

Parish: Chichester	Ward: Chichester North
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CC/98/02043/OUT

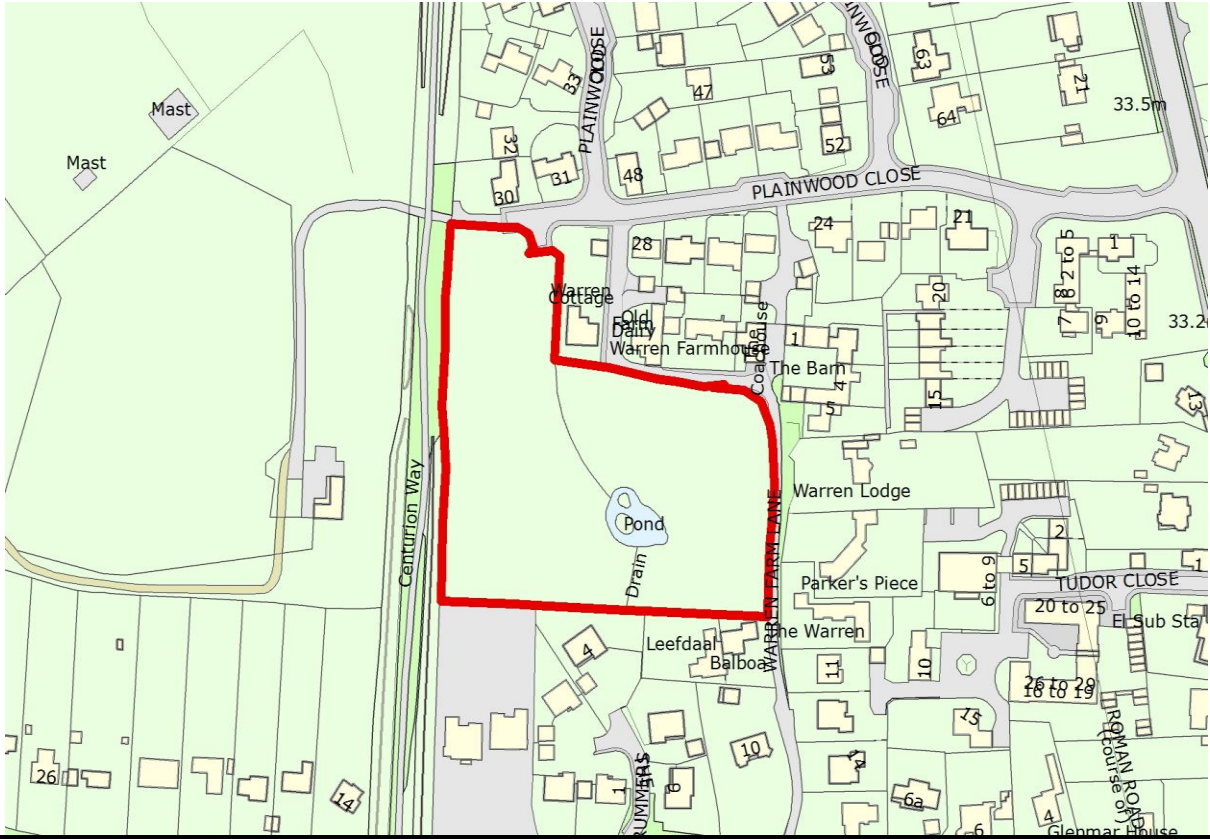

Proposal Outline application for the erection of 21 dwellings with associated vehicular access, parking and landscaping.

Site Warrendell Adjacent To Centurion Way Off Plainwood Close Chichester West Sussex

Map Ref (E) 485540 (N) 106850

Applicant D G Phillips (Bosham) Ltd

RECOMMENDATION TO DEFER FOR SECTION 106 THEN PERMIT. IF SECTION 106 NOT COMPLETE WITHIN 6 MONTHS OF RESOLUTION THEN DELEGATE TO OFFICERS TO REFUSE.

		
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1.0 Reason for Committee Referral

City Council Objection - Officer recommends Permit.

RED Card: Cllr T Dignum - major development, public interest, issues raised by residents.

2.0 The Site and Surroundings

2.1 Warrendell comprises a piece of vacant land extending to approximately 1.24 hectares located at the western end of Plainwood Close, adjoining the Centurion Way cycle path. The access to the site is from Plainwood Close (currently fenced and gated) but can also be gained from Warren Farm Lane which is an unsurfaced narrow access only single track leading north from Brandy Hole Lane. The site is adjoined by existing residential development on 3 sides. It has become heavily naturalised over the years through the lack of any routine maintenance and is characterised by significant areas of overgrown undergrowth and scrub, with self-set maple, ash and silver birch trees. There are significant levels changes across the site with a 3-4 metre deep depression in the centre of the site and a small, heavily silted pond. The depression appears to be natural in occurrence and is possibly a 'sink hole' caused by the solution of chalk below the surface gravels and soil of this area leading to the collapse of the surface layers into the void created. The west site boundary with Centurion Way is open but lined with mature trees variously comprising Holm Oak, Larch, Oak and Willow several of which are protected by a tree preservation order (TPO) dating back to 1971. At the southern end of this west boundary the site levels are some 2 metres higher than Centurion Way. The undulating site levels rise so that at the northern most point of the west site boundary they are approximately level with Centurion Way and Plainwood Close. On the east site boundary with Warren Lane, the site levels fall away steeply from the access track. Again there are a scattering of trees protected by a TPO on this part of the site. The south site boundary is defined by a combination of 1.8m high closeboard fencing backed by tall fir trees and weld metal mesh fencing with a yew tree hedge which forms the rear garden boundaries of those properties to the south. The site is in Environment Agency Flood Zone 1.

3.0 The Proposal

3.1 The application is for the erection of 21 dwellings (19 market and 2 affordable) and is submitted in outline form with all matters reserved. The submitted drawings are therefore for illustrative purposes and show vehicular access from Plainwood Close only. The illustrative drawings also show parking and landscaping and indicative section drawings. The proposed mix of accommodation is:

3 x 2 bed flats

2 x 2 bed houses

12 x 3 bed houses

1 x 3 bed flat

3 x 4 bed houses

A block of 4 flats is shown to the north-west of the pond within the centre part of the site. Two of the 3 x 2 bed flats within this block would be delivered as 50% discounted sale to people with a local connection. Whilst 'scale' is a reserved matter the submitted illustrative drawings show proposed dwellings between 2 and 2.5 storeys in height constructed with

elevations in a mix of brick, render, and tile hanging to the first floor with pitched tiled roofs.

The illustrative site plan drawing shows a site with access from Plainwood Close leading to a 5.5m wide internal road and serving a development of 21 dwellings which are positioned around the perimeter of the site with the pond retained in the centre. The suggested form of the dwellings comprise detached and linked dwellings.

- 3.2 The proposed development indicates provision for 55 no. car parking spaces on the basis of 3 spaces each for the 3 no. 4 bed dwellings, 2 spaces each for the 18 no. 2 and 3 bed dwellings as well as visitor spaces. Car parking is indicated as being provided through a combination of attached garages, carports, on-plot and courtyard parking and lay-by parking.
- 3.3 The illustrative plans show a large area of irregularly shaped public open space is to be provided on the north site boundary adjacent to Warren Farm Lane. The overall density of the development is approximately 17 dwellings per hectare.

4.0 History

91/00456/CC	ALLOW	Residential development comprising 3 no. four-bedroom houses; 14 no. three-bedroom houses and 4 no. flats.
94/00907/TPO	WDN	Works to be carried out on trees T15 to T35.
94/02028/TPO	PER	Lopping and topping, as required, to one Lime, one Larch, five Willows and seven evergreen Oaks. (See Schedule).
94/02393/FUL	PER	Conversion of disused railway to path and linear park for walkers and cyclists.
96/01805/FUL	PER	Traffic free path for pedestrians, cyclists and disabled.
97/00520/FUL	PER	Non-vehicular access to path for cyclists, pedestrians and disabled (Centurion Way).
11/00799/TPA	PER	Crown reduce by 20% on 1 no. Holm Oak (T32) and 1 no. Lime tree (T33). Both trees subject to CC/71/00225/TPO.

5.0 **Constraints**

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

6.0 **Representations and Consultations**

6.1 **City Council**

Following the submission of amended plans and discussions between the Planning Adviser and members of the Planning Delegation Sub-Committee it was RESOLVED to Object to the proposed development unless a pedestrian/cycle access is provided from Plainwood Close to Centurion Way in the interests of promoting a sustainable development.

6.2 **Chichester Harbour Conservancy**

No objection, subject to securing S.106 SRMP payments prior to the commencement of development and delivery of sewage connecting pipe improvements to Apuldram WwTW prior to first occupation of any dwelling. Whilst having no impact to the setting of the AONB, the Conservancy is now pleased that issues of recreational disturbance are to be addressed by a S.106 contribution through the SRMP. In principle, the agent also commits the applicant to upgrading pipework between the site and the Apuldram WwTW, where adequate capacity appears to exist. The Conservancy would hope that being largely off-site, the Council would secure those works prior to first occupation of any dwelling as a clause to the S.106 to ensure wastewater from the development would be adequately treated, before discharge into Chichester Harbour. The Conservancy is pleased to see that a pond is to form part of the design and that a common open space is being provided, which would give some alternatives to dog walkers visiting the Chichester Harbour shoreline.

6.3 **Environment Agency**

We have no comments to make on this application. Note the intention of the proposal to go to the main sewer. Note also the finite capacity of Apuldram WwTW. Council needs to ensure that this development fits with its wastewater position statement.

6.4 Southern Water

Following initial investigations, Southern Water cannot accommodate the needs of this application without the development providing additional local infrastructure. The proposed development would increase flows into the wastewater sewerage system. S.98 of the Water Industry Act 1991 provides the legal mechanism through which the appropriate infrastructure can be requested by the developer to accommodate the proposal.

6.5 Natural England

Site is within 5.6 km of Chichester and Langstone Harbours SPA and will lead to a net increase in residential accommodation. Subject to a financial contribution as required by Council policy, Natural England is satisfied that the applicant has mitigated against the potential adverse impacts of the development on the integrity of the European sites and has no objection to this aspect of the application.

6.6 Sussex Police

Design and layout is outwards facing which has all but eliminated the need for vulnerable rear garden pathways. Various recommendations made for gates, fencing details and overlooking of parking areas, cycle sheds.

[Planning Officer Comment: Police comments based on the illustrative layout which is subject to detailed design as part of subsequent reserved matters application.]

6.7 WSCC - Highways

Previous responses to the 1998 application raised no objection. No objection in principle to the amendments with this application.

Conditions recommended regarding visibility, access road, parking and turning, garages for parking only, construction management plan, cycle parking, preventing surface water draining onto highway. There is no longer a S.106 requirement for a pedestrian/cycle link from site onto Centurion Way.

[Planning Officer Comment: Correspondence from WSCC legal services in 2011 confirmed that the previous S.106 requirement for a cycle link to Centurion Way was being dropped by WSCC. This was due to the engineering difficulties achieving a link because of the difference in site levels and the potential for the loss of significant trees on the west site boundary as a consequence.]

6.8 WSCC - Flood Risk Management

No objection. Conditional approach recommended regarding detailed surface water drainage designs based on sustainable development principles, plus details of the management and maintenance of the SuDS.

6.9 CDC - Housing Enabling Officer

Chichester has a very high affordable housing need of affordable housing of all sizes. The full 30% (6 units) is required plus a commuted sum for 0.3 of a unit. Mix shows a slight divergence from SHMA recommendations in terms of the 2 and 3 bed mix but is considered acceptable.

The 2 x 2 bed flats are to be provided as 50% discounted sale to people with a local connection. Four rented units have already been provided off site some years ago and with payment of the commuted sum the affordable housing requirements will have been met.

6.10 CDC - Archaeology Officer

The general archaeological interest at this site comes from its proximity to the Chichester Entrenchment and the line of the Roman road north from Chichester. A site of this size in a location with this sort of potential should be trial trenched prior to development in order to identify deposits of significance that might be present. This is so that suitable measures might then be employed to enable proper conservation (i.e. through sympathetic foundation design, full excavation and recording and/or preservation in-situ). Condition recommended regarding archaeological investigation.

6.11 CDC - Environmental Strategy Officer

Buffer strip to be provided around boundary hedgerows during construction. Gaps should be infilled in hedgerows. Tree surgery to be undertaken with care as trees have potential for bats. Any lighting kept to a minimum to avoid disturbing bats. Moderate reptile population on site. The mitigation proposed is acceptable and can be conditioned. No works to take place until reptile translocation has taken place. No Great Crested Newts found on site but excellent habitat with confirmed populations in surrounding area. Pond is to be retained and enhanced and mitigation includes inclusion of areas of rough grassland and a wildflower meadow to provide terrestrial habitat for GCN, such areas to be included in landscaping for the site and designed by suitably qualified ecologist. Works to trees outside of the nesting season. Development requires contribution for recreational disturbance of birds in terms of impact on Solent Maritime SAC (which includes Chichester Harbour SPA).

6.12 CDC - Environmental Health Officer

Given the past land uses at the site (farmland, adjacent to small quarry, stockpiling of materials in connection with nearby landfill to west) standard land contamination conditions should be applied as there could be localised land contamination on parts of the site.

6.13 CDC - Drainage Engineer

The developer should be aware of, and consider that, there is historic information suggesting that there may be springs in the area. There is a pond with associated water courses on the site which will need to be retained. Having visited the site it is unclear whether the pond is fed and/or drains to other points off site, again the developer will need to establish if and/or how this pond is fed and drains. Condition recommended saying that development shall not commence until full details of the proposed surface water drainage scheme have been submitted to and been approved in writing by the Local Planning Authority. Scheme should be based on SuDS with any infiltration design to be supported by winter groundwater monitoring and percolation testing.

6.14 CDC - Parks and Green Spaces Officer

The scheme proposed includes suitable open space.

[Planning Officer Comment: The Council's Local Plan Open Space Calculator generates a requirement for 240 sqm of on-site amenity open space for a development of this size. The illustrative site plan shows how this could be provided. There is no requirement for equipped play space, parks or sports pitches, semi-natural greenspace or allotments]

6.15 39 Third Party Objections

The 39 letters/emails are from a total of 15 contributors, several of whom have written in several times during the course of the Full application and now, in its amended form as an Outline application.

Overdevelopment of the site.

Harmful impact on neighbour amenity, overlooking.

Harmful impact on wildlife and ecology of site - bats and Great Crested Newts.

Site should not be built on as it has become a beautiful unspoilt wildlife haven.

Does not provide the required cyclelink to Centurion Way which is an essential green link and to stop use of unsuitable Warren Farm Lane.

Changing from a Full application to an Outline is a tactical attempt to avoid issues and deficiencies with the 1998 submission leaving it all to hide behind reserved matters.

Plans are out of date and inaccurate and cannot be relied upon. Do not show all surrounding properties.

Object to removal of existing woodland.

No foul water pumping station shown.

Unacceptable noise likely from piled foundations.

Surface water drainage issues.

Will result in too much extra traffic using Plainwood Close.

7.0 Planning Policy

The Development Plan

- 7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029 and all made neighbourhood plans. There is no made neighbourhood plan for Chichester.
- 7.2 The principal planning policies relevant to the consideration of this application are as follows:

Policy 1: Presumption in Favour of Sustainable Development

Policy 2: Development Strategy and Settlement Hierarchy

Policy 4: Housing Provision

Policy 5: Parish Housing Sites

Policy 8: Transport and Accessibility

Policy 9: Development and Infrastructure Provision

Policy 10: Chichester City Development Principles

Policy 12: Water Resources in the Apuldram Wastewater Treatment Catchment

Policy 33: New Residential Development

Policy 34: Affordable Housing

Policy 39: Transport, Accessibility and Parking

Policy 40: Sustainable Design and Construction

Policy 42: Flood Risk and Water Management

Policy 48: Natural Environment

Policy 49: Biodiversity

Policy 50: Development and Disturbance of Birds in Chichester and Langstone Harbours
Special Protection Areas

Policy 54: Open Space, Sport and Recreation

National Policy and Guidance

- 7.3 Government planning policy now comprises the National Planning Policy Framework (NPPF), paragraph 14 of which states:

At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking:

For decision-taking this means unless material considerations indicate otherwise:

*- Approving development proposals that accord with the development plan without delay;
and*

- Where the development plan is absent, silent or relevant policies are out-of-date, granting planning permission unless any adverse impacts of doing so would significantly or demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in (the) Framework indicate development should be restricted.

- 7.4 Consideration should also be given to paragraph 17 (Core Planning Principles), section 6 (Delivering a wide choice of high quality homes), section 7 (Requiring good design) and paragraphs 109 and 118 (Conserving the natural environment).

7.5 The government's New Homes Bonus (NHB) which was set up in response to historically low levels of housebuilding, aims to reward local authorities who grant planning permissions for new housing. Through the NHB the government will match the additional council tax raised by each council for each new house built for each of the six years after that house is built. As a result, councils will receive an automatic, six-year, 100 per cent increase in the amount of revenue derived from each new house built in their area. It follows that by allowing more homes to be built in their area local councils will receive more money to pay for the increased services that will be required, to hold down council tax. The NHB is intended to be an incentive for local government and local people, to encourage rather than resist, new housing of types and in places that are sensitive to local concerns and with which local communities are, therefore, content. Section 143 of the Localism Act which amends S.70 of the Town and Country Planning Act makes certain financial considerations such as the NHB, material considerations in the determination of planning applications for new housing. The amount of weight to be attached to the NHB will be at the discretion of the decision taker when carrying out the final balancing exercise along with the other material considerations relevant to that application.

Other Local Policy and Guidance

7.6 The following Supplementary Planning Documents are material to the determination of this planning application:

Planning Obligations and Affordable Housing SPD
Surface Water and Foul Drainage SPD

7.7 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
- Maintain the low levels of crime in the district in the light of reducing resources
- Support communities to meet their own housing needs
- 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

Background

8.1 The circumstances behind this application are wholly unusual. The application was originally submitted in 1998 as a renewal of a 1993 planning application which was refused by the Council but allowed on appeal (CC/426/91). The significance of the decision of the Planning Inspectorate was to effectively establish the principle going forward of some housing development being acceptable on the site. The planning application was reported to the Committee in December 1998, and the committee agreed the officer recommendation to permit it subject to the applicant entering into a Section 106

agreement for (1) Retention of the existing pond (2) Provision of Affordable Housing on the site and (3) a cycleway link to Centurion Way. The first draft of the S.106 was provided for the applicant's attention in March 2000. All delays incurred thereafter until February 2006 were due to the applicant's refusal to provide affordable housing on the site in accordance with the Council's resolution or to provide the cycleway link.

- 8.2 In 2006 the Council accepted that the part provision of affordable housing for the development could be achieved off-site by delivering 4 units on other land within the applicant's control. These affordable units have been subsequently provided at York Road in Chichester (the development at Siggs Court), although 2 further units are still required on the application site together with a commuted sum for the remaining balance.
- 8.3 The applicant's solicitors wrote to the Council in 2007 saying they were unhappy with the cycleway link clause. Negotiations between the applicant and West Sussex County Council as the Local Highway Authority were not concluded on this issue and it became clear that an impasse had been reached. In February 2008 with the S.106 still unsigned the Council communicated to the applicant that the application would need to be referred back to committee because of changes in planning policy and because new factors had arisen since the Committee's original resolution 10 years earlier. This was subsequently repeated in letters to the applicant in April and June 2009, February and November 2010 and in May 2011. The applicant was repeatedly invited to withdraw the 1998 application in order to amend the proposal in accordance with current planning policy considerations and then to re-apply but was not willing to. The Council attempted to 'formally dispose' of the application in late 2008 because of the lack of progress and passage of time. The applicant formally requested that the Council re-open the planning file in response to this. Further protracted delays followed this with WSCC trying to resolve the cycleway link. The applicant responded with litigation in 2011 and a formal complaint to the Council. At the applicant's request the application was subsequently held in abeyance. Throughout 2012 the applicant maintained the request to the Council that the application should continue to be held in abeyance.
- 8.4 On receipt of Counsel's opinion the applicant advised the Council in August 2012 that a further planning/design statement was being prepared for submission to support the extant application. This was received in October 2012. In November 2012 the Council advised the applicant that officers would need to formally reassess the application in the light of up-to-date national and local planning policy and where necessary carry out consultations. In 2013 a full round of new consultations on the application was carried out as well as publicity and neighbour notification. The responses to the consultations revealed deficiencies in the 1998 scheme by today's standards and a requirement to expand the range of S.106 obligations/contributions originally agreed in 1998 to include those matters in the Council's Supplementary Planning Guidance (SPG) on Infrastructure in force at that time. The applicant maintained that the viability of the scheme was called into question with the additional contributions required by the SPG and that the inclusion of 4 affordable units on site in particular, which reflected the 40% policy requirement at that time (accepting the 4 no. units already delivered at York Road in addition to this) was not possible.

8.5 Negotiations on the revised content of the S.106 continued throughout 2014 and 2015. In July 2015 with adoption of the Local Plan the affordable housing requirement changed to 30% meaning that 2 no. affordable units (rather than 4) now needed to be provided on site. In February 2016 the Council adopted CIL which meant that a further adjustment of the anticipated S.106 obligations was required. A further round of consultations and further publicity was carried out in August 2016. In a move to bring this longstanding application to a conclusion but also reflecting concerns from officers (and some of the third party objectors) regarding the overall accuracy of the freehand drawings submitted in 1998, the applicant's agent has confirmed that the form of the application was now to be changed from an application for full planning permission to an application for outline planning permission with all matters reserved. Full publicity with neighbour notification, site notice and newspaper advertisement has been given to the changed form of the application. Officers are now satisfied that the application albeit in modified form is acceptable to represent to the Committee for re-consideration.

Assessment

The issues considered in the remaining body of the report discuss the following:

- procedural matters and the principle of development in this location,
- impact on neighbour amenity,
- character and appearance of the area,
- ecology,
- site levels,
- drainage and
- highways/access issues.

Procedural matters and principle of development

- 8.6 Notwithstanding the resolution of the Council's Area Development Control Committee (South) on 21st December 1998 to permit the original full application subject to the signing of a S.106 agreement, members of the Planning Committee are now being asked to re-consider that resolution in light of the passage of time and the change from a full to an outline application with a new schedule of planning conditions and a refreshed S.106 agreement, updated to take account of current affordable housing and infrastructure requirements as well as CIL.
- 8.7 Fundamentally officers consider that the changes in circumstances since 1998 are not so material as to warrant a different recommendation being made to the Committee today. Crucially in this respect the application site remains within the settlement boundary for Chichester wherein there remains a presumption in favour of permitting applications for new housing development. The site itself remains in an overgrown and unkempt state, more so given the passage of time since 1998 with extensive areas of bramble and nettles and maturing self-set maple, ash and silver birch trees. Around the periphery of the site there has also been some new housing development with new dwellings at Balboa and The Warren off Warren Farm Lane, 1-6 The Rummors plus Oak House and Brandy Hole House on Brandy Hole Lane. However, the leafy sylvan nature of this part of Chichester has been carefully retained as part of those developments and officers are of the opinion that the low density housing proposed for Warrendell will equally enable delivery of a development within a similar sylvan setting.

Neighbour amenity

- 8.8 The close proximity of the adjacent new dwelling at 4 The Rummors (built 2005) which at its closest point is approximately 6 metres off the site's south boundary is acknowledged as a changed off-site circumstance. Although it is set at an oblique angle to the boundary with Warrendell, the layout and boundary screening of the proposed housing when considered as part of the reserved matters application will be given careful consideration in order to protect established amenities. The properties at Leafdaal and Balboa are set at a similar distance off this boundary and similar care will be required. In terms of the overall impact of the proposed development upon the amenities of existing properties, it is considered that the setback, orientation and window positions of the 21 new dwellings can be satisfactorily controlled as part of the detailed design work submitted with the reserved matters.

Character and appearance

- 8.9 Although on the western edge of Chichester, the site is not visible in the wider landscape being screened from all but close views by the mature trees and vegetation lining Centurion Way. Development of the site will repeat the existing established pattern of housing seen to the south of the site at the Broyle estate with the housing physically contained by Centurion Way. The only other views of the development would be from Plainwood Close to the north from where vehicular access would be obtained and from Warren Farm Lane which provides an unmade access-only route for the scatter of dwellings it serves off Brandy Hole Lane. Details of the appearance of the buildings and the landscaping proposals for the site will be resolved through the subsequent submission of reserved matters.

Ecology

- 8.10 Third party objections to the proposals have drawn attention inter alia to the site's increasing value as a wildlife haven, arguing that it has now naturalised to such an extent that it is no longer appropriate to be developed for housing. The Council's ecologists have assessed the site which is privately owned land, not open to the public and the consultation comments are reported at paragraph 6.11.

Whilst a moderate slow worm population has been found on the site no objection is raised to this being translocated to an alternative suitable receptor site and a planning condition is attached to the recommendation to permit the development in this regard. No evidence of Great Crested Newts (GCN) has been found on the site but given the existence of the pond, and confirmed populations of GCN's in the surrounding area, the site does have the potential to offer a suitable habitat. There is no suggestion or requirement arising from the Council's ecology assessment that the site should no longer be developed. Indeed with an appropriate programme of mitigation including the required retention and enhancement of the pond and inclusion of areas of rough grassland and a wildflower meadow to provide terrestrial habitat for GCN, designed by a suitably qualified ecologist, it is considered that a currently overgrown site with a heavily silted up pond, which is off-limits to the public could be re-developed and provide an improved wildlife contribution for wider appreciation. It is proposed that the management and maintenance of the pond be included within the estate management responsibilities in the section 106 agreement in the event that outline planning permission is granted

8.11 Officers are satisfied that the ecological issues the development raises including those relating to the roosting and foraging requirements of bats and the retention and protection during construction of TPO trees on the site, can be successfully managed by a combination of planning conditions and the section 106 agreement. Officers have considered the possibility of retaining the site for ecological purposes but have necessarily had to balance this against the benefits of the site delivering 21 new homes of which 2 will be low cost affordable homes for people with a local connection. In terms of the planning balance, a 'do-nothing' approach to the site is considered to be outweighed by the benefits of the current proposals and a planning history which anticipates new housing on this site. The provision of new housing will help contribute towards the Council continuing to meet its 5 year housing land supply requirement within the established settlement boundary for Chichester, without the need to look for alternative greenfield sites outside that boundary. The site post construction will continue to have an important ecological value with the retention of the pond and through the reserved matters the layout of the new dwellings can be controlled so as to ensure that the most valuable trees are retained.

Levels

8.12 The current landform on the site essentially comprises a dish, steeply sided to the east with a pond located towards the centre. The levels vary significantly across the site and the illustrative section drawings submitted with the application which were accepted by the Committee when it resolved to permit the development in 1989 show how a development of 21 homes might be laid out. These show houses which have been designed to take advantage of the existing land profile rather than attempting to alter it. For instance, on the east site boundary with Warren Farm Lane, split-level housing is proposed which would give the appearance of a single storey dwelling when viewed from Warren Farm Lane. The applicant has confirmed that there are no proposals to bring in spoil to level off the site but rather to work with the prevailing landform. Whilst indicative section drawings have been submitted with the application, officers will require detailed section drawings to be submitted and approved prior to any development commencing on the site to show how the development is to be set into the ground. Significant alteration to the land levels would not be acceptable given the potential to impact on the existing site ecology, influence the pathways for surface water drainage on the site, and thus potentially increasing off-site run off.

Drainage

8.13 In terms of the site drainage, the consultation response from the Council's Drainage Officer has requested that a condition be imposed requiring winter groundwater monitoring be carried out to inform the surface water drainage strategy which shall be via SuDS. Details of the surface water drainage are to be required by condition but shall ensure that the development does not exacerbate existing off-site run off. In terms of foul water drainage, the site will drain to Apuldram Wastewater Treatment Works where capacity has been retained for the development as an already committed housing development in the Council's Wastewater Position Statement (i.e. as a site with a previous Council resolution to permit the application (subject to a s106)). Given the lower levels of

the site it is anticipated that the development will require an on-site pumping station in order to communicate with the adopted sewers in Plainwood Close. The comments from Southern Water confirm that the developer will be required to carry out infrastructure improvements to the existing network to accommodate the new foul flows generated by the development. These will be secured through a separate agreement with Southern Water under section 98 of the Water Industry Act 1991. A condition is attached to the recommendation requiring approval of the foul drainage details.

Highways and access

- 8.14 No objection to the development is raised by WSCC as the local highway authority subject to conditions as set out in the report regarding visibility, width of the internal access road (5.5m), parking and turning, garages where provided for parking only, a construction management plan, cycle parking and preventing surface water draining onto the highway. The Committee will note that the previous s.106 requirement by WSCC to include a pedestrian/cycle link to Centurion Way as part of this development is no longer being pursued by WSCC. WSCC legal services confirmed in correspondence to the Council in August 2011 that it was no longer pursuing the link to Centurion Way and that the applicant's solicitor had been advised of that position. Whilst there is an existing gated 'at grade' access to Centurion Way from the west end of Plainwood Close this is outside of the application site and has not been made available. The other options for a link on the west site boundary are considered to present a far from ideal situation because of the level difference between the development site and Centurion Way. Notwithstanding the objection to the application by the City Council on this sole point, the level changes between the site and Centurion Way and the degree of engineering necessary to achieve the cycleway are now deemed to outweigh the benefit and are likely to prejudice the root protection areas of the TPO trees on the west site boundary.
- 8.15 It is considered that when looking carefully again at the quantum of development proposed, the mix of housing, the open space and parking provision and assessing them against current policy level requirements that all are capable of being provided at an acceptable density which preserves the character of this part of Summersdale.

Significant Conditions

- 8.16 The application is submitted in outline with all matters reserved. Notwithstanding this, officers consider that conditions are necessary restricting the scale of new housing to no more than 2.5 storeys to ensure that the development is not out of keeping with the established scale of surrounding dwellings. Pre-commencement conditions will require section drawings through the site showing how the buildings are to be set into the existing landform and details of the foul drainage and surface water drainage strategy based on SuDS and informed by groundwater monitoring. Vehicular access is to be from Plainwood Close only given the unsuitable nature of Warren Farm Lane as an access to the site.

Section 106 Agreement

8.17 This development is liable to pay the Council's CIL charge. In addition there are certain site specific matters which will form part of a section 106 agreement. The proposed heads of terms for that agreement which the applicant has agreed to are:

- 30% affordable housing so 6.3 units in total for the development. With the Council's permission, 4 dwellings for rent have already been provided off-site at York Road, Chichester by Affinity Sutton (Downland Housing) in lieu of part of the affordable housing obligation at Warrendell. These 4 homes have now been occupied for about 11 years. The remaining balance of 2 no. dwellings are to be provided as low cost affordable homes for sale on the site at not more than 50% of market value as 2 bed flats.
- An affordable housing commuted sum contribution based on the 0.3 as the outstanding balance and calculated according to the formula in the Council's Planning Obligations and Affordable Housing SPD.
- A contribution for recreational disturbance mitigation (wardening) at Chichester Harbour SPA in accordance with CDC Local Plan policy 50 = £3,801 (£181 x 21).
- Open Space - on site provision of a minimum of 240 sqm, management and future maintenance including retention of the wildlife pond and a detailed ecological regime for the pond area.
- SuDS - on site provision, management and future maintenance.

Conclusion

8.18 The circumstances applicable to this application are unprecedented in terms of the longevity of the application remaining undetermined, despite repeated attempts by officers to have it withdrawn. The reframed proposal as an outline application is finally considered to unlock the impasse. The planning position is that the site remains in the settlement boundary for Chichester wherein there remains, as there was in 1998, a presumption in favour of proposals for new housing development. The principle of new housing development on this site is therefore acceptable. The site circumstances have varied since 1998 in as much as the site has become more vegetated and overgrown and a number of new dwellings have been erected around the site perimeter as detailed in the report. Officers having reassessed this in terms of the planning policy position today conclude that no different an outcome should be reached now than the Committee came to in 1998. The proposed development at Warrendell is at a low density - approximately 17 dwellings per hectare. This ensures that a development can be accommodated on the site whilst allowing for retention of the existing pond and the TPO trees.

The bigger picture is that it is crucial for the Council to demonstrate that it can continue to provide new housing to meet the 5 year housing land supply requirement imposed via the NPPF and this weighs heavy in the final planning balance exercise. Warrendell is one of a limited number of remaining sites of this size within the settlement of Chichester that can accommodate a development of 21 dwellings and can thus help towards delivering that requirement. The Committee is therefore recommended to approve the application with the upgraded conditions schedule and subject to the Section 106 agreement. Given

however that this position has been reached before without the required s106 agreement being completed, the Committee is asked to delegate authority to officers to refuse permission in the event that the S.106 agreement is not completed within 6 months of the Council resolution on the grounds that the affordable housing and other infrastructure outlined in paragraph 8.17 above has not been secured.

Human Rights

8.19 In reaching this conclusion the Human Rights of the applicants and nearby occupiers have been taken into account when reaching this recommendation and it is concluded that the recommendation to permit is justified and proportionate.

RECOMMENDATION

DEFER FOR SECTION 106 THEN PERMIT. IF SECTION 106 NOT COMPLETE WITHIN 6 MONTHS OF RESOLUTION THEN DELEGATE TO OFFICERS TO REFUSE

The recommendation is subject to the following conditions and informatives:-

1) (i) Approval of the details of the layout of the site, the scale of the building(s), the appearance of the building(s) or place, the means of access 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 details of the layout of the site, the scale of the building(s), the appearance of the building(s) or place, the means of access 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 three years from the date of this permission.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 and to ensure that the full details of the development are approved at the appropriate stage in the development process.

2) The development hereby permitted shall be begun before the expiration of two 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.

3) The development hereby permitted shall not be carried out other than in accordance with the approved plans: Location Plan at 1:1250 and Site Plan at 1:500 both showing ILLUSTRATIVE ONLY layouts.

(The application is additionally accompanied by a suite of ILLUSTRATIVE ONLY elevations, floor plans and section drawings.)

Reason: For the avoidance of doubt and to ensure the development complies with the planning permission.

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

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

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** on site until plans of the site showing details of any earthworks have been submitted to and been approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing and retained trees and vegetation and the surrounding landform. 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.

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 the discharge of any flows to a watercourse has been approved in writing by the Local Planning Authority, in consultation with the Lead Local Flood Authority (WSCC). Any discharge to a watercourse must be at a rate no greater than the predevelopment run off rates. The approved discharge rates must be adhered to.

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.

9) Notwithstanding any details submitted, **no development shall commence** until details of a system of foul drainage of the site have been submitted to, and approved in writing by the Local Planning Authority. Any variance in the approved details must be agreed in writing with the Local Planning Authority prior to the commencement of any development in relation to the foul drainage of the site.

Thereafter all development shall be undertaken in accordance with the approved details and no occupation of any of the development shall take place until the approved works have been completed. The foul drainage system shall be retained as approved thereafter.

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.

10) **No development shall commence** until the arrangements for the future access and maintenance of any watercourse or culvert (piped watercourse) crossing or abutting the phase has been submitted to and approved in writing by the Local Planning Authority. No construction is permitted, which will restrict current and future landowners from undertaking their riparian maintenance responsibilities of any watercourse on or adjacent to the site. The access and maintenance arrangements shall be implemented as approved.

Reason: To ensure that the duties and responsibilities, as required under the Land Drainage Act 1991, and amended by the Flood and Water Management Act 2010, can be fulfilled without additional impediment following the development completion. The details are required pre-commencement these details relate to the construction of the development and thus go to the heart of the planning permission.

11) **No development shall commence** until such time as temporary arrangements for access for construction traffic has been provided in accordance with plans and details that shall first have been submitted to and approved in writing by the Local Planning Authority. The temporary access arrangements shall thereafter be retained as permitted during the course of construction, unless any variation is first agreed in writing by the Local Planning Authority.

Reason: To ensure safe and satisfactory means of vehicular access to the site during construction. It is considered necessary for this to be a pre-commencement condition as these details may be influenced by the program for the build and therefore need to be agreed prior to the construction of the development and thus go to the heart of the planning permission.

12) An archaeological investigation of the site shall be carried out in accordance with a specification to be submitted to and agreed by the Local Planning Authority in writing **before the commencement of any building works**. The specification shall include proposals for an initial trial investigation and for mitigation of damage through development to deposits of importance thus identified. The investigation shall be undertaken by an appropriately qualified archaeologist, and shall include the recording of findings and subsequent publication of results.

Reason: This site potentially contains deposits of archaeological significance and it is important that any such be identified and preserved from destruction by development.

13) **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.

14) If the Phase 1 report submitted 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.

15) No development shall commence until;

- i) an assessment of the risks posed by any ground gases and/or vapours has been submitted in writing to and approved in writing by the local planning authority. Such an assessment shall be carried out in accordance with relevant guidance, and
- ii) Where the approved risk assessment identifies ground gases or vapours posing unacceptable risks, no development shall begin until a detailed scheme to protect the development from the effects of such contamination has been submitted in writing to and approved in writing by the local planning authority.

Thereafter, unless otherwise agreed in writing with the local planning authority, the approved scheme shall be implemented and a verification report submitted in writing to and approved in writing by the local planning authority, before the development is first occupied/brought into use.

Reason: The site is located in an area with the potential to be affected by ground gases and vapours and therefore compliance with local and national policy must be ensured.

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

Reason: In the interests of protecting the amenities of neighbouring properties and the wider area. 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

17) No development shall commence on site until protective fencing has been erected around all trees protected by a Tree Preservation Order, shrubs, boundary hedging and other natural features not scheduled for removal in accordance with the recommendations of BS5837:2012. Thereafter the protective fencing shall be retained for the duration of the works, 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.

18) **No development shall commence** until a Landscape and Ecological Management Plan (LEMP) setting out measures to ensure the delivery and long term management of open spaces, including the retained wildlife pond and areas of ecological value, has been submitted to and been approved in writing, by the Local Planning Authority. The development shall be carried out in accordance with the measures included in the LEMP, including timing and phasing arrangements, unless otherwise agreed in writing, by the Local Planning Authority.

Reason: This condition is necessary to ensure the protection of wildlife and supporting habitat and secure opportunities for enhancement of the nature conservation value of the site in line with national planning policy.

19) **No development shall commence** unless and until a program for the implementation of the reptile mitigation strategy as set out in the submitted Reptile Population Class Assessment Survey Report (July 2016) by Lizard Landscape Design has been submitted to and approved in writing by the Local Planning Authority. Thereafter the strategy shall be implemented fully in accordance with the approved details.

Reason: To ensure that the protection of the species is fully taken into account during the construction process in order to ensure the development will not be detrimental to the maintenance of the species. 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.

20) **No development shall commence** until a strategy outlining details of the sustainable design and construction for all new buildings, including water use, building for life standards, sustainable building techniques and technology and energy consumption maximising renewable resources has been submitted to and approved in writing by the Local Planning Authority. This strategy shall reflect the objectives in Policy 40 of the Chichester Local Plan: Key Policies 2014-2029. The approved strategy shall be implemented as approved unless any variation is agreed in writing by the Local Planning Authority.

Reason: To minimise the impact of the development upon climate change. These details need to be agreed prior to the construction of the development and thus go to the heart of the planning permission.

21) **No development shall commence** until 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) have been submitted to and 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 site during works. The development will thereafter proceed only in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development benefits from appropriate infrastructure. This is required prior to commencement to ensure all appropriate infrastructure is installed at the groundworks stage.

22) **No development shall commence** until details showing the approximate location of 1 fire hydrants (or such number as may be required in accordance with West Sussex Fire and Rescue Guidance Notes) have been submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Services.

Prior to the first occupation of any dwelling, details showing the precise location, installation and ongoing maintenance of the fire hydrants to be supplied (in accordance with the West Sussex Fire and Rescue Guidance Notes) shall be submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Services. The fire hydrant(s) shall thereafter be maintained as in accordance with the approved details.

Reason: In the interests of amenity and in accordance with The F&RS Act 2004.

23) **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 on-going 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.

24) **No part of the development hereby permitted shall be first occupied** until covered and secure cycle parking spaces have been provided in accordance with plans and details that shall first have been submitted to and approved by the Local Planning Authority. Thereafter the cycle parking shall be retained for that purpose in perpetuity.

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

25) The construction of the development and associated works shall not take place on Sundays or Public Holidays or any time otherwise than between the hours of 07:30 hours and 18:00 hours Mondays to Fridays and 0800 hours and 1300 hours on Saturdays.

Reason: In the interests of residential amenity.

26) Nothing in this permission shall authorise the felling, lopping, topping or uplifting of any tree on the site protected by a Tree Preservation Order **other than** as specified on the submitted application documents.

Reason: To clarify the extent of this permission.

27) Notwithstanding condition 1 on this outline permission, the only means of vehicular access to the site shall be from Plainwood Close.

Reason: In the interests of highway safety given the limited width, alignment, unmade surfacing and restricted access along Warren Farm Lane at its junction with Brandy Hole Lane.

28) The development shall provide visibility splays of 2.5 metres by 70 metres east of the proposed site vehicular access onto Plainwood Close in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority as part of the reserved matters application. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level or as otherwise agreed.

Reason: In the interests of road safety.

29) The internal access road serving the development hereby permitted shall be constructed with a minimum carriageway width of 5.5 metres.

Reason: In the interests of site accessibility and highway safety.

30) The provision of car parking for the development hereby permitted shall accord with the requirements of the West Sussex Parking Calculator unless any variation to this requirement is specifically agreed in writing by the Local Planning Authority.

Reason: To ensure that a satisfactory level of car parking is provided on the site in accordance with the permitted mix of housing and the prevailing site circumstances.

31) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) any domestic garage which is to be provided with a new dwelling shall only be used for the purpose of parking private motor vehicles in connection with the residential use of the property.

Reason: To ensure the adequate provision of onsite parking for the purpose of highway safety

INFORMATIVES

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

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

3) The applicant is reminded that the prior written consent of the Environment Agency, West Sussex County Council as Lead Local Flood Authority and other external organisations may be required in order to comply with the Land Drainage Act 1991 and Flood and Water Management Act 2010 may be required in respect of water and foul discharge off site.

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

5) 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).

For further information on this application please contact Jeremy Bushell on 01243 534734.