, barbeque areas, etc., which you would reasonably associate with a tourist use. The original building dated back to 1875 perhaps earlier, given its appearance the appellant's Heritage Statement (HS) states that the building always had a close association with the house, through the sharing of yards between them. However, the use of the building would be different in introducing an intrusive tourist development in place of a building in incidental or ancillary use. For these reasons, there would be no improvement to the setting of the listed building. The development from Ropes Lane would be largely screened by existing dense and well-established vegetation and trees. However, the lack of public visibility is not an overriding consideration as a Conservation Areas is an irreplaceable resource. There would be an area outside a farm gate on Tanyard Lane where new development would be visible and intrusive especially when deciduous vegetation has lost leaves. There would also be harm to character, a quality that is perceived as well as seen which would be evident from activity, noise and lighting. For all these reasons, the tourist use would fail to preserve the rural character and appearance of the Conservation Area. It is necessary that this identified harm is weighed against the public benefits of the proposal. However, the heritage asset benefit on the setting of Baldwins would be benign and the tourist benefits would be diminished</p>	

**Appeal Decision: APPEAL
DISMISSED - continued**

by reason of the proposal being small-scale. Benefits also have to be weighed against the adverse impact on the significance of the Conservation Area for which considerable importance and weight is attached. Thus, the harm to the significance of the Conservation Area would outweigh the scheme's benefits site's location within the SDNP, the proposal would not conserve and enhance the landscape and scenic beauty of the NP by reason of its domesticated impact, including lighting, activity and noise. The NPPF states great weight should be given to this consideration and that NPs have the highest status of protection. In conclusion, the proposal would harm the character and appearance of the area, including the Conservation Area as a whole and the SDNP. There are no material considerations to outweigh that finding. Therefore, for the reasons set out above, this appeal is dismissed.

SDNP/18/00733/COU
Tillington Parish Council Parish
Case Officer: Emma Kierans

Field South East of Beggars Corner Halfway Bridge
Lodsworth West Sussex - Appeal against erection of
stables and increased vehicular activity on the land,
subject to Enforcement Notice LD/16.

Written Representation

**Appeal Decision: APPEAL
DISMISSED**

“ The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended. ... I consider that the notice was properly served and in this case there is no harm to natural justice as the appellant has been aware of the notice and has been able to make an appeal. The appeal on ground (e) fails. ... Whether a structure is a building or not will be a consideration of a combination of the factors. In this case, I find that the potential movability of the structure is outweighed by its size and permanence and therefore it is a building not a movable structure. The appeal on ground (b) fails. ... I have found that it is not a movable structure, is on less than 5 hectares and not for use in agriculture and it therefore requires planning permission. The appeal on Ground (c) fails. ... It has an unacceptable impact and does not conserve landscape character. It does not accord with LP Policies SD1, SD4 and SD6 and is not sustainable development. ...”

Reference/Procedure	Proposal
<p data-bbox="164 230 512 331"><u>SDNP/19/01293/LDE</u> Heyshott Parish Council Parish</p> <p data-bbox="164 365 531 398">Case Officer: Derek Price</p> <p data-bbox="164 454 520 488">Written Representation</p>	<p data-bbox="643 230 1390 331">Northend House Polecats Heyshott GU29 0DD - Lawful Development Certificate for the retention and continued use of the existing driveway.</p>
Appeal Decision: SPLIT DECISION	
<p data-bbox="164 566 1390 1697">"Appeal A succeeds in part and permission for that part is granted, but otherwise the appeals fail and the enforcement notice is upheld in the terms set out below in the Formal Decision. ... The Appeal is Dismissed. ... As a result, as a matter of fact and degree the tarmac surfacing and granite setts comprise an engineering operation, such that they constitute development as defined by s55 of the Act. ... As that would be further works, it would add weight to my conclusion that the development comprises an engineering operation rather than maintenance or improvement, such that it constitutes development as defined by s55 of the Act. For these reasons, I conclude that planning permission is required for the surfacing of the access. ... I consider that, as a matter of fact and degree, in this case the brick piers and gates are not adjacent to the highway. ... I have to conclude that they did not benefit from the planning permission granted by the GPDO. ... For these reasons, I conclude that the appeals under ground (c) should fail. ... For these reasons, I conclude that the appeals under ground (d) should fail. ... As at the date of the application, the surfacing of the driveway was not lawful. That is an intrinsic part of the development. On that basis, I conclude that it would not be possible to alter the description of the development in such a form that I could issue a certificate. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of retention and continued use of the existing driveway was well-founded and that the appeal should fail. ... For the reasons set out above, I conclude that on balance the proposed development would not accord with the development plan. The development in its current position and form is therefore unacceptable. ... Consequently, I conclude that planning permission should be granted for the brick piers and gates that now exist on the site. For the reasons set out above, I conclude that, on balance, the brick piers and gates as currently constructed should be granted planning permission. The appeal on ground (a) therefore succeeds to that extent. ... As such, the requirements of the notice are not excessive in terms of restoring the land to its condition before the breach took place. ... With regard to the remainder of the development, however I conclude that the requirements of the notice do not exceed what is necessary in order to remedy the breach of planning control. As such, the appeal fails on ground (f). ... The appeal is allowed insofar as it relates to the land edged in red on the plan at Land at Northend House, Polecats, Heyshott, Midhurst, West Sussex GU29 0DD and the erection of brick piers and gates and planning permission is granted on the application deemed to have been made under s177(5) of the 1990 Act as amended. ... The appeal is dismissed and the enforcement notice is upheld. The appeals are dismissed."</p> <p data-bbox="164 1731 384 1765">Costs Decision</p> <p data-bbox="164 1776 1390 1986">"... The application for an award of costs is refused. ... Consequently, the Council's decisions were not unreasonable in this regard. ... As a result, the Council's behaviour was not unreasonable insofar as it relates to this. ... The enforcement notice did not require use of the access to cease. ... Given that I have concluded that the works did comprise development, I have to conclude that the decisions of the Council in relation to this LDC and the enforcement notice subject of appeals A and B were not unreasonable. ... Consequently, I have to conclude that the Council's decision to serve</p>	

**Appeal Decision: SPLIT DECISION
- continued**

an enforcement notice due to the effect of the development on the character of the area was not unreasonable. ... Consequently, I conclude that, whilst the appellants may not be satisfied that the Council met their expectations, the Council did not act unreasonably in this regard. For the reasons set out above, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and the application for an award of costs must fail."

<p><u>SDNP/19/01322/LDE</u> Heyshott Parish Council Parish</p> <p>Case Officer: Derek Price</p> <p>Written Representation</p>	<p>Northend House Polecats Heyshott GU29 0DD - Retention of existing gates and brick piers serving access to Northend House.</p>
<p>As above</p>	

3. CURRENT APPEALS

Reference/Procedure	Proposal
<p>* <u>SDNP/18/05093/LDE</u> Elsted and Treyford Parish Council Parish</p> <p>Case Officer: Charlotte Cranmer</p> <p>Informal Hearing</p>	<p>Buryfield Cottage Sheepwash Elsted Midhurst West Sussex GU29 0LA - Existing lawful development certificate for occupation of a dwellinghouse without complying with an agricultural occupancy condition.</p>
<p><u>SDNP/19/05107/FUL</u> Lynchmere Parish Council Parish</p> <p>Case Officer: Charlotte Cranmer</p> <p>Written Representation</p>	<p>Land at Farm Between Forest Mead and Stonefield Linchmere Haslemere Surrey - Demolition of 2 no. existing outbuildings and the erection 2 no. self-contained holiday lets with associated parking and gardens and ancillary store.</p>
<p><u>SDNP/19/04625/LIS</u> Petworth Town Council Parish</p> <p>Case Officer: Beverley Stubbington</p> <p>Written Representation</p>	<p>Riverbank High Street Petworth West Sussex GU28 0AU - Internal alterations including installation of dividing walls and sound/fire proofing party floors to facilitate change of use.</p>

Reference/Procedure	Proposal
<p><u>SDNP/19/03168/LIS</u> Harting Parish Council Parish</p> <p>Case Officer: Piotr Kulik</p> <p>Written Representation</p>	<p>Rooks Cottage North Lane South Harting GU31 5PZ - Replacement of 6 no. windows and 1 no. door on west elevation. Replacement of 1 no. door on adjacent single storey.</p>
<p><u>SDNP/19/04624/FUL</u> Petworth Town Council Parish</p> <p>Case Officer: Beverley Stubbington</p> <p>Written Representation</p>	<p>Riverbank High Street Petworth West Sussex GU28 0AU - Change of use of rear room currently used as retail store and first floor offices to residential to form a self-contained two bedroom flat. Soundproofing and fireproofing internal walls. Formation of WC at ground floor level.</p>
<p><u>SDNP/19/04507/FUL</u> Lavant Parish Council Parish</p> <p>Case Officer: Charlotte Cranmer</p> <p>Written Representation</p>	<p>Roughmere Lavant Road Lavant PO18 0BG - Demolition of double garage and shed, and replacement with 1 no. chalet bungalow.</p>
<p><u>SDNP/19/01956/HOUS</u> East Dean Parish Council Parish</p> <p>Case Officer: Derek Price</p> <p>Householder Appeal</p>	<p>1 Manor Farm Barns East Dean Lane East Dean PO18 0JA - Proposed side extension, relocation of 1 no. heritage style roof light , 2 no. new conservation type roof lights and 1 no. new painted timber double glazed window on west elevation.</p>
<p><u>SDNP/19/05938/HOUS</u> Lurgashall Parish Council Parish</p> <p>Case Officer: Jenna Shore</p> <p>Written Representation</p>	<p>Aldworth Farm Jobsons Lane Lurgashall GU27 3BY - Two storey rear extension to northern wing. Minor internal alterations and replacement fenestration to south west extended section and north east extended section. Amendments to planning permission SDNP/16/03556/FUL and listed building consent SDNP/16/03567/LIS.</p>

Reference/Procedure	Proposal
<u>SDNP/18/04604/FUL</u> Funtington Parish Council Parish Case Officer: Piotr Kulik Written Representation	The Coach House Southbrook Road West Ashling PO18 8DN - Replacement dwelling.
<u>SDNP/19/05939/LIS</u> Lurgashall Parish Council Parish Case Officer: Jenna Shore Written Representation	Aldworth Farm Jobsons Lane Lurgashall GU27 3BY - Two storey rear extension to northern wing. Minor internal alterations and replacement fenestration to south west extended section and north east extended section. Amendments to planning permission SDNP/16/03556/FUL and listed building consent SDNP/16/03567/LIS.

4. VARIATIONS TO SECTION 106 AGREEMENTS

5. CALLED-IN APPLICATIONS

Reference	Proposal	Stage

6. COURT AND OTHER MATTERS

Injunctions		
Site	Breach	Stage

Court Hearings		
Site	Matter	Stage

Prosecutions		
Site	Breach	Stage

7. POLICY MATTERS

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