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| Parish:<br>Kirdford | Ward:<br>Loxwood |
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**KD/19/00086/FUL**

**Proposal** Erection of 54 no. residential dwellings, associated access roads, car parking, landscaping and public open space all with unrestricted phasing.

**Site** Land On The East Side Of Plaistow Road Plaistow Road Kirdford West Sussex

**Map Ref** (E) 501416 (N) 127287

**Applicant** CALA Homes

**RECOMMENDATION TO DEFER FOR SECTION 106 THEN PERMIT. IF SECTION 106 NOT COMPLETED BY 30 SEPTEMBER 2019, THE DECISION TO BE DELEGATED TO OFFICERS TO DETERMINE.**



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## **1.0 Reason for Committee Referral**

Parish Objection - Officer recommends Permit

## **2.0 The Site and Surroundings**

- 2.1 The main part of the application site comprises a 2.7 hectare, broadly rectangular field located adjacent to the northernmost part of the built-up area of Kirdford village. The field is flanked on all four sides by relatively mature deciduous tree belts, including a thick screen along its Plaistow Road (western) frontage. A public footpath runs along (and is within) the eastern boundary of the site; this links the village to the community playing fields that lie immediately to the north. Although close views into the field are available from the above section of footpath, the nature of the site's boundaries results in it being relatively well-screened in terms of wider landscape views.
- 2.2 An area of landscaped amenity land, which incorporates a second public footpath and a drainage ditch, flanks the site's southern boundary, and beyond this lies the Bramley Close development, which comprises approximately 25 dwellings, several light industrial units, a 'village green' and community shop. A field gate currently provides access to the site for agricultural vehicles from Plaistow Road at a point close to its southwest corner. The Kirdford Chapel and a currently-vacant detached dwelling are located to the south of this access, with both properties backing onto the site. A run of elevated power lines cuts diagonally across the southern part of the site.
- 2.3 The Settlement Boundary for Kirdford was redrawn so as to incorporate the site following its allocation for residential development in the Kirdford Parish Neighbourhood Development Plan 2014 (KNP).

## **3.0 The Proposal**

- 3.1 Full planning permission is sought for a development of 54 dwellings comprising 38 market and 16 (30%) affordable units. The dwellings would comprise a mixture of flats (6), bungalows (2) and two storey houses, with the latter consisting of a mix of detached (17), semi-detached (14) and terraced (15) units.
- 3.2 The development would be laid out in four perimeter blocks, with these being defined by the internal roads and footpaths which run through the site and around its perimeter. The overall development density would be 20 dwellings per hectare, with a slight reduction in density across the site from south to north. A total of 133 parking spaces would be provided in a mix of on-plot spaces, garages, parking courts and unallocated visitor spaces (14).

- 3.3 The dwellings would be of a generally traditional design with a mix of hipped, half-hipped and gabled roofs together with a variety of local design details including through-eaves dormers, chimneys, sprocketed eaves and cottage-style windows. The details of facing and roofing materials would be reserved by planning condition but these are likely to predominately comprise brick and tile hanging to elevations and plain tiles to roofs, with some garage buildings incorporating an element of timber cladding.
- 3.4 An area of landscaped open space of approximately 0.25 hectares would be formed along the southern boundary of the site. The open space would incorporate an equipped play area of at least 165m<sup>2</sup> in accordance with the CDC Planning Obligations and Affordable Housing SPD. The overhead electricity cables would be re-routed underground.
- 3.5 In terms of vehicular access, the existing field-gated entrance onto Plaistow Road would be widened to 5.5m to form a conventional priority junction. In order to form the access it would be necessary to fell four oak trees located along its northern side. A small part of the access would be formed on Common Land and, in the event of planning permission being granted, it would be necessary for the applicant to make good this loss by re-providing an equivalent area within the site. This procedure is the subject to a separate consent regime which is initiated following the grant of planning permission.
- 3.6 With regard to pedestrian access, links to the eastern boundary public footpath are proposed at the north-eastern and south-eastern corners of the site. Further, officers and the applicant have held discussions with adjacent land owners in an attempt to achieve as direct, safe and practical a link as possible from the site to the nearby village facilities. It is understood that there is an in-principle agreement to form a section of bound-surface footpath running from the south-west corner of the site across the adjacent amenity land to link to the existing public footpath on Village Road.
- 3.7 In order to provide the above route and maintain public access over it, it will be necessary to secure the agreement of the adjoining owners. If the co-operation of the relevant landowners is not secured then the likely best alternative would involve surface improvements to and the widening of the existing public footpath that runs along the rear boundaries of the dwellings on the eastern side of Bramley Close, emerging onto Herons Close. In the event of permission being granted, final details of the path's routing, surface treatment and future maintenance would be secured by means of a planning condition.

#### **4.0 History**

KD/15/03367/FUL - Proposed construction of 54 residential dwellings and associated works - PERMIT WITH S106 - 22 November 2018

## 5.0 Constraints

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

## 6.0 Representations and Consultations

### 6.1 Kirdford Parish Council

Comment submitted 8 July 2019

A letter objecting to the application submitted on behalf of the Parish Council by a planning consultant is attached below at **Appendix 1**.

Comment submitted 14 March 2019

The Kirdford Parish Council formally and **STRONGLY OBJECT** to the above application. We are astonished that such an application is even being considered by the planning office and even more dismayed to have first learned of the intended application from a Press Release published on the 14th January 2019, in the West Sussex County Times, 11 Days before it was validated by Chichester District Council.

We believe this application to be a waste of valuable resources and frankly an insult to the democratic process that absorbed so much time and effort over an extended period involving CDC, KPC and the Kirdford community, not to mention their continued total disregard for our Neighbourhood Plan. It appears ever clearer, that the applicant intends to ignore the will of the community entrusted to us by the Localism Act and expressed in print in the Neighbourhood Plan.

Further, it is also our view that this second application is somewhat shoddy and hastily submitted with little regard for accuracy, as evidenced by email exchanges between the CDC planning office and the Applicant's agent (see email correspondence dated 15 February 2019 from Mr Paul White). It is our assessment that there remain a number of inconsistencies still. We are therefore extremely concerned with the accuracy of this bulk resubmission despite whatever assurances may be given by the applicant and their team.

It is our view that this should be considered a fresh application and should follow the detailed page-by-page scrutiny which was afforded to the previous one. Four years have elapsed and the world of 2019 is very different from 2015, as indeed is the site; we know nothing of the current wildlife impact, and we recommend a new and fresh assessment should be conducted and submitted for consideration. Whilst the Ecological Assessment has been "updated" for this application, the survey data on which it relies dates back to early 2014. Some would consider this well past its validity period.

We are also increasingly mindful of the impact of Brexit and ongoing debates, and their wild effects on housing demand. This is a major influence which did not offer perspective in the first application, but now becomes the largest housing needs 'elephant in the room' that can no longer be ignored by CDC.

We therefore urge the planning team to take a fresh, new perspective view on the reapplication and ensure a full and rigorous process is applied by treating this as a totally new and unlinked application that must be evidenced thoroughly.

CALA's application makes claims on the grounds of "viability" which is not evidenced. The viability issue was raised, challenged and reviewed by experts as part of the first application, who concluded that it is viable to construct in phases over a 5, 10, and 15-year period. CALA's claim of non-viability needs to be clearly evidenced and we stand ready to challenge it again.

A new and alarming evolution in this application is the suggestion that CDC should subsidise the affordable homes with CIL money. This is a company with £747.9M in revenues (2017) and a Contracted Landbank with a value of £5.9B (2017). It is laughable that the Applicant should be making these suggestions. Furthermore, if this is the case, this suggestion is alarming and there ought to be significant due diligence to ensure they have the capability and financial resources to deliver the project, particularly with the backdrop of recent collapses in the construction industry.

In conclusion, the community is watching. This will determine once and for all the value you place on the policies which you adopted and now form part of a legal document referred to as the Neighbourhood plan.

As the Kirdford Parish Council, we are clear - we **STRONGLY OBJECT** to this application

6.2 Southern Water

No objections subject to informative confirming need for formal consent to connect to the public sewer.

6.3 Sussex Police

No objections. Various advice should be taken into account at detailed design stage of development.

6.4 WSSC Local Highway Authority

Further to the applicant's clarification on parking issues, no objections subject to the imposition of the same highways-related planning conditions that were attached to extant permission reference 15/03367/FUL.

6.5 WSSC Flood Risk Management

No objections. Final details of surface water drainage scheme should be reserved by means of a planning condition.

6.6 CDC Planning Policy (conclusion only)

The neighbourhood plan seeks to provide a localised steer for the area's needs through to 2029. However, unfortunately, for whatever reason, sites identified in that plan have failed to be brought forward as envisaged to contribute to the delivery of housing land supply in the early part of the adopted Local Plan period. Extensive discussions have been on-going over a protracted period of time to examine how this site could be phased. However, and again for whatever reason, it has not been possible to achieve a mutually satisfactory outcome. Whilst phasing may have been included in the policy in this neighbourhood plan, it is of note that in relation to subsequent neighbourhood plans this has not been the case. In relation to the proposed sites in the Wisborough Green NP, for example, the parish sought to phase the various sites for delivery over the plan period and this was resisted by the examiner.

Many other neighbourhood plans have been made since the Kirdford Neighbourhood Plan and sites within these plans have been delivered in a timely manner. In addition, as indicated above, the Government is now placing more emphasis on the delivery of housing to meet identified needs. Whilst the benefits or otherwise of the phasing for this site have been extensively rehearsed, with the need for housing delivery now being increasingly prioritised and in the light of the up to date housing needs assessment, it would be difficult to sustain a policy objection to the proposal.

In addition, it is of note that the site is currently not included in the published 5 year land supply position (currently 5.7 years). Should this site therefore receive planning permission, it would provide a substantial boost to the current position. Whilst not a deciding factor in itself, this is an important consideration to bear in mind in when weighing up the acceptability or otherwise of the application.

In conclusion, therefore, taking account of the early date when the neighbourhood plan was prepared and made, the extended period of time to try and resolve the issue of phasing in relation to an allocated site and the increasing Government emphasis on seeking to significantly boost the supply of housing, it is no longer considered that a policy objection to the application can be sustained.

## 6.7 CDC Housing Enabling Manager

Following the Housing Delivery Manager's response dated 19.02.19 the applicant has amended the affordable housing mix to reflect the increased need for 4 bedroom affordable rented properties.

The mix is now in line with the Housing Delivery Team's recommendations and will contribute to making a mixed, balanced and sustainable community. It should be noted that due to the increase in the gross internal floor areas, the affordable housing commuted sum for the 0.2 units has changed to £86,762. This has been calculated in line with the Planning Obligations and Affordable Housing SPD (set out below).

### Kirdford Parish Housing Need

Since the previous application, the amount of households on the housing register with a local connection to Kirdford has decreased from 9 households to 4. This is in contrast with the amount of development within Kirdford Parish as no affordable housing has been delivered since 2008. The last scheme to deliver affordable housing was the Kirdford Growers development delivered by Southern Housing. Therefore, the reduction in households on the housing register can be attributed to households being housed outside of the parish, sometimes outside of the district due to the lack of affordable housing becoming available within the parish they hold a local connection to.

The lack of affordable housing has been further worsened by the right to buy. Since its introduction, 53 homes have been lost to the right to buy, accounting for 40% of the original affordable housing stock within the parish. There is now only 78 affordable homes within the parish.

Kirdford Parish Council, as part of their neighbourhood plan review commissioned the Housing Delivery Team to undertake a housing needs survey between September and October 2018. The survey was posted to 513 residential address in Kirdford parish (as identified on council tax records) and asked respondents to identify whether they or household members are, or likely to be in the near future, in need of alternative housing.

The results from the survey reflected 191 valid returns, equivalent to a 38% response rate. It identified a need for 28 affordable homes, of which 20 were for affordable rented and 8 shared ownership. It should be noted the survey is based off of respondent's want and/or need for housing within the parish which may be construed as aspirational. As such the findings are not wholly definitive of the housing need. The Housing Delivery Team has tried to mitigate this influence on the findings by carrying out affordability analysis to see what people can afford against what they want or need. When applying these corrections, the results do identify a greater need for affordable housing than identified on the housing register.

The Plaistow Road development will help to meet the wider housing need of the parishes neighbouring Kirdford which is for 82 affordable homes. Lack of development coupled with low turnover of the existing stock is causing households to wait longer for suitable accommodation to become available. It is therefore important that new development is brought forward in the north of the district to relieve pressures on the existing housing stock and meet the need of households on the register.

### Affordability

There are large disparities between what households can afford and what homes are being sold for. Chichester District is recognised as one of the least affordable places to live outside of London. This is reflected in the government statistics for house price to resident and work placed earnings, showing a ratio of 13.59 and 14.51 respectively. These are significantly larger than the national average of 7.29 and regional average of 10.51. The HEDNA 2018 breaks down the affordability further and identifies the "plan area north" as having the highest median house price paid and greatest amount of detached properties at 60% of the existing stock. The high prices and low mortgage lending rates is causing households to be "priced out" of the area, so the need for affordable housing within the district and especially in the northern part of the plan area is very high.

The plan area north is allocated for 200 homes over the plan period. Taking into consideration the findings from the HEDNA which estimate the need over a 19 year period from 2016-2035 for 494 affordable homes. 46 dwellings over 2 schemes have been developed since the adoption of the plan, of which the affordable quota has either been sold or let to those households in need. As such, the only development to satisfy the local need being delivered between now and 2021 is the Meadowbank development in Wisborough Green which will deliver 7 affordable rented units. The delivery of affordable housing is therefore imperative to meeting the identified housing need on the Council's housing register.

It is clear from the reasons outlined above that the need for affordable housing is high. The Housing Delivery Team therefore would support this application coming forward to meet the identified housing need and alleviate the pressures on the existing stock within the area

#### 6.8 CDC Drainage Engineer

No objections subject to conditions reserving final details of surface water drainage scheme.

#### 6.9 CDC Environmental Strategy Officer

No objections subject to conditions securing appropriate ecological mitigation and a further, pre-commencement badger survey.

With regard to the Parish Council's latest comments, it is considered that the ecological mitigation that is proposed is suitable regardless of whether the development is carried out in a phased or un-phased manner.

## 6.10 Applicant's/Agent's Supporting Information

The applicant asks that the Planning Committee notes that it has been prepared to agree that the determination period of the application be extended in order to accommodate the Parish Council's request that it be given further time to comment on the application. This has resulted in the application coming before the Committee later than otherwise would have been the case.

The consented scheme is subject to a development programme of 5 years with a no-build enforced break of 2 years and 4 months between phases. However, this is commercially unworkable and the construction programme impractical. Allowing for clearance of pre-commencement conditions it would take at least 6 years to complete. The completion of landscape planting in the first phase and other site works required by condition would all be undone once building works recommence after the break. Residents of the first phase would all be inconvenienced once the building works on site restart. Kirdford and its residents would be subjected to an unnecessarily long period of disruption coming from the building works.

This application is simply a resubmission of the earlier one but with an important rider that all 54 dwellings including 16 affordable units should be allowed to be developed immediately without the 5 year phasing restriction.

The applicant Cala Homes is committed to developing the site and wants to build it out itself as quickly as possible. This development has to be undertaken in a sensible time frame in order to sell houses and recover significant up-front development costs including a one off payment of £650K to underground an overhead power line that crosses the site, an £87K contribution for off-site affordable housing and a CIL payment of almost £900K in addition to the normal costs and risks of building houses.

With the removal of the phasing restriction, the development will fall squarely in line with national policy and the Government's objectives of significantly boosting the supply of homes and ensuring land with permission is developed without unnecessary delay. It will ensure all 16 affordable units included in the development can be delivered to meet a pressing local affordable housing need without further delay. It would secure a local footpath link to the community shop to benefit the residents and provide an immediate 54 dwelling contribution to your Council's five year land supply. It would deliver a Neighbourhood Plan allocation that has remained undeveloped since the Plan was brought into force in 2014.

Cala Homes is content to be bound by a condition requiring an earlier start on the development than the usual 3 years. If the phasing restriction is lifted, the risk that it would not be able or willing to self-fund or attract a lender to build the development would also be lifted. Without the phasing, Cala Homes estimate after pre-commencement conditions are satisfied, preparatory site works including the undergrounding of the power line could start in 2020 with completion by 2023. That's 16 affordable and 38 private homes all within 3 years of a start on site.

- 6.11 9 Third Party letters of objections have been received:
- a) Proposal does not comply with Neighbourhood Plan (NP)
  - b) Existing consent is already in conflict with the NP
  - c) Applicant has no interest in the community and is trying to 'game' the system
  - d) Applicant's comments are dishonest
  - e) Applicant does not address environmental and sustainability issues
  - f) Kirdford doesn't need more small dwellings
  - g) Application does not respond to both current and future housing need, which is a requirement of NP Policy KSS1.
  - h) The applicant has never intended to provide and phasing as part of the proposal
  - i) There are many examples of phased developments of this size
  - j) A phase development need not necessarily be a 'piecemeal' development
  - k) 5 year housing land supply is not a consideration given that the Council can currently demonstrate one.
  - l) Lack of progress with the development is due to applicant's prevarication
  - m) The KNP is being reviewed

## **7.0 Planning Policy**

### The Development Plan

- 7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029, the CDC Site Allocation Development Plan Document and all made neighbourhood plans.
- 7.2 The principal planning policies relevant to the consideration of this application are as follows:

### Chichester Local Plan: Key Policies 2014-2029

Policy 1: Presumption in Favour of Sustainable Development  
Policy 2: Development Strategy and Settlement Hierarchy  
Policy 4: Housing Provision  
Policy 5: Parish Housing Sites 2012- 2029  
Policy 6: Neighbourhood Development Plans  
Policy 8: Transport and Accessibility  
Policy 9: Development and Infrastructure Provision  
Policy 25: Development in the North of the Plan area  
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  
Policy 48: Natural Environment  
Policy 49: Biodiversity  
Policy 54: Open Space, Sport and Recreation

## Kirdford Parish Neighbourhood Development Plan 2014 - made 22 July 2014

SD.1: Presumption in favour of sustainable development

EM.1: Management of the water environment

CP.1: S106 Agreements and CIL

H.1: Local occupancy conditions for affordable housing

H.2: Housing for older people

DS.2: Encouraging quality design

DS.3: Provision of off-road parking

DS.4: Local fibre or internet connectivity

R.1: Local Green Space

R.3: Catering for cyclists and pedestrians

E.1: Renewable energy

KSS1: Land to the north of Kirdford Growers:

### National Policy and Guidance

- 7.3 Government planning policy now comprises the revised National Planning Policy Framework (NPPF 2019), which took effect from 19 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*

- 7.4 Consideration should also be given to the following paragraph and sections: Sections 2, 3, 4, 5, 8, 9, 10, 11, 12, 14 and 15. The relevant paragraphs of the National Planning Practice Guidance have also been taken into account.
- 7.5 The Government's New Homes Bonus (NHB) which was set up in response to historically low levels of house building, 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
- CDC Waste Storage and Collection Guidance
- Kirdford Village Design Statement 2011

#### Chichester in Partnership Community Strategy 2016-2029

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:

- Protect and support the most vulnerable in society including the elderly, young, carers, families in crisis and the socially isolated
- Maintain the low levels of crime in the district in the light of reducing resources
- 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 - The Extant Planning Permission

- 8.1 The application site is allocated for residential development in the Kirdford Parish Neighbourhood Development Plan 2014 (KNP).
- 8.2 Policy KSS1 of the KNP sets out a number of criteria against which development proposals will be considered. These can be summarised as follows:
- a single development of a minimum of 45 units using the entirety of the site
  - a piecemeal approach to the development of the site will not be supported
  - a mix of 1, 2 and 3 bedroom market units, primarily weighted to fall in line with an up-to-date assessment of local housing need
  - Affordable Housing in line with District-level requirements with an amount secured in perpetuity for local occupancy
  - an equipped play area
  - appropriate landscaping, retention of boundary trees and the provision of cycle/footpath linkages to the village
  - a phased development
- 8.3 As referred to in paragraph 4.1 above, planning permission was granted in November 2018 for a development of 54 dwellings on the site. This followed a resolution to grant planning permission at the Council's Planning Committee meeting of 13 December 2017.
- 8.4 Consideration of the previous application primarily focussed on an assessment of the proposal against the criteria set out in Policy KSS1. This assessment was summarised as follows in the officers' report:

*8.48 In terms specifically of the criteria of Neighbourhood Plan policy KSS1, the proposal achieves:*

- a phased development using the entire site, with a meaningful mid-development break that will result in the phased introduction of housing into the village*
- an opportunity for the first phase of the development to help meet the current identified local housing need*
- affordable rented dwellings that will be prioritised for locally-connected people in housing need*
- dwelling sizes that do not exceed 3 bedrooms*
- a suitable layout with good footpath connections, appropriately designed dwellings and a moderate development density that results in good-sized gardens, acceptable levels of privacy and sufficient parking*
- an area of public open space and equipped play space for the benefit of the whole community*
- the retention of boundary tree belts and the provision of adequate landscaping which results in a development that responds appropriately to its edge-of settlement location.*

- 8.5 With regard to the issue of phasing, planning permission was granted subject to the development being carried out in accordance with a 5 year, 2 phase scheme which was secured by a combination of the consent's planning conditions and legal obligations contained in the accompanying Section 106 agreement. Phase 1 comprised 32 dwellings (20 private and 12 affordable) located in the development's two southern perimeter blocks. Phase 2 involved 22 dwellings (18 private and 4 affordable) in its two northern blocks. There would be a 28 month break between the two development phases.
- 8.6 The issue of phasing was the subject of lengthy and detailed consideration, particularly in respect of viability issues. This culminated in an independent assessment by the District Valuer who concluded that whilst a 5 year phased development programme would be viable, a development over a longer period would not.
- 8.7 The extant planning permission has not been commenced, although the fall-back position it represents is an important material consideration in the current case.

### The Current Proposal

- 8.8 Other than the reconfiguration of two of the proposed affordable dwellings (at the request of the Housing Officer) the proposal remains the same in terms of design, layout, drainage, dwelling mix, access and parking.
- 8.9 In terms of the above issues the relevant planning policy and on-site considerations have not changed materially since the original consent was granted. Consequently, there is no justification for reaching a different conclusion on the merits of these matters.
- 8.10 With regard to ecological considerations, a number of supporting reports have been refreshed by the applicant given the time that has elapsed since they were first prepared. The Parish Council has raised concerns regarding to the suitability of the applicant's approach to ecological mitigation given that the development is now proposed with no phasing. However, as referred to at paragraph 6.9 above, the Council's Environmental Strategy Officer considers the proposed approach to be appropriate regardless of whether the development is carried out in a phased or un-phased manner. The proposed mitigation would be secured via planning conditions.
- 8.11 The principal change in the current application relates to the issue of phasing. The applicant, Cala Homes, has made it clear that it wants the application determined on the basis of no phasing; if permitted, the proposal would be carried out as a single development of 54 homes with no mid-development break.

## The Applicant's Justification for a Development with no Phasing

- 8.12 The applicant's justification for carrying out the development without any phasing restrictions is set out in its Planning Statement which can be viewed in detail on the planning file. The applicant's case can, however, be summarised as follows:
- The phasing requirement of the KNP is in conflict with the Local Plan which, being the most recently adopted plan, must take precedence
  - Delaying delivery of the development is contrary to the Government's objective of 'significantly boosting the supply of homes' as expressed in the policies of the National Planning Policy Framework (NPPF)
  - Chichester has a longstanding legacy of unmet housing need, and addressing this issue is frustrated by any phasing restriction
  - The phasing restriction has proved a real constraint to securing developer funding, and unless it is removed the development is unlikely to be implemented
  - The inclusion of a 28 month, mid-development break would amount to piecemeal development, contrary to one of the criteria of KSS1.

### **Assessment**

- 8.13 It is acknowledged that, when read as a whole, the expectations of the KNP with regard to the nature and timescale of any development-phasing are open to a degree of interpretation. This is primarily due to the fact that the wording of the policy, its reasoned justification and the Monitoring and Delivery section of the Plan are not entirely consistent with each other.
- 8.14 However, irrespective of these inconsistencies it is evident that Policy KSS1 anticipates that any development will be subject to some form of phasing, and this was accepted by the KNP's Independent Examiner when she recommended that the Plan proceed to referendum (with modifications). Consequently, a development proposal, such as the current planning application, which expressly precludes any phasing, would, on the face of it, be in conflict with the requirements of Policy KSS1.
- 8.15 Planning law requires that applications for planning permission be determined in accordance with the development plan - which in this case comprises both the Local Plan and Neighbourhood Plan - unless material considerations indicate otherwise.
- 8.16 Consequently, the following sections of this report comprise an assessment of any such material considerations including, but not restricted to, those matters raised by the applicant in support of the application.
- 8.17 At the outset it must be acknowledged that issues around phasing were considered in detail at the time of determining the permitted scheme. Accordingly, in the interests of consistency it is particularly important to focus on any considerations where circumstances may have materially changed since the resolution to permit the previous application was agreed at the Planning Committee of December 2017.

## Conflict between the Local Plan and Neighbourhood Plan

8.18 Section 38(5) of the Planning and Compulsory Purchase Act 2004 states:

*'If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan'*

8.19 As set out at paragraph 8.11 above the applicant contends that because the Local Plan is the most recent plan, and because its Policy 5 - which allocates indicative housing numbers to Parishes including Kirdford - contains no provisions in terms of phasing, there is a conflict between the plans, meaning that phasing cannot be justified.

8.20 In this regard it is acknowledged that Policy 5 does not include phasing provisions for Kirdford or any other parish. It is further acknowledged that the Local Plan's explanatory text makes clear that the expectation is that Parish Housing Sites will be brought forward early in the Local Plan Period.

8.21 However, it is not the case that the Local Plan directly precludes phasing as part of any proposals to meet Parish housing numbers. If that had been the intention then, given the fact that the KNP was already in place when the Local Plan was adopted, it would be reasonable to expect the Local Plan to have directly addressed this issue with regard to its allocation for Kirdford.

8.22 Consequently, whilst there is arguably a degree of tension between the KNP and Local Plan - particularly in respect of the intention of the latter for Parish sites to be brought forward early - this does not amount to a conflict which, in and of itself, would merit the phasing provisions of KSS1 being set aside.

## Viability and Development Finance

8.23 As referred to in paragraph 8.12 above, the issue of viability was a central consideration in the assessment of the extant scheme. The District Valuer's assessment - which concluded that a 5 year, 2 phase scheme would be viable - included consideration of all elements of development finance. Although the applicant retained concerns about the principle of any form of phasing restriction, he nevertheless agreed to be party to the S106 agreement which secured the phasing and which enabled the planning permission to be issued.

8.24 In support of the current application, the applicant now states that the extant scheme's phasing requirement *'has proved to be a real constraint in securing forward funding and the applicant has concluded that unless the 5 year phasing can be removed from the development altogether it is likely to remain unimplemented'*.

- 8.25 The applicant has been asked to provide evidence to substantiate the contention that development finance will not be forthcoming. In this respect a letter has been received from the applicant's owner confirming that it is its (corporate) policy to develop-out its sites as expeditiously as possible, and that delivering a small site in a phased manner would be contrary to the Government's aim of solving the housing crisis.
- 8.26 Whilst these comments are noted, this does not amount to evidence demonstrating that the site cannot, from a development finance perspective, be developed in line with the extant permission. Accordingly, there is no evidence to counter the District Valuer's previous conclusions and, consequently, no justification to set phasing aside on the basis of this consideration.

#### Housing Delivery and the Kirdford Neighbourhood Plan

- 8.27 The KNP aims to deliver a minimum of 61 dwellings over 4 separate sites in and immediately adjacent to the village.
- 8.28 Since the Plan was made in 2014 planning permission has been granted on the application site. However, for the reasons discussed above, development has not commenced. Officers are not aware of any progress having been made on any of the other 3 allocated sites and this has been confirmed in the most recent annual monitoring information provided by the Parish Council to CDC.
- 8.29 Monitoring Policy M.3 of the KNP states that the Plan will be reviewed every 5 years (i.e. by July 2019) in order to ensure that it 'is still current and remains a positive tool to deliver sustainable growth'. Whilst it is understood that the Parish Council intends to review the Plan, the District Council has not been formally notified of the commencement of the review process. It is clear that the review will not be completed by the Plan's self-imposed deadline.
- 8.30 It is fully accepted that elements of the local community may disagree with the applicant's explanation as to why development on the site has not been brought forward. However, the fact is that, despite being the first made neighbourhood plan in the District, the KNP has not to date delivered any housing across its 4 allocated sites. This is in contrast to many other parishes in the District, including some of Kirdford's neighbouring parishes, which have adopted plans more recently, and which have already delivered their housing allocations, or are making substantial progress in doing so.
- 8.31 Whilst all interested parties are likely to have differing opinions as to what underpins the lack of progress in Kirdford the fact is that, despite the best efforts and intentions of all involved in its creation, the Neighbourhood Plan has unfortunately been unable to meet its own expectations in terms of it comprising a 'positive tool to deliver sustainable growth'.

8.32 Over 18 months have now passed since the Planning Committee resolved to grant the extant planning permission. It is considered that the lack of progress that has been made in respect of this and the other sites allocated in the KNP represents a strong justification for now granting permission without any phasing restrictions.

### Housing Need

8.33 At the time of granting the extant consent the number of households on the Council's Housing Register with a local connection to Kirdford was 9. Since then this number has reduced to 4.

8.34 As is explained by the Council's Housing Delivery Manager in her consultation response, rather than suggesting a reduction in need, this change in reality is likely to reflect the fact that no affordable housing has been built in Kirdford for over 10 years, and that in recent years households in need have been forced to move to other parishes, or perhaps even leave the District altogether. She also notes that the Government's 'right to buy' scheme has resulted in around 40% of the parish's affordable housing stock being lost.

8.35 The Housing Manager has set out the results of a recent Housing Needs Survey (HNS) conducted by the District Council on behalf of the Parish Council. This identified a need for 28 affordable homes in Kirdford Parish. Whilst any measure of housing need is subject to a level of uncertainty, the Housing Manager considers the HNS's methodology to be robust, and that it represents credible, up-to-date evidence of a significant un-met housing need in the Parish. She also notes that the development could help to address the unmet need for 82 affordable dwellings that exists in neighbouring parishes.

8.36 The Housing Manager also draws attention to the wider issue of housing affordability in Chichester District which, in national terms, is recognised as one of the least affordable places to live outside London. The recently published Housing and Economic Development Needs Assessment 2018, which was prepared by the Council to inform the Local Plan review, identifies the north of the plan area (including Kirdford Parish) as having the highest median house price in the District. This indicates that affordable housing need is and will continue to be particularly high in the northern part of the District.

8.37 It is considered that the above evidence, which has emerged since the extant scheme was permitted, confirms that there is now a pressing need to address both market and, in particular, affordable housing need in Kirdford and its surrounding parishes. This is a material consideration that weighs heavily in favour of granting planning permission without any phasing restrictions.

## Housing Land Supply

- 8.38 The Council's latest published position is that it is able to demonstrate a surplus of 338 dwellings, equivalent to 5.7 years of housing land supply. Being able to demonstrate a 5 year housing land supply (5YHLS) means that, for the purposes of the National Planning Policy Framework, the Local Plan's housing delivery policies are not considered to be out-of-date. This increases the likelihood of the Council being able to successfully defend the refusal of 'unplanned' housing proposals on unallocated sites, as it has done recently in the case of appeals at both Selsey and Birdham. However, whilst the Council's current 5YHLS position is positive, the surplus is relatively modest. Consequently, appropriate opportunities to increase supply should be taken where they arise.
- 8.39 At the time of granting the original consent a proportion of the 54 permitted dwellings (those in Phase 1) were included in the supply figures. However, given the lack of progress and considerable uncertainty in terms of the implementation of the development these have since been removed from the figures.
- 8.40 It is noted that the Parish Council considers the approved scheme is still capable of contributing towards the current 5YHLS. However, given the Council's recent experience at appeal - where the deliverability of housing sites has been subject to robust challenge - it is considered that the uncertainties around the delivery of the permitted scheme justify the removal of all of the permitted 54 dwellings from the latest supply figures.
- 8.41 If permission were to be granted without any phasing restrictions then it would be likely that most, if not all, of the proposed 54 dwellings could be immediately added to the supply figures. This would make the Council's 5YHLS situation demonstrably more robust and, in turn, would help protect other communities from unplanned, 'hostile' housing proposals.
- 8.42 It is accepted that the Council was able to demonstrate a 5YHLS at the time of the resolution to permit the extant consent and that, accordingly, this is not a 'new' material consideration. However, whilst not a determinative issue in its own right, the immediate and positive impact that granting an unrestricted permission would be likely to have on the Council's 5YHLS position is nevertheless a further consideration that weighs in favour of the permitting the application.

## Other Phasing-related Considerations

- 8.43 When assessing the planning balance in this case it is also necessary to consider other implications, whether potentially negative or positive, of permitting the development without any phasing restrictions.
- 8.44 In this regard it is noted that KSS1 makes reference to a phased development that provides *'a sustainable delivery of housing...that responds to both immediate and future housing need'*.

- 8.45 In terms of responding to housing need, it has been confirmed above that recent evidence suggests that the level of need in Kirdford and its surrounding parishes already exceeds what the development could provide, even if it were to be delivered immediately and in one phase.
- 8.46 In terms of ensuring a sustainable delivery of housing it is unclear as to whether, when using a wide interpretation of the concept of sustainability, a development phased in accordance with the extant scheme would necessarily represent a more sustainable delivery of housing than would one without any phasing. For example, there is no evidence to suggest that unacceptable impacts - for example in relation to the capacity of local infrastructure - would arise from an un-phased development of this scale on the edge of Kirdford village. Indeed, the Local Plan's indicative housing number of 60 for Kirdford is based on the conclusions of an assessment that the Parish does have sufficient capacity to sustain this scale of development.
- 8.47 Further, an injection of new residents would provide an immediate benefit in terms of helping to sustain various existing community assets such as the village shop and its two pubs and church, and would also yield a significant sum of CIL, a proportion of which the Parish Council can directly allocate toward improving existing or providing new local infrastructure (a phased development would result in any CIL receipts being staged accordingly).
- 8.48 Finally on this issue, it is possible that some local residents might welcome the fact that a development carried out in a single phase would be likely to result in a shorter overall duration of noise, traffic movements and other construction-related disruption.

#### Ensuring the Timely Delivery of the Development

- 8.49 The applicant's objection to any phasing restriction is based partly on its stated intention to deliver the development as quickly as possible, and the benefits of the timely delivery of this housing in terms of boosting both market and affordable housing supply have been explained in the preceding sections of this report.
- 8.50 In view of the above, discussions have been held regarding the possibility of reducing the standard (3 year) implementation period, should permission be granted. Although the process of undergrounding the overhead electricity cables is understood to take up to 18 months, evidence suggests that this should not unduly delay either the commencement or completion of the development and, accordingly, the applicant has confirmed that it would be able to comply with a reduced, 2 year commencement period; this is reflected in condition 1 of the recommendation set out below.
- 8.51 If it transpired that the planning permission was not implemented within the reduced timescale, then there would be a risk of any subsequent 'renewal' application being refused on the grounds of persistent non-delivery. Likewise, in such circumstances there is a possibility that the allocation of the site may not be brought forward in subsequent iterations of the Neighbourhood Plan. These risks constitute a significant incentive to any developer to deliver the proposed housing in a timely manner.

### Significant Conditions

8.52 A number of conditions accompany the recommendation below in respect of various matters including materials, landscaping, external lighting, tree protection, off-site footpath provision, surface and foul water disposal, ecological, mitigation, access and parking provision. The 2 year implementation period of the development is discussed above.

### Section 106 Agreement

8.53 It is necessary for the planning permission to be accompanied by a Section 106 Legal Agreement which would include obligations relating to:

- the provision of 30% affordable housing in the tenure/mix set out above and with the rented units prioritised for local people in housing need
- the payment of an affordable housing commuted sum of £86,762
- the provision and future maintenance of landscaping, peripheral tree belts and open and equipped play space (minimum 165sqm)

8.54 In terms of CIL, the development would be required to make a contribution of approximately £1,050,000, 25% of which will be received by the Parish Council.

### Conclusion

8.55 Given that the site is allocated for residential development in the Kirdford Neighbourhood Plan the assessment of this application has primarily focussed on the performance of the proposal against its relevant policies, with particular regard to site-specific policy KSS1.

8.56 As set out in the main body of the report above, it is considered that the proposal would meet all-but-one of policy KSS1's criteria by providing:

- a well-designed development of primarily modest family dwellings with good levels of amenity space and sufficient parking
- 16 affordable dwellings prioritised for locally-connected people in housing need
- a generous area of open space including an equipped play area for use by the whole community
- a development with good footpath links to the village and which responds appropriately to its edge-of-settlement location.

8.57 However, the proposal would not meet KSS1's requirement for the development to be phased in order to provide a 'sustainable development of housing over the Plan period', and the applicant has expressly requested that the application be determined on the basis of no phasing restrictions.

8.58 The NPPF clarifies that neighbourhood planning 'gives communities the power to develop a shared vision for their area' and that, accordingly, a planning application which conflicts with the policies of an up-to-date plan 'should not usually be granted'. This reflects the statutory requirement for planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

- 8.59 The preceding analysis confirms the officers' view that material considerations - primarily relating to updated evidence regarding housing need and the continuing lack of progress in terms of delivering any of the housing allocated by the KNP since it became part of the development plan in 2014 - do now justify granting permission without any phasing provisions. Removing potential hurdles to delivery will help increase the likelihood of the development proceeding without further delay, providing much needed market and affordable housing in this part of the district and, more generally, helping to make the Council's housing land supply position more robust. Further, there is no evidence to suggest that granting permission on an un-phased basis would result in any planning harms.
- 8.60 It is acknowledged that this recommendation will come as a disappointment to some elements of the local community who have actively engaged in the neighbourhood planning process. However, the Council will continue to fully engage with the Parish Council as it moves forward with a review of the Neighbourhood Plan.
- 8.61 In view of the preceding considerations it is recommended that, subject to the S106 obligations referred to above and the planning conditions set out below, permission is granted.

#### Human Rights

- 8.62 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**, subject to the conditions and informatives set out below. **IF SECTION 106 NOT COMPLETED BY 30 SEPTEMBER 2019, THE DECISION TO BE DELEGATED TO OFFICERS TO DETERMINE.**

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

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

2) The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans Referred to in Consideration of this Application".

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

- 3) **No development shall commence**, 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.

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.

4) Notwithstanding any details submitted **no development shall commence** until a full schedule of materials and finishes to be used for the external walls, roofs and windows of the buildings and all roads, footpaths and parking areas have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved schedule of materials and finishes unless otherwise agreed in writing by the Local Planning Authority.

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

5) **No development shall commence** until details of the proposed site-wide surface water drainage scheme, including the phasing of such works where relevant, has been submitted to and approved in writing by the Local Planning Authority. The submitted information shall also include details of how the installed surface water drainage infrastructure will be managed and maintained in full working order in perpetuity. 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 prior to commencement to ensure that the proposed development is satisfactorily drained with all necessary infrastructure installed during the groundworks phase.

6) **No development shall commence** until a strategy outlining details of the sustainable design and construction for all new buildings, including water use, 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.

7) **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 and shall include details of above-ground infrastructure such as equipment cabinets. 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.

8) **No works above slab level shall take place unless and** until full details of works necessary to facilitate the installation of electric vehicle charging points to serve the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. 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.

9) **Prior to first occupation of the dwelling(s) hereby permitted** the associated boundary treatments shall be provided in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include;

- (a) scaled plans showing the location of the boundary treatments and elevations, and
- (b) details of the materials and finishes.

Thereafter the boundary treatments shall be maintained as approved in perpetuity.

Reason: In the interests of protecting the amenity of neighbours.

10) **No part of the development shall be first occupied** unless and until a new pedestrian footpath link from the site boundary to Village Road or an improved pedestrian footpath link from the site boundary to Herons Close has been provided in accordance with drawings and details that have first been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt the details shall be based on the indicative routing and annotation shown on application Site Layout Plan 2015027/P01Rev I and shall include evidence to demonstrate that (i) reasonable endeavours have been used to provide the preferred new footpath route to Village Road; and (ii) the use of the new or improved footpath by members of the public is secured in perpetuity. Once provided, the new or improved footpath shall at all times be kept free from obstruction and made available for use by all members of the public.

Reason: To ensure the provision of adequate pedestrian access to and from the development.

11) **No part of the development shall be first occupied** until the proposed site vehicular access onto Plaistow Road has been provided in accordance with the approved planning drawings, including visibility splays of 2.4 metres by 53.0 metres to the north and 2.4 metres by 56.0 metres to the south. 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.

12) **No part of the development shall be occupied** until the car parking, garaging and turning accompanying that phase has been constructed and laid out in accordance with the approved site plan and the details specified within the application form. These spaces shall thereafter be retained at all times for their designated purpose.

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

13) **No development shall be occupied** until details of covered and secure cycle parking spaces have first been submitted to and approved by the Local Planning Authority. The cycle parking shall be provided in accordance with the agreed details and thereafter 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.

14) Notwithstanding any details submitted **no development shall be occupied** unless and until a fully detailed landscape and planting scheme has first been submitted to and 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 for large scale developments shall include a program 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 in the course of development. The scheme shall make particular provision for the conservation and enhancement of biodiversity on the application site. The works shall be carried out in accordance with the approved details and program 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 the visual amenities of the locality and to enable proper consideration to be given to the impact of the proposed development on existing trees.

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

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

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

Reason: In the interests of residential amenity.

17) The development shall not be carried out other than in accordance with the mitigation and protection measures (including their timing) at Section 4 of the submitted Bat Mitigation Strategy April 2019 and Section 2 of the Reptile Mitigation Plan April 2019.

Reason: In the interests of biodiversity.

18) Notwithstanding the provisions of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking, re-enacting or modifying that Order) no windows shall be inserted at first floor level into the rear (west-facing) wall of the Plots 50 and 51 as annotated on the approved Site layout plan without a grant of planning permission.

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

## Decided Plans

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

| Details  | Reference   | Version | Date Received | Status   |
|--|-------------|---------|---------------|----------|
| PLAN - Plots 1-7 Floor Plans and Elevations (A1)   | 2015027/P02 |         | 10.01.2019    | Approved |
| PLAN - Plots 1-7 Elevations (A1)                   | 2015027/P03 |         | 10.01.2019    | Approved |
| PLAN - Plots 8-11 Floor Plans and Elevations (A1)  | 2015027/P04 | A       | 10.01.2019    | Approved |
| PLAN - Plots 8-11 Elevations (A1)                  | 2015027/P05 | A       | 10.01.2019    | Approved |
| PLAN - Plots 11-14 Elevations (A1)                 | 2015027/P07 | A       | 10.01.2019    | Approved |
| PLAN - Plots 15-16 Floor Plans and Elevations (A1) | 2015027/P08 | A       | 10.01.2019    | Approved |
| PLAN - Plots 17-19 Elevations (A1)                 | 2015027/P09 | A       | 10.01.2019    | Approved |
| PLAN - Plots 17-19 Elevations (A1)                 | 2015027/P10 | A       | 10.01.2019    | Approved |
| PLAN - Plots 20-25 Floor Plans and Elevations (A1) | 2015027/P11 | B       | 10.01.2019    | Approved |
| PLAN - Plots 26-29 Floor Plans and Elevations (A1) | 2015027/P13 | A       | 10.01.2019    | Approved |
| PLAN - Plots 26-29 Elevations (A1)                 | 2015027/P14 | A       | 10.01.2019    | Approved |

|  |             |   |            |          |
|--|-------------|---|------------|----------|
| PLAN - Plots 30-31 Floor Plans and Elevations (A1)                       | 2015027/P15 |   | 10.01.2019 | Approved |
| PLAN - Plots 32-36 Floor Plans and Elevations (A1)                       | 2015027/P16 |   | 10.01.2019 | Approved |
| PLAN - Plots 32-37 Elevations (A1)                                       | 2015027/P17 |   | 10.01.2019 | Approved |
| PLAN - Plots 38-40 Elevations (A1)                                       | 2015027/P18 | A | 10.01.2019 | Approved |
| PLAN - Plots 40-43 Floor Plans and Elevations                            | 2015027/P19 | A | 10.01.2019 | Approved |
| PLAN - Plots 40-43 Elevations (A1)                                       | 2015027/P20 | A | 10.01.2019 | Approved |
| PLAN - Plots 37 and 44-49 Floor Plans and Elevations (A1)                | 2015027/P21 |   | 10.01.2019 | Approved |
| PLAN - Plots 44-49 Elevations (A1)                                       | 2015027/P22 |   | 10.01.2019 | Approved |
| PLAN - Substitute Plan - 11.04.19 Affordable Housing Plan                | 2015027/P31 | G | 16.04.2019 | Approved |
| PLAN - PLOTS 11-14 - FLOOR PLANS AND ELEVATIONS                          | 2015027/P06 | A | 10.01.2019 | Approved |
| PLAN - PLOTS 20-25 - ELEVATIONS  | 2015027/P12 | A | 10.01.2019 | Approved |
| PLAN -   | 4889.001    | A | 18.07.2019 | Approved |
| PLAN - Substitute Plan - 11.04.19 Site Layout                            | 2015027/P01 | I | 16.04.2019 | Approved |
| PLAN - Substitute Plan - 11.04.19 Plots 38, 50 - 54 Plans and Elevations | 2015027/P23 | D | 16.04.2019 | Approved |
| PLAN - Substitute Plan - 11.04.19 Plots 50 - 54 Elevations               | 2015027/P24 | C | 16.04.2019 | 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.

### 3) With regard to site drainage your attention is drawn to:

(i) the comments contained in Southern Water's consultation response concerning the proximity of public surface water and foul sewers with the site; and  
(ii) the possible need to gain the prior written consent of the Environment Agency, West Sussex County Council as Lead Local Flood Authority and other external organisations in order to comply with the Land Drainage Act 1991 and Flood and Water Management Act 2010 in respect of water and foul discharge off site.

4) 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.

5) Your attention is drawn to the provisions of the Countryside and Rights of Way Act 2000, Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017.

These make it an offence to:

- Kill or injure any protected species or wild bird,
- Damage or destroy the breeding sites and resting places (roosts) of certain animals including bats and dormice even if the species is not present.
- Damage, destroy or take the eggs or nest of any wild bird (when the nest is being built or is in use)

The onus is therefore on you to ascertain whether such bats, birds, other animals or insects may be nesting or using the tree(s), the subject of this consent, and to ensure you do not contravene the legislation. This may, for example, require undertaking a bat survey or delaying works until after the nesting season for birds.

If the tree is being used as a breeding site or resting place (roost) by bats, then a Natural England Licence would be required before removal of the tree. You are advised to contact Natural England for more information on 0845 601 4523. Trees which have any holes, cracks, ivy or deadwood are more likely to have roosting bats.

The nesting season for birds is between the 1st March and the 30th September. If you need to undertake works during this period you are advised to contact the local office of Natural England at Lewes for further information (tel: 01273 476595).

6) With regard to condition 6 you are advised that, amongst other things, it is likely to be a requirement that an air-source heat pump be provided for each dwelling in accordance with the previously submitted viability information, or for an alternative renewable energy source of at least equivalent generation capacity.

7) You are advised that consent under separate legislation will be required in order to make good the loss of any Common Land arising from the implementation of the development hereby permitted. Further, you are reminded that planning permission is granted without prejudice to the need to gain such consent.

8) With regard to condition 4 you are advised:  
(i) that the use of render as a facing material is unlikely to be acceptable; and  
(ii) to take into account the previous comments of the Local Highway Authority with regard to the approach to traffic calming.

9) The dedication of the new route as a public right of way would satisfy the requirements of condition 10 in respect of use by members of the public.

10) With regard to condition 10 in order to demonstrate that reasonable endeavours have been used the LPA will expect the developer to have commenced negotiations with the third party land owners no later than the commencement of development, and to provide on-going evidence to the LPA as to progress in these negotiations.

For further information on this application please contact Steve Harris on 01243 534734

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PL47G4ERGBW00>

Application 19/00086/FUL - Kirdford Parish Council Representations - July 2019

### **19/00086/FUL / Erection of 54 no. residential dwellings, associated access roads, car parking, landscaping and public open space all with unrestricted phasing / Land On The East Side Of Plaistow Road, Plaistow Road, Kirdford, West Sussex**

#### **1. Introduction**

Troy Planning + Design is instructed on behalf of Kirdford Parish Council to submit representations in response to the current planning application at the above site (19/00086/FUL), to be determined by Chichester District Council (hereby referred to as the Local Planning Authority, or LPA). It is understood that the application will be presented to Members of the Development Management Planning Committee on 7<sup>th</sup> August 2019. A representative from the Parish Council will be in attendance to speak at the Committee.

#### **2. Background**

Planning law dictates that decisions must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the Town and Country Planning Act 1990, Section 38(6) of the Planning and Compulsory Purchase Act 2004, Paragraph 2 of the National Planning Policy Framework).

The development plan comprises the Kirdford Parish Neighbourhood Development Plan (2014) (NDP) and the Chichester Local Plan: Key Policies (2014 – 2029) (CLP). The National Planning Policy Framework (NPPF) is also a material consideration in the determination of planning applications.

Planning application 15/03367/FUL for the *Proposed construction of 54 residential dwellings and associated works* was submitted to the Local Planning Authority on 7<sup>th</sup> October 2015, and was granted planning permission on Thursday 22<sup>nd</sup> November 2018, subject to a Section 106 legal agreement for a commuted sum towards the provision of affordable housing and phasing of development over two stages (subject to an approved phasing scheme), of which:

- Phase 1 constitutes the construction of 20 no. Open Market Dwellings and 12 no. Affordable Dwelling Units, with a Landscape Buffer; and
- Phase 2 constitutes the construction of 18 no. Open Market Dwellings and 4 no. Affordable Dwelling Units, with a Landscape Buffer.

The phasing was agreed by the Chichester District Council Planning Committee on 13<sup>th</sup> December 2017 and the Section 106 agreement, signed on 21<sup>st</sup> November 2018. The 106 agreement secures protection of the land forming Phase 2 of development during construction of Phase 1 (prohibiting its use for the storage of plant and machinery), as well as requiring the construction of the whole of the development in accordance with the agreed Phasing Scheme. Affordable housing across both phases comprises a mix of Shared Ownership Units and Affordable Rented Units, including a mix of 1 bedroom flats, and 2 and 3 bedroom houses. The Phasing Scheme ensures the appropriate release of affordable housing.

The Section 106 agreement conforms with Condition 3 of the decision notice, which states:

*No development shall commence unless and until a Phasing Scheme which sets out the sequence in which the proposed buildings, car parking, internal vehicular and pedestrian access routes (including links to and beyond the site boundary), SUDS infrastructure, landscaping, overhead cable re-routing and public and other open space will be provided or carried out has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt the Scheme shall be based on a five year development programme comprising two phases with a minimum period of 28 months between phases and shall include details of how the land comprised in the second phase will be managed and, if necessary, fenced-off, prior to the commencement of that phase. The development shall thereafter only be carried out in accordance with the approved Scheme unless otherwise agreed in writing by the Local Planning Authority.*

*Reason: To comply with the terms of the application and to ensure consideration is given to the development as a whole in the interests of ensuring the timely delivery of an appropriate mix of housing, other uses and open space during the construction of the development. This is required prior to commencement to ensure the entire development is appropriately phased.*

The government's Practice Guidance outlines the relevance of a site's planning history as a key 'material consideration' in the determination of a subsequent application for that site. The Guidance states that "local planning authorities should assess why an earlier grant of planning permission for similar development on the same site did not start" and notes relevant factors to include reasons why a previous permission has not been implemented, time elapsed since the permission and the relevance of other applications for the same site (Paragraph: 010 Reference ID: 21b-010-20190315). In this context, the Parish Council remains unclear on the implications of phasing upon delivery of development and requests that the Local Planning Authority and Planning Committee Members satisfy themselves of the reasons for arriving at a different conclusion to that of another recent planning consent.

Policy **KSS1: Land to the north of Kirdford Growers** in the adopted NDP is the key policy, supporting a minimum of 45 residential units on the site of a mixed size, type and tenure. The relevant section of the policy relating to phasing of development states:

*"Piecemeal development on the site will not be supported. Any application should provide for a phased development using the entirety of the site that seeks to provide the sustainable delivery of housing over the Plan period. An appropriate phasing Plan that responds to both immediate and future need should be included in support of any planning application."*

Furthermore, under the Reasoned Justification Section, the Policy states:

*"Allocation of land for sustainable development is supported by the NPPF, as is the need to address deliverability. The Proposal Map 1 was developed during NP workshops attended by the landowner's development agent. The landowner and agent indicated a desire to work in partnership with the KP – CLT group in order to address the requisite detail design and financial feasibility of the sketch scheme, to bring forward the development over the first 10 years of the Plan period. The scope, timing and volume of the phasing will be determined by local housing need, site layout and financial viability. The KP – CLT have committed to assist with initial funding for the Feasibility Studies and in association with a local housing provider, provide general funding for the social housing element of the scheme" (underlining our emphasis).*

It is not disputed that the NDP and CLP form the basis for decision taking, and where there is a degree of conflict with either, this should be considered against wider material considerations, to which there must be *compelling justification*.

### 3. Review

Discussions between the Parish Council and Officers of the Authority has confirmed that there is not an inherent concern relating to the phasing provisions under KSS1 and the degree of consistency between the NDP, the CLP and NPPF. However, the opinion of both Officers and the Applicant appears to be that there are wider material considerations which represent appropriate justification for the removal of all phasing restrictions, contrary to the NDP. This view is taken, principally on the basis that:

- a) there has been no delivery of housing development in Kirdford Parish (either allocated sites within the adopted Neighbourhood Plan or unallocated sites); and
- b) that an unphased development will result in the more immediate delivery of 54 new dwellings, which would significantly boost CDC's 5-year housing land supply position.

Phasing was a key consideration under the determination of the approved scheme, and supported by the District Valuer's Viability Assessment under application 15/03367/FUL over a 5-year period. The phasing of development has been subject to careful and still relatively recent scrutiny, which should not be underestimated. Phasing in 2 stages is particularly important to the Parish Council as it ensures the appropriate release of affordable housing (AH) across a 5-year period, without delays resulting from AH provision at the expense of completion of market dwellings.

The Parish Council has not been party to discussions regarding viability of the scheme and cannot comment on discussions between Officers and the Applicant in this regard. The Parish Council notes that no viability evidence is publicly available for review, which might justify a departure from conclusions of the District Valuer's Viability Assessment. The government recommends that discussions regarding viability are held in the public domain, both for transparency and for any avoidance of doubt in decision taking. No detailed evidence appears to have been provided to suggest that housing would not be deliverable within a two phased development across a 5-year period and the Parish Council believes that the current application fails to demonstrate with any compelling evidence, the circumstances under which there can be an acceptable departure from the NDP.

The Parish Council considers that the viability and deliverability of development at the site should be subject to careful scrutiny. The Framework provides a definition of 'deliverable' in the context of housing provision:

*"To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular: a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans). b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years."*

The Parish Council maintains that the approved phasing of development across a 5-year period still makes a meaningful contribution toward the Authority's 5-year housing land supply position. In the context of the Plaistow Road site, the land remains allocated and available for housing, with the principle of sustainable development having been established by the grant of permission in 2018. In the context of the Framework's definition, the site is considered to be deliverable within a phased 5-year period.

Officers have advised that the release of 54 new homes without phasing restrictions would significantly boost its 5-year housing land Supply position. However, the Authority is able to demonstrate a windfall allowance of 137 dwellings with an overall surplus of 338 dwellings (together with a 5% buffer in accordance with paragraph 73 of the Framework). The Parish Council believes that the strength of this position should not be underestimated.

The Parish Council also considers that the extant planning permission for 54 dwellings at the site, with two stages of Phasing, would provide sufficient justification for the Authority to resist future inappropriate development proposals within the Kirdford Parish across the Plan period. In the absence of any evidence to demonstrate viability of the scheme with or without phasing, the Parish Council maintains that the site remains deliverable in the within a 5-year timeframe. Work is already underway to review the NDP with no major modifications proposed to policy KSS1.

The Parish Council would also query whether the absence of phasing would present issues relating to impacts on protected species together with the recommended mitigation measures, noting that phased developments are typically more appropriate when incorporating effective mitigation of harm to protected species. Where a development proposal has a potential or confirmed impact upon protected species, the degree of impact should be minimised wherever possible.

The Bat Mitigation Strategy submitted by Ethos Environmental Planning, dated April 2019 states at Section 4.1 (Mitigation prior to construction) that *“This section sets out the mitigation measures that will be implemented prior to construction commencing on site. These measures will be applied prior to the commencement of each stage of construction commencing”*. Furthermore, at 4.3 (Post construction mitigation) it is written that *“The mitigation measures detailed prior to and during construction will remain in place until each phase of the development is completed. Following the completion of each phase, the site will be assessed by the bat expert to ensure the mitigation measures are being followed. No subsequent phases will commence until subsequent precommencement mitigation measures are in place”*. There is further mention of phasing of development at 4.3 paragraph 2.

It is unclear whether Ethos Environmental Planning has reviewed the scope of the revised development proposal, and the Parish Council is therefore concerned that the recommended ecological work and mitigation takes into account the delivery of the scheme without any phasing. For example, the absence of phasing would mean that there would be less opportunity for ecological monitoring and the suggested mitigation measures appear to rely on phasing. The Parish Council would question whether ecological mitigation would be better suited to a housing delivery based on two phases in order to reduce the risk of harm to protected species over a reasonable period. It is recommended that Officers seek clarification on this point prior to arriving at any formal recommendation.

#### **4. Summary and Conclusion**

The circumstances under which the original application was approved represent a key consideration in the determination of this revised application. The Parish Council remains concerned that the proposal to remove all phasing restrictions is unjustified, in light of limited evidence for Officers to conclude that wider material considerations would outweigh the conflict with the adopted Neighbourhood Development Plan. The Parish Council further considers that the Authority should not downplay its 5-year housing land supply position or the significance of the extant scheme in the context of deliverability over what is a reasonable and previously negotiated phasing period.

The Parish Council is concerned that the updated evidence submitted to assess impacts upon ecology and biodiversity shows no regard for the lack of phasing, and the LPA should seek further clarification with the applicant and the CDC Environment Team.

On this basis, Kirdford Parish Council formally **objects** to the planning application and requests that Officers and Members carefully review the scope of justification provided by the applicant.