



## **1.0 Reason for Committee Referral**

Parish Objection - Officer recommends Permit

Significant major application where officers consider decision needs to be made by the Committee.

### **1.1 The application was deferred at the 9 September 2020 Planning Committee meeting for further information/clarification on highways access, foul drainage and capacity of the local schools.**

## **2.0 The Site and Surroundings**

- 2.1 The 1.2 ha greenfield site is located to the south west of the village of Loxwood and within the rural area in policy terms. The site is immediately adjacent to but does not directly abut the village Settlement Boundary (SB) as set out in the adopted Local Plan; it is separated by an archaeological site known as the 'moat' to the north, and the 'High Street' B2133 Guildford Road to the east, the main arterial route into and through the village from the south.
- 2.2 Although not within the settlement boundary in policy terms, the site is within 100m of the village post office and store, less than 400m from the village primary school and less than 500m from the doctor's surgery. There are 3 bus stops and access to the nearest public right of way within 100m. Access to the towpath along the Wey and Arun canal lies within 300m to the south. The village hall is to the north of the settlement, approximately 800m from the application site. St John the Baptist Church is around 500m south of the site and the local sports pitches are approximately 1.3km to the south on the Plaistow Road.
- 2.3 The application site is a separate parcel of unmanaged grassland enclosed by native trees, hedging and shrubs mostly semi-mature to mature. The site falls gently to the south east. Beyond the site boundary the land beyond falls more steeply to the road (High Street) and towards the canal to the south. There is existing residential development to the north, east and south east, including a ribbon of dwellings, many of which are listed, fronting High Street opposite the site. Dwellings to the north are large, detached and back on to the site. An individual dwelling with stables lies to the south and there is open agricultural land to the west.

## **3.0 The Proposal**

- 3.1 This is an application for outline planning permission with all matters reserved save for 'access'. It is described on the application form as:

*Outline application with all matters reserved, except for Access (excluding internal estate roads) for the erection of up to 24 no. residential dwellings.*

3.2 The proposed development would be accessed by a single new vehicular access from the High Street (Guildford Road B2133) in the north-east corner of the site in the approximate position of an existing gated field access. The access will be 5.5m wide with a 6 metre radii at the bellmouth of the new junction and will achieve suitable visibility splays commensurate with the 30mph speed limit in force at this location. A 2m wide footpath connection would be constructed from the northern part of this access alongside the B2133 to the point where it will meet with the existing footway at Loxwood Place Farm to the north.

3.3 The application seeks approval for the principle of a housing development on the 1.2ha site with an overall mix comprising:

- 1 x 1 bed
- 8 x 2 bed
- 12 x 3 bed
- 3 x 4 bed

3.4 In terms of the split between market and affordable units the proposal breaks down as follows:

Unit size	Private	Affordable	Total
1 bed	0	1	1
2 bed	6	2	8
3 bed	9	3	12
4 bed	2	1	3
TOTAL	17 (70%)	7 (30%)	24

3.5 The Local Plan affordable housing policy requirement at 30% actually results in a requirement for 7.2 dwellings. In this case the 0.2 of a unit is to be provided as a commuted sum, calculated in accordance with the Council's adopted Planning Obligations and Affordable Housing SPD.

3.6 Based on the whole site area, the overall density of housing equates to approximately 20 dph. This is slightly higher than the Thakeham Homes proposals for 50 dwellings on land west of Guildford Road which the Planning Committee resolved to permit at the 12 August meeting, subject to the signing of a s.106 agreement - LX/20/01481/FUL). At the time of writing the terms of the s.106 agreement for the Thakeham Homes proposals have been agreed and the agreement is nearing completion. The Committee will be updated.

3.7 Layout, scale, appearance and landscaping are all reserved matters but the applicant has provided an illustrative layout showing how the development of 24 homes might be delivered. Key features to note in this illustrative layout which are likely to be carried forward into any reserved matters submission are the plan to reinforce the existing wooded hedgerow boundaries to the site and the proposals to site an attenuation pond adjacent to the southern boundary as part of the surface water drainage strategy.

#### 4.0 History

13/03809/OUT	REF	Erection of 25 no. residential dwellings comprising of 14 no. private residential dwellings and 11 no. affordable residential dwellings, associated private amenity space and parking. APPEAL DISMISSED
19/02781/OUT	REF	The erection of up to 22 no. residential dwellings with all matters reserved, except for access (excluding internal estate roads). APPEAL IN PROGRESS

#### 5.0 Constraints

Listed Building	NO
Conservation Area	NO
Rural Area	YES
AONB	NO
Tree Preservation Order	NO
EA Flood Zone	FZ1
- Flood Zone 2	NO
- Flood Zone 3	NO
Historic Parks and Gardens	NO

#### 6.0 Representations and Consultations

##### 6.1 Parish Council

1. Loxwood Parish Council (LPC) originally objected to the application by Castle Properties to build 22 houses on land South of Loxwood Farm Place on the basis that it was not within the Settlement Boundary of Loxwood and is not an allocated site in the Loxwood Neighbourhood Plan (LNP). Policies 1, 2 and 3 apply.
2. Chichester District Council (CDC) refused the application primarily on the grounds that it was not an allocated site within the LNP.
3. The current LNP allocates 60 houses to Loxwood parish on 2 sites. These are Land at Farm Close (17 houses) and the Nursery site (43 houses). The Nursery site has been developed and the Land at Farm Close is yet to be developed. The Land at Farm Close has been the subject of 2 planning applications. LX/13/02025/FUL and LX/17/02370/FUL. The first planning application for 17 houses was supported by LPC and CDC granted planning permission. Once permission was granted, the site was sold to another developer. The new developer submitted another planning application for 19 houses. The application was not supported by LPC and refused by CDC primarily on the poor design and layout of the development. Neame Sutton, on behalf of the appellant, claim in their submission that the Farm Close site has not come forward due to viability issues. This was essentially due to the requirement at that time by Southern Water on the developer to provide waste water infrastructure improvements at the developer's expense; due to the lack of capacity in the current sewer system. Subsequent legislation has obviated this requirement save for a per dwelling contribution totalling significantly less than the original £594k required by Southern Water. Consequently, viability for this site should now not be an issue. Equally, the current NP runs until 2029 and thus has 9 years of validity left.

Accordingly, there is plenty of time remaining for a new planning application for the site to be submitted.

4. It is understood that the applicant has submitted this new application on the basis that CDC, with effect of the 15th July, will not be able to demonstrate a 5 year housing supply and accordingly, planning consent should be granted in accordance with paragraph 11 of the NPPF.

5. Loxwood has been allocated a further 125 houses in the Regulation 18 submission of the emerging CDC Local Plan (LP). As a result of this proposed allocation for Loxwood Parish, LPC have embarked on a revision to its existing NP. In a recent Call for Sites, 10 sites were put forward by developers and land owners. The Land South of Loxwood Farm Place was one of the sites submitted. All of the sites submitted in the Call for Sites have been assessed against Sustainability and Viability criteria defined in the Locality guidance material (<https://neighbourhoodplanning.org/toolkits-and-guidance/assess-allocate-sitesdevelopment/>). Those sites deemed to be eligible for development have been included in a parish questionnaire which requests residents to select which sites they would prefer to be developed. The appellant's site is one of those included in the questionnaire. Once the results of the questionnaire have been analysed, a revised NP will be formulated to address the CDC emerging LP requirement for a further 125 houses in Loxwood. Should the housing requirement change during the CDC LP consultation, the NP housing number will be adjusted accordingly.

6. LPC fully accept the need to make provision for further housing within the parish but believe that it should be achieved by democratic means and not be developer led.

7. Accordingly, LPC firmly believe that this application is premature and that LPC will meet the objective of the housing allocation for Loxwood in the emerging CDC LP and the intent of paragraph 11 of the NPPF by means of its revised NP.

8. Turning to the detail of this revised application, the original application was for 22 houses. This application is for 24 houses. An extra 2 houses have been added at the bottom of the site, plots 3 and 24, which makes the whole of the southern end of the site cramped. The whole layout should be revised to accommodate these extra houses if they are deemed necessary.

9. The Flood Risk and drainage strategy report paragraph 7.7 states "Southern Water has been contacted and they have confirmed that capacity in the existing foul network will be provided for the proposed development. The correspondence with Southern Water is provided in Appendix K. If Southern Water determine that currently there is insufficient capacity to accommodate the development any network reinforcement will be part funded through the New Infrastructure Charge process and the remainder being funded through Southern Water Capital Works programme. This process is understood to take a maximum of 24 months." Again this demonstrates the contradictory stance taken by Southern Water. Meetings between Loxwood Parish Council and senior development managers of Southern Water have established that Loxwood does not feature in the 5 year infrastructure plan agreed by OFWAT for the 2020 to 2025 spending round. In order to resolve this ongoing issue and as agreed at the virtual meeting held between LPC and CDC on the 24 June, before a decision on the application is made, a meeting should be held between CDC/LPC and Southern Water to resolve Southern Water's contradictory position with respect to the Loxwood Sewerage system. See also LPC's response to planning application 20/01481/FUL.

10. If CDC is minded to grant permission for this development, then LPC would request that CDC impose the following planning conditions:

a. that work should be phased and not be allowed to commence on this site until Southern Water can demonstrate that infrastructure improvement works have been satisfactorily carried out and that adequate capacity subsequently exists within both their waste water

and surface water systems. LPC urges CDC to take note of the fragile state of the Sewage system in Loxwood and the plight of the many residents downstream of the site who are already the victims of sewage overflow into gardens and toilets and who should not be liable to exacerbated conditions due to this development without the necessary infrastructure improvements;

b. that traffic calming measures be discussed and agreed with Loxwood Parish Council before planning consent is agreed. This is to ensure a joined- up approach along the Guildford Road to the problem of traffic speed.

## 6.2 Southern Water

Initial investigations indicate that Southern Water can provide foul sewage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer. Recommend condition that development shall not commence until details of the foul and surface water sewerage disposal have been approved by the Local Planning Authority in consultation with Southern Water.

***[Officer Comment: Southern Water has agreed to provide a representative who will attend the Planning Committee meeting on 25 September 2020 to provide further clarification on foul drainage matters relating to the application]***

## 6.3 WSSC- Highways

### **Further comments received 10.09.2020**

**The LHA confirm that the drawing as previously assessed (130524-TK01 Rev F) *[in respect of CDC refuse vehicle swept path at the site access to High Street for application LX/19/02781/OUT]* is acceptable.**

Comments received on 24.07.2020

No Objection. The LHA were previously consulted for highways comments under application 19/02781/OUT for 22 x dwellings at the site, to which no highways objections were raised. No highway safety or capacity reasons were raised previously and thus the principle of the application remains acceptable. The vehicle access and proposed footway link are identical to the previously commented on application and thus it is considered that safe and suitable access, as per paragraph 108 of the National Planning Policy Framework (NPPF) have been demonstrated for this revised scheme. The applicant should enter in to a S278/38 agreement with WSSC Implementation team to gain technical approval for the access works.

The Developer has proposed a contribution towards traffic calming measures as part of mitigation works for the development and to address the existing recorded speeds which are over the posted limit. It is proposed that the contribution shall be towards a vehicle activated sign (VAS) or similar on High Street to be secured via Section 106 agreement, to make the development acceptable in planning terms and contribute to improvement of highway safety in vicinity by aiming to reducing vehicle speeds. In light of the fact that the Loxwood Nursery site to the north included provision of 2 x VAS either side of the development, the LHA consider it most appropriate for new signage to be located in vicinity of 30mph gateway into Loxwood to the south.

The LHA has reviewed the proposed indicative parking arrangements. The TS states that 59 x car parking spaces total will be included within a mix of external spaces, car ports and garages. The majority of spaces will be adjacent each plot and thus will be allocated. Most properties will be allocated 3 spaces each with some properties allocated 2 x spaces and plot 6 and 22 being allocated 4 x spaces. Whether the number of allocated spaces will meet the parking demand can be assessed at reserved matters stage. Nevertheless, the indicative parking distribution appears to be acceptable considering the site location and likelihood for reliance on the private car.

Anticipated daily trip movements from the site are 10 x two-way movements in the AM peak hours and 13 x two-way movements in the PM peak hours. This is not anticipated to result in a capacity issue at the new junction or on the nearby road network.

#### 6.4 WSSC- Lead Local Flood Authority

Current surface water flood risk based on 30 year and 100 year events - Low Risk  
Modelled groundwater flood hazard classification - Moderate Risk. This risk is based on modelled data only and should not be taken as meaning that the site will/will not suffer groundwater flooding.

Records of any flooding within the site? - No

The FRA and Drainage Strategy for this application propose that sustainable drainage techniques (permeable paving, swale and attenuation pond with a restricted discharge to the watercourse) would be used to control the surface water from this development.

All works to be undertaken in accordance with the LPA agreed detailed surface water drainage designs and calculations for the site, based on sustainable drainage principles. The maintenance and management of the SuDS system should be set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority.

*[Officer Comment: the Council's Drainage Engineer has recommended conditions to address this which are appended to the recommendation]*

#### 6.5 WSSC - Fire and Rescue Officer

Having viewed the intended plan for 24 residential dwellings there is concerns that Vehicle access to the area between number 24 and number 19 does not meet with the requirements in that there is no provision of a turning circle or hammerhead for a fire appliance to turn and make an exit. The maximum a fire appliance should be required to reverse is 20 metres.

*[Officer Comment: the comments of the Fire Officer are based on the submitted illustrative layout which is not a matter to be determined under this outline application ('layout' is a reserved matter). Notwithstanding this, the applicant's transport consultant has produced a further illustrative layout plan which is amended to show how a turning head for a fire appliance can be incorporated into the proposals]*

## 6.6 WSSC – Education Service

The school [in Loxwood] recently increased their Published Admission Number [the annual intake each school should take] to 30 and have a Number on Roll of 175 (October 2019 census) compared to a capacity of 210 so there is no pressure at present. A development of 24 homes is unlikely to require further expansion as the child product from 24 homes would be unlikely to have a significant or negative impact on Loxwood. In short, we work on a general average of 1,000 homes producing 30 pupils per year of entry so 24 homes would have a very small impact.

However, we do seek primary school contributions for the Billingshurst school planning locality (in which comes Loxwood) so a standard contribution/CIL payment would seem to be appropriate to be spent as needs require in the locality.

## 6.7 CDC - Housing Enabling Officer

No objections. The market housing mix is broadly in line with the SHMA requirements and will contribute to creating a mixed, balanced and sustainable community.

The affordable housing mix is broadly in line with the SHMA requirements. It is not clear from the submitted documents what the intended tenure split will be. The Planning Obligations and Affordable Housing SPD require that the affordable housing is delivered as 70% affordable rented and 30% shared ownership. The affordable dwellings should be delivered tenure blind and should not be externally distinguishable from the market dwellings. The SPD requires that the affordable dwellings are not clustered together in groups of more than 10. All 7 units [as shown on the illustrative layout] are clustered towards the centre of the site which meets this requirement.

## 6.8 CDC - Environmental Strategy Officer

Bats - lighting scheme for the site will need to take into consideration the presence of bats in the local area and the scheme should minimise potential impacts to any bats using the trees, hedgerows and buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding. Hedgerows on site are used by bats and dormice for commuting and foraging and will need to be retained and enhanced. This will include having a buffer strip around the hedgerows (5m) and during construction fencing should be used to ensure this area is undisturbed. Any gaps should also be filled in using native hedge species to improve connectivity. Conditions should be used to ensure this.

Reptiles - Following submission of the Reptile Mitigation Strategy (June 2020), we are happy that the mitigation proposed would be suitable. A condition should be used to ensure this takes place.

Nesting birds - works to the trees or vegetation clearance on the site should only be undertaken outside of the bird breeding season which takes place between 1st March 1st October.

Enhancements - a list of proposed enhancements to be incorporated in the scheme are set out including; bird boxes, wildflower planting, gapping up tree lines, bat bricks and bat boxes, managed grassland areas, 2 hedgehog nesting boxes, gaps under fences to allow movement of small mammals.

Policy 40 - Following submission of the Sustainable Design and Construction and Energy Statement we are satisfied that with the installation of PV panels, ground/air source heat pumps and fabric first approach a reduction in CO2 emissions will be achieved. Further information including the more detailed figures demonstrating the combined CO2 emissions reduction will be required at reserved matters stage.

#### 6.9 CDC - Drainage Engineer

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

The proposal for surface water drainage is for a restricted discharge to the adjacent watercourse, with attenuated storage provided in a pond/swales. This approach is acceptable in principle as infiltration to ground is very unlikely to be viable. Any discharge to a watercourse must not exceed existing rates, but a reduction would be favourable, as Loxwood has experienced localised flooding in recent years. A condition is recommended.

#### 6.10 CDC - Archaeology Officer

I agree with the conclusions of the archaeology and heritage assessment for the site, and that the possibility that it might contain hitherto unidentified sub-surface remains that might merit preservation should be archaeologically investigated. I consider that this would be most best achieved through a programme of trial trenching and further investigation as appropriate, and that this process should be secured following the imposition of a standard planning condition.

#### 6.11 CDC - Senior Historic Buildings Advisor

From historic mapping it is clear that the proposed development site has remained open land historically. The site has historically been separated from the listed buildings by the road still in existence and this separation is now furthered by the substantial and mature vegetation and trees along the western side of the High Street along the edge of the site. The combination of the two provide some visual separation between the site and the proposed development which it is considered reduces the level of harm to less than substantial which it is considered can be balanced against the public benefits of the provision of additional housing. In principle the layout is considered appropriate in terms of responding to the varied irregular and non-linear layouts which are characteristic of Loxwood. The provision of a green buffer zone between the High Street and the development is welcomed and would enable the retention of a greater amount of open space in front of the existing listed buildings. Within close proximity to the site there are no distinct building lines with some properties set back from the highway and others just a pavement width away. The proposed development appears to be responding to and incorporating this variety.

## 6.12 5 Third Party Objections

- i. there is an on-going consultation and site selection process with the Parish Council, this process must be allowed to run its course
- ii. covid-19 crisis will result in large numbers of properties becoming available and CDC should look at available opportunities to build houses on brownfield sites before any more green fields are dug up
- iii. site lies outside of the settlement boundary
- iii. inadequate capacity of the foul drainage system in Loxwood. Current problems with sewage flooding and the under-capacity of the Nursery Green storage tanks mean that no additional development should be permitted to add to the system until Southern Water has confidence in its capacity.
- iv. will add to existing traffic issues on the High Street which vehicles already use as a rat-run. These vehicles often exceed the 30mph speed limit making all vehicle movements onto the High Street, including from the existing properties, very dangerous.
- v. field likely to be of archaeological significance
- vi. current properties on the East side of the site would suffer from increased noise from the development, particularly in the summer when the grassed areas towards the East would be used for recreation.
- vii. development would be visible from many of these properties. This would constitute loss of amenity for these properties.
- viii. no reliable public transport**
- viv. no employment opportunities**
- x. Primary School already full to capacity and the Medical Practice would be under considerable strain**

## 6.13 Applicant/Agent's Supporting Information

In addition to the plans, illustrative material and matters covered in the Planning, Design and Access Statement, the application is accompanied by a suite of supporting technical documents on: Transport; Flood Risk Assessment and Drainage Strategy; Heritage and Archaeology; Ecological Appraisal; Arboriculture Assessment; Sustainable Design and Construction and Energy Statement. These documents and relevant appendices can be read in full on the Council's website.

## 7.0 Planning Policy

### The Development Plan

- 7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029 (CLP) adopted by the Council on 14th July 2015 and all made neighbourhood plans. The Loxwood Neighbourhood Plan 2013 - 2029 (LNP) was made on 14.07.2015. It was subject to a High Court legal challenge in 2016 partly on the grounds that the Council had not given adequate or intelligible reasons for concluding that the LNP should allocate land for only 60 new dwellings. The challenge was unsuccessful (on all grounds) and the judge dismissed the appeal. The LNP forms part of the Development Plan against which applications must be considered.

7.2 The principal policies of the Chichester Local Plan relevant to the consideration of this application are as follows:

**Chichester Local Plan 2014-2029:**

Policy 1 Presumption in Favour of Sustainable Dev

Policy 2 Dev 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 25 Development in North of the Plan area

Policy 33 New Residential Development

Policy 34 Affordable Housing

Policy 39 Transport, Accessibility and Parking

Policy 40 Carbon Reduction Policy

Policy 45 Development in the Countryside

Policy 49 Biodiversity

Policy 52 Green Infrastructure

Policy 54 Open Space, Sport and Recreation

7.3 The policies of the made LNP relevant to this application are:

**Loxwood Neighbourhood Plan**

Policy 1: Housing Allocation - a minimum of 60 houses on allocated and windfall sites located within the Settlement Boundary.

Policy 2: Settlement Boundary.

Policy 3: Site Assessments and Allocation of Sites.

7.4 In addition the LNP states that all developments on allocated and windfall sites should conform to the following policies as detailed below:

Policy 7 - Street Lighting

Policy 8 - Infrastructure Foul Water

Policy 9 - Built Environment - Housing Density

Policy 10 - Built Environment - Vernacular

Policy 15 - Telecommunications and Connectivity

Policy 16 - Traffic Calming

Policy 17 - Environmental Characteristics

Policy 18 - Flood Risk

7.5 Work on reviewing the current LNP by the Loxwood Neighbourhood Plan Steering Group is underway in response to the Local Plan Review's proposed allocation of 125 homes for the parish up to 2036 (draft policy S5). From an initial 'Call for Sites' a shortlist of 8 potential housing sites were set out in a questionnaire and the residents of Loxwood were invited to give their views on where the additional housing should be allocated in the event that the proposed allocation of 125 new homes was confirmed as part of the Local Plan Review. The current application site was 1 of the 8 proposed sites. The deadline for returning the questionnaire was 26 June 2020 and the Parish Council website indicates that the results of that questionnaire will be available shortly. At the time of preparing this report the website had not been updated in that regard.

**7.6 Following the Planning Committee meeting on 9 September 2020 the Parish Council has posted on its website the presentation made on 5 and 6 September by the Loxwood Neighbourhood Plan Steering Group on its draft and revised policies. From the shortlist of 8 potential housing sites set out in the 'Call for Sites' questionnaire referred to in paragraph 7.5 above, the Steering Group has decided to allocate 4 sites in order to meet the draft allocation of 125 new homes in emerging Local Plan Review policy S5. One of those 4 recommended sites is the current application site on land south of Loxwood Farm Place for 24 homes. Whilst this 'recommendation' does not represent the formal position of the Parish Council and will be subject to a 6 weeks Regulation 14 consultation period, it does indicate a preferred direction of travel in neighbourhood planning policy terms by those helping to shape the new Loxwood Neighbourhood Plan going forward.**

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

7.7 Work on a Review of the Local Plan to consider the development needs of the Chichester Plan Area through to 2036 is well underway. Consultation on a Preferred Approach Local Plan (Regulation 18) took place between 13 December 2018 and 7 February 2019. Following consideration of all responses to the consultation period, the Council will publish its Submission Local Plan under Regulation 19. It is currently anticipated that after following all necessary procedures the new Local Plan will be adopted during 2022.

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

#### **Part 1 - Strategic Policies**

S1 Presumption in Favour of Sustainable Development

S2 Settlement Hierarchy

S3 Development Hierarchy

S4 Meeting Housing Needs

S5 Parish Housing Requirements

S6 Affordable Housing

S19 North of the Plan Area

S20 Design

S23 Transport and Accessibility

S24 Countryside

S26 Natural Environment

S27 Flood Risk Management

S29 Green Infrastructure

Part 2 - Development Management Policies

DM2 Housing Mix

DM3 Housing Density

DM8 Transport, Accessibility and Parking

DM16 Sustainable Design and Construction

DM18 Flood Risk and Water Management

DM22 Development in the Countryside

DM29 Biodiversity

DM32 Green Infrastructure

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

## National Policy and Guidance

- 7.9 Government planning policy now comprises the revised National Planning Policy Framework (NPPF 2019), which took effect from 19 February 2019 and related policy guidance in the NPPG.
- 7.10 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.*
- 7.11 The following policies of the revised NPPF are relevant to this application: 2, 8, 9, 11, 12, 14, 15, 29, 30, 47, 48, 49, 50, 60, 61, 62, 72, 73, 74, 75, 170, 196, 213, 215 and 216.
- 7.12 Paragraph 48 of the NPPF advises on the weight which may be attached to relevant policies in emerging plans according to their stage of preparation and the degree of consistency to the policies in the Framework. The more advanced in preparation emerging plans are and the closer their policies align with the Framework, then the greater the weight that may be given. Paragraph 30 provides that once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently.

## Other Local Policy and Guidance

- Interim Policy Statement for Housing
- Surface Water and Foul Drainage SPD
- Planning Obligations and Affordable Housing SPD
- CDC Waste Storage and Collection Guidance
- Chichester Landscape Capacity Study
- Loxwood Village Design Statement 2003

## **Interim Policy Statement for Housing**

- 7.13 In accordance with national planning policy, the Council is required to regularly prepare an assessment of its supply of housing land. The Council's most recent assessment of its housing supply has identified that as of 15 July 2020 there is a potential housing supply of 2,831 net dwellings over the period 2020-2025. This compares with an identified housing requirement of 3,297 net dwellings (equivalent to a requirement for 659 homes per year). This results in a deficit of 466 net dwellings which is equivalent to 4.3 years of housing supply. The inability to demonstrate a 5 year supply of housing contrary to the requirements of government policy triggers the presumption in favour of permitting sustainable development, as set out in paragraph 11 of the National Planning Policy Framework.
- 7.14 To pro-actively manage this situation prior to the adoption of the Local Plan Review, the Council has brought forward an Interim Policy Statement for Housing (IPS), which sets out measures to help increase the supply of housing by encouraging appropriate housing schemes. At its meeting on 3 June 2020, the Planning Committee resolved to approve the draft Interim Policy Statement for the assessment of relevant planning applications with immediate effect, and to publish the draft document for a period of consultation. The consultation closed on 10 July and the responses are currently being processed. It is intended to bring a report back to Planning Committee in October, including any proposals for revisions. New housing proposals considered under the IPS, such as this application, will therefore need to be assessed against the 12 criteria set out in the IPS document. The IPS is a development management tool to assist the Council in delivering appropriate new housing at a time when it cannot demonstrate a 5 year supply of housing land. It is not a document that is formally adopted and neither does it have the status of a supplementary planning document, but it is a material consideration in the determination of relevant planning applications. It is a document that the decision maker shall have regard to in the context of why it was introduced i.e. to try and manage the submission of speculative housing applications on appropriate sites. Where new housing proposals score well against the IPS criteria, this needs to be taken into account in decision making..
- 7.15 The aims and objectives of the Chichester in Partnership Community Strategy 2016- 2029 which are relevant and material to the determination of this planning application are:
- Encourage and support people who live and work in the district to adopt healthy and active lifestyles
  - Support communities to meet their own housing needs
  - Support and promote initiatives that encourage alternative forms of transport and encourage the use of online services
  - Promote and increase sustainable, environmentally friendly initiatives in the district
  - Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area.

## 8.0 Planning Comments

8.1 The main issues with this application are considered to be:

- i. Principle of development and the policy position
- ii. Drainage
- iii. Highway Impact
- iv. Other matters - Housing mix, Density and Affordable Housing; Heritage impact; Ecological considerations; Landscape impact; Impact upon residential amenity; Sustainability measures

### Principle and Policy Position

8.2 The primacy of the development plan and the plan-led approach to decision-taking is a central tenet of planning law and is enshrined in section 38(6) of the Planning and Compulsory Purchase Act 2004 which states that applications:

*'should be determined in accordance with the development plan unless material considerations indicate otherwise'*

8.3 For certainty and clarity a plan-led approach to decision making on planning applications relies on a development plan which is up-to-date, particularly with regard to its housing policies and the proposed delivery of that housing. When assessed against the policies of the adopted Local Plan, the current application is considered to be contrary to policies 2 and 45 in that it is proposing new housing outside the settlement boundary for Loxwood in the countryside or Rest of Plan Area and would not meet an 'essential, small scale and local need' (policy 45). Additionally, the proposal in combination with the 43 dwellings now built at the Nursery Green site and the full permission for 50 dwellings on land west of Guildford Road (LX/20/01481/FUL) would be significantly in excess of the indicative housing numbers for the Parish of Loxwood as set out in Policy 5 of the Local Plan (60 homes). Neither is the site one of the allocated sites identified in the made Loxwood Neighbourhood Plan and so it conflicts with policies 1 and 2 of that Plan. Prima facie therefore, and following a s.38(6) development plan approach, this application is contrary to policy.

8.4 However, as from 15 July 2020 the Council's housing policies in the Local Plan are no longer up-to-date and so no longer have full weight. The Local Plan Inspector in 2015 agreed that for a period of 5 years from the date of the Plan being adopted - i.e. by 15 July 2020 - the Council could rely on a suppressed housing delivery target of 435 dwellings per annum (dpa) because of acknowledged strategic constraints in relation to transport capacity issues on the A27 and foul drainage capacity issues. The agreed delivery target of 435 dpa was on condition that the Council committed to undertaking a Review of the Plan and the changed housing requirements of the Plan area within the 5 year period. That review is well underway but it is not complete. The Chichester Local Plan Review - Preferred Approach for the period up to 2036 has yet to reach the stage where it can be submitted to the Secretary of State for examination and the Council's timetable indicates that this is not now anticipated until the Spring of 2021. The housing numbers stated in the Local Plan Review indicate the proposed direction of travel, the 'preferred approach' but they are not confirmed. The provisional allocation for Loxwood is 125 new homes (policy S5).

Consequently in terms of the decision-making process, the decision maker cannot rely or place any weight on these emerging policies. The Council is effectively therefore in a state of transition between an adopted Local Plan with out of date housing policies and allocations and a Review of that Plan which is not sufficiently advanced in the process towards adoption to be afforded any weight in decision making. Added to that the government requires councils to now calculate their housing need through the standard method which on the basis of the Updated Position Statement on the Five Year Housing Land Supply at 15 July shows a need of 628 dpa i.e. significantly in excess of the previous 435 dpa.

- 8.5 The Committee is advised that the current application is a resubmission of an application for 22 dwellings (the first application - 19/02781/OUT) which was refused outline planning permission under officer's delegated powers on 9 April 2020. That first application is now at appeal and due to be considered by way of a public inquiry commencing on 3 November 2020. The first and primary reason for refusing the first application (and the issue on which the subsequent appeal would be largely contested) was that at the time of the decision the Council could demonstrate a 5-year housing land supply and adopted housing policies in the context of the Local Plan were not therefore out-of-date. The provisions in paragraph 11(d) of the NPPF (known as the 'tilted balance') i.e. where there can be a presumption in favour of granting permission for sustainable development where there are out-of-date housing policies, was not therefore engaged. During the intervening 5 month period since the first application was refused, circumstances have changed. By the time the Inquiry opens in November 2020, the degree of change, particularly in terms of the basis for how housing land supply is now calculated and the Council's position in that respect will be material to how the appeal is determined. The Council will not have a 5 year housing land supply, in fact, measured against the revised housing need of 628 dpa there is likely to be a significant shortfall as outlined above. The Council will not therefore be able to rely at the Inquiry on the key plank of its reason for refusal 1 i.e. that it has a 5 year housing supply because by then - indeed now - its housing policies are out-of-date and the tilted balance in the NPPF needs to be applied. It does not necessarily follow that the absence of a 5 year housing supply means the appeal would be allowed on that basis alone, however, for the appeal to be dismissed the Council would have to demonstrate that the adverse impacts of permitting 24 houses on this site would significantly and demonstrably outweigh the benefits.
- 8.6 Other than the conflict in principle with the Council's Local Plan housing strategy at the time of refusing the first application, the Council did not cite other reasons for refusal which were not capable of being resolved by the applicant. On the current application the applicant has addressed the inefficient use of land/low density (refusal reason 2 on the first application) and parties are close to completing the section 106 agreement (refusal reason 3). As the Council cannot now demonstrate a 5 year housing land supply it cannot state that it still has a supply as a reason for refusing the current application in the way that it did on the first application. As the current application is the same in all other respects as the first application, save for the addition of 2 further dwellings to address the second reason for refusal which officers consider it does, it would be very difficult without the evidence for the Council to now justify introducing new reasons for refusal which it did not consider previously.

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

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

The site does not directly adjoin the existing settlement boundary for Loxwood however in its juxtaposition with the High Street it part shares/is next to a common border with that boundary. In the context of this adjacent relationship it is considered to satisfy criterion 1.

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

Loxwood is a sustainably located settlement defined as a Service Village in the Local Plan (Policy 2). In this context the proposed scale of development is considered appropriate and the criterion is therefore satisfied.

**3) The impact of development on the edge of settlements, or in areas identified as the locations for potential landscape gaps, individually or cumulatively does not result in the actual or perceived coalescence of settlements, as demonstrated through the submission of a Landscape and Visual Impact Assessment.**

It is considered that the development meets this point. The development would appear well integrated with the existing pattern of development in Loxwood. There is no actual or perceived coalescence likely to arise from permitting this development.

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

Based on the whole site area the proposals achieve a density of around 20 dwellings per hectare which is slightly more than the whole site area density calculation for the Thakeham Homes proposals for 50 dwellings on land west of Pond Copse Lane. It is anticipated that the resultant net density of the residential area would be around 30 dph. The site is a single field so there is no artificial sub-division and in the context of the rural edge of settlement location and the pattern of existing housing adjacent this level of development is considered acceptable. The proposal meets this criterion.

**5) Proposals should demonstrate consideration of the impact of development on the surrounding townscape and landscape character, including the South Downs National Park and the Chichester Harbour AONB and their settings. Development should be designed to protect long-distance views and intervisibility between the South Downs National Park and the Chichester Harbour AONB.**

It is considered that the proposal would comply with the above criterion.

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

Not applicable in this instance.

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

It is considered the proposal would meet the above criterion. Wastewater disposal will be through the statutory undertaker, affordable housing, open space, and highways improvements will be secured through the section 106 agreement and/or by planning condition.

**8) Development proposals shall not compromise on environmental quality and should demonstrate high standards of construction in accordance with the Council's declaration of a Climate Change Emergency. Applicants will be required to submit necessary detailed information within a Sustainability Statement or chapter within the Design and Access Statement to include, but not be limited to:**

- Achieving the higher building regulations water consumption standard of a maximum of 110 litres per person per day including external water use;**
- Minimising energy consumption to achieve at least a 19% improvement in the Dwelling Emission Rate (DER) over the Target Emission Rate (TER) calculated according to Part L of the Building Regulations 2013. This should be achieved through improvements to the fabric of the dwelling;**
- Maximising energy supplied from renewable resources to ensure that at least 10% of the predicted residual energy requirements of the development, after the improvements to the fabric explained above, is met through the incorporation of renewable energy; and**
- Incorporates electric vehicle charging infrastructure in accordance with West Sussex County Council's Car Parking Standards Guidance.**

Insofar as this is an outline application with the specific carbon saving details following as part of any application for the approval of reserved matters, the proposals are considered to address Local Plan policy 40. The development will meet this criterion through a combination of fabric first, air/ground source heat pumps and solar PV panels. A maximum 110 litres per person per day water use will be conditioned.

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

The application is submitted in outline meaning that judgments regarding the scale, design, layout, appearance and landscaping of the proposed dwellings are deferred for a subsequent reserved matters application. Notwithstanding that the proposed layout information provided on the application is for illustrative purposes, the Council's Historic Buildings Advisor has commented that it is appropriate in terms of the way it responds to the pattern of existing development in Loxwood.

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

The development is sustainably located with appropriate pedestrian and cycle linkages to the existing facilities in Loxwood.

**11) Development must be located, designed and laid out to ensure that it is safe, that the risk from flooding is minimised whilst not increasing the risk of flooding elsewhere, and that residual risks are safely managed. This includes, where relevant, provision of the necessary information for the LPA to undertake a sequential test, and where necessary the exception test, incorporation of flood mitigation measures into the design (including evidence of independent verification of SuDS designs and ongoing maintenance) and evidence that development would not constrain the natural function of the flood plain, either by impeding flood flow or reducing storage capacity. All flood risk assessments should be informed by the most recent climate change allowances published by the Environment Agency.**

This criterion is considered to be satisfied (refer to the assessment below). The drainage system is designed through SuDS to satisfactorily manage the discharge of surface water from the development.

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

Not applicable in this instance.

- 8.8 The proposed development insofar as it is submitted in outline is considered to meet all the relevant criteria in the IPS. In the absence of an up-to-date Local Plan the Council cannot rely on a plan-led approach to decision making on major housing applications as it ordinarily would. The IPS provides an appropriate development management tool for assessing such applications and in this context and for the reasons outlined above and in the subsequent assessment the 'principle' of housing development on this site is considered acceptable.

## Drainage

- 8.9 Foul Water - The proposals are to connect the future development into the public sewer which runs along the site's east boundary under the main road. Foul water drainage is a significant issue of local concern raised by third parties and the Parish Council to both this application and the first application now at appeal. The criticism is the inadequacy of the existing foul water drainage system and how this system would fair under the additional loadings resulting from the current proposal for 24 dwellings as well as the Thakeham Homes development on land west of Guildford Road (LX/20/01481/FUL) which is for a net increase of 49 dwellings. Southern Water (SW) as the statutory undertaker has not raised any specific concerns in its consultation response to this application but the Committee will recall from the Thakeham Homes application the Parish Council's concern about the potential two year lag in the time estimated to complete any required upgrade of the offsite infrastructure to service the new development from the moment the development commences. The concern was over what might need to be put in place as an interim foul drainage measure should there be a need to occupy houses on the site within the two years whilst any upgrade was taking place. The Parish were concerned in this regard with what had happened at the Nursery Green site where interim foul drainage measures had been installed.
- 8.10 The 'rehabilitation' of the offsite network infrastructure where necessary will be part-funded through Southern Water's New Infrastructure Charge with the remainder funded through its Capital Works programme. Southern Water has also confirmed that its current Drainage and Wastewater Management Plan which it is consulting on with the community includes Loxwood and will look at where the investment is needed. When all is told the applicant has a 'right to connect' their development to the public sewerage network under s.106 of the Water Act. The timetable thereafter for delivering that connection and any necessary off-site upgrades is a matter for SW to agree with the developer following the grant of planning permission. Whilst the level of concern locally is noted, SW is committed under its statutory duty to provide a fit for purpose foul drainage system to service the proposed development and is regulated in this regard by the industry regulator OFWAT. Any failings on behalf of SW to deliver required improvements to the offsite network to satisfactorily service the proposed development are failings under Part 4 of the Water Industry Act 1991 not under the Town and Country Planning Act, and the recourse for such failure therefore falls to be addressed under that Act through OFWAT. SW has not advised the Council that the proposed development should not go ahead because it cannot be satisfactorily drained and for the Council to try to cite such a reason as a reason for refusing the application would not therefore be either tenable or reasonable.
- 8.11 Surface Water - The application details for this development indicate that the proposed means of surface water drainage for the site is via attenuated discharge to the existing watercourse on the southern boundary. It is proposed to have an attenuation pond provided for the 1 in 100 year event plus climate change, swales and permeable paving and a hydrobrake to restrict the flow of surface water into the existing ditch so that it does not exceed greenfield run-off rates. The site is in FZ1 and is therefore at the lowest risk of surface water flooding. The Council's Drainage Officer has advised that infiltration to ground is very unlikely to be viable option because of the underlying local geology. Overall, and subject to a condition requiring details of the surface water scheme to be approved to ensure there is no overall increase in flows into the surface water system, no technical objection is raised. Similarly no objection is raised by the County Council's Flood Risk Management Team.

8.12 With the imposition of appropriate condition/s as recommended by consultees it is considered that the surface water drainage component of the application can be successfully addressed in terms of attenuating flows and controlling the rate of discharge to the local watercourse. In terms of the foul drainage proposals, it is not doubted that a technical solution is available or can be delivered for the proposed development. The point is more one of timing and Southern Water's uncertain delivery timetable in this regard. Officers note the comments and continuing frustrations of the Parish Council and the comments from third parties regarding sewage disposal and apparent shortcomings in the existing network but ultimately it is the statutory duty of Southern Water to ensure that the development is satisfactorily drained and Southern Water is not raising an objection to this application. **[Planning Officer Comment: Southern Water will provide a representative to attend the Committee meeting to answer members questions]**

#### Highway Impact

8.13 Aside from the principle of development in this location, 'access' is the only matter for consideration on this application with all other matters being reserved. A single point of vehicular access to the site from the B2133 Guildford Road will be provided in the north-east corner, corresponding to the approximate position of an existing field access. Transport information submitted with the application indicates that the development is likely to generate around 10 trips in the am peak hour and 12 trips in the pm peak hour. It estimates an additional 109 vehicular movements throughout an average weekday could be created. A coherent package of traffic calming measures have already been secured through the completed Nursery Green development and for the permitted Thakeham Homes development and further traffic calming measures through signage or similar that aim to reduce vehicle speeds are to be secured through a developer contribution via the section 106 agreement that would accompany any permission for this development. Policy 16 of the made Loxwood Neighbourhood Plan supports such an approach. The Local Highway Authority (LHA) overall consider that it has been demonstrated that safe and suitable access can be achieved to support the development. Matters relating to car and bicycle parking and internal layout would need to be provided at reserved matters stage. WSCC has confirmed that it does not wish to raise transport grounds to resist the application in principle. **At the 9 September Planning Committee meeting members sought confirmation that the proposed access to the site was safe in terms of larger vehicles manoeuvring in and out such as the Council's refuse vehicles as well as fire tenders. The Local Highway Authority has confirmed that the swept path plan (drawing no. 30524-TK01 Rev F) submitted as part of the previous application on the site which is now at appeal and which shows the swept paths for these larger vehicles is acceptable from a highway safety perspective and no objection is raised. This same plan has now been provided to the Council as part of the current application.**

8.14 The applicant has demonstrated to the satisfaction of the LHA that the development is sustainable in terms of the measures it will deliver to manage the additional traffic it will generate onto the network. WSCC has confirmed that there is no objection in terms of the impact on the local highway network. The LHA is satisfied that in terms of the relevant policy test in NPPF para 109, the development would not have an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe. It is considered that whilst there would be a material change in vehicle movements arising from the proposed development onto Guildford Road, the nature of this 'change' is not of a level that could substantiate a refusal of the planning application on highway grounds.

### Other matters

#### Housing mix, Density and Affordable Housing

8.15 The proposed housing mix for both the affordable mix and the private market mix meets with the requirements of the Council's Housing Enabling Officer in terms of the Strategic Housing Marketing Assessment and no objection is raised. The application is in outline so the final mix of house types will not be known until the submission of the subsequent application for reserved matters but a schedule of accommodation indicates there would be 2 x flats with the remainder being 2 storey houses. The affordable housing mix will be secured through the S.106 agreement.

8.16 In terms of density of development the site achieves around 20 dwellings per hectare for the whole site area. This is a small increase over the density of the first application now at appeal and is brought about by the inclusion of two additional dwellings. As a 'whole site' figure it compares well with the 17 dph for the Thakeham Homes application. The net residential area of the Thakeham Homes scheme resulted in a density of 26 dph and it is anticipated that the current application will deliver around 30 dph depending on the exact form of the layout. When considered in the context of the perimeter landscape/ecological buffers, the wildlife areas and the ponds and the edge of settlement location the amount of development proposed is considered to be acceptable.

#### Heritage impact

8.17 In terms of the potential impact of a development of 24 dwellings on the wider setting of the adjacent listed buildings, the Secretary of State (SoS) on the previous appeal decision for 25 dwellings agreed with his Inspector that *'there would be no harm to the significance of the listed buildings on the east side of the High Street across the road from the appeal site or any other non-designated heritage assets by way of impact on their settings.'* Whilst the layout on the current application is submitted illustratively rather than in detail as it was for the 25 dwelling appeal scheme, it has very clear similarities in terms of the perimeter block layout and the deep, well screened setback on the east boundary with the High Street. A 15 metre deep landscape buffer is to be secured through the S.106 agreement on the east site boundary to ensure that any subsequent layout submitted under reserved matters has to automatically respect the setting issue. In light of these similarities it is not possible to reach any conclusion on this outline application which would support coming to an alternative view from that which the SoS reached in 2013 in terms of there not being a harmful impact on the setting of the adjacent listed buildings.

8.18 The Council's Senior Historic Buildings Advisor (SHBA) in commenting on the application points out that evidence shows the site has remained open land historically so the [wider] setting of the listed buildings has been one of a collection of cottages overlooking undeveloped open land. The site has historically been separated from the listed buildings by the road and this separation is now furthered by the substantial and mature vegetation and trees along the western side of the High Street along the eastern edge of the site. The combination of the two provides some visual separation between the site and the proposed development. Whilst the SHBA identifies some impact upon the historic setting of the listed buildings, it is considered that the visual and spacial separation reduces that level of harm to less than substantial (NPPF paragraph 196 refers) which is outweighed by the public benefits of delivering much need housing including affordable housing.

#### Ecological considerations

8.19 The application site is subject to no particular ecological designation. The applicant's Design and Access Statement details a number of measures detailed earlier in the report to improve the biodiversity of the site. The Council's Environment Officer has assessed the proposals and made a number of recommendations (see earlier in this report) which can be secured by condition. There is no ecological reason to resist the application.

#### Landscape impact

8.20 The approx. 1.3 hectare site comprises a field consisting of rough, semi-improved grassland with hedgerow, scrub and scattered trees along the boundaries with mature trees on the southern boundary and semi-mature trees on the west. The proposal would provide landscape/ecological buffers along the site boundaries (3 metre buffers to the west and south boundaries) and these are to be secured through the S.106 agreement. The site lies on the southern approach to the village core within the historic part of the village and adjacent to several listed buildings. The south-east corner of the site is noticeably higher than the adjacent highway and the mature vegetation to the boundary provides a rural setting for the historic buildings and a sense of enclosure for those who visit the village from the south. Viewed from the north, there is a marked and rapid change from busy village centre to historic rural fringe with sporadic and traditional ribbon development of moderately sized dwellings fronting the road. Many of these are listed or considered heritage assets. The mature trees on the southern boundary of the site and the semi mature trees to the west are visible from the canal and its public access routes on substantially lower ground to the south and south west. These factors make the site particularly sensitive to development and the south-east corner of the site particularly so. 'Layout' is a reserved matter on the application but the proposals are accompanied by an illustrative housing layout which shows a swathe of open green space approximately 15 metres deep adjacent to the east site boundary with the High Street helping to set the development back into the site and away from the main road. The indicative landscape proposals shown on that boundary planted with trees to filter views from the main road would also help to visually integrate the development.

8.21 It is relevant that 'Landscape harm' was never cited in the reasons for refusal of the 2013 outline application for 25 dwellings on this same site. In re-confirming the Inspector's decision to dismiss the subsequent appeal on that previously refused application, the Secretary of State determined on the issue of landscape impact that: *'there would be a degree of conflict with those Local Plan policies which seek to conserve and enhance the rural character of the area and its landscape, but that only minor localised harm would result from the loss of open undeveloped land at the edge of the settlement and the contribution that that makes to the countryside setting.'* In this context it is considered that to try and now introduce a landscape reason for refusing the current application when one was not identified on the 2013 appeal scheme or on the previous refused application (the first application) for 22 dwellings is neither reasonable nor tenable. All new development on hitherto undeveloped greenfield land will of course involve a change to the character and appearance of that land but that change in or by itself is not sufficient on its own to warrant refusal particularly when that judgment is weighed as it must be against the significant benefit of delivering new homes to help address the Council's significant housing supply shortfall.

#### Impact upon residential amenity

8.22 A consequence of developing out a green field where there is no development is that it will potentially have some bearing on the established amenities of existing adjacent residential properties, some of whom currently may enjoy an outlook onto a rural field. However, loss of or change of 'outlook' is not necessarily a reason for not permitting new development and with the existing boundary treatments buffered further through landscaping on the subsequent reserved matters, this is not a matter which is considered to weigh adversely against the proposals in terms of the final planning balance. The construction management plan required by condition on this recommendation to permit the application will provide safeguards to protect residential amenity and will place restrictions on the developer carrying out the development so far as is reasonable. A condition requiring details of any future lighting proposals for the site is also recommended to protect the rural character of the environment and to avoid light spillage where lighting is required.

#### Sustainability measures

8.23 The applicant has submitted a Sustainable Design and Construction and Energy Statement which proposes a combination of fabric first, PV's and Heat Pumps to reduce energy demand and deliver carbon savings through thermally efficient, well designed and suitably orientated buildings. The exact savings will need to be quantified as part of a detailed assessment undertaken alongside any future reserved matters submission and an appropriately worded planning condition requiring a more detailed Sustainable Design and Construction statement to be submitted with the reserved matters application is recommended in order to achieve a CO2 emissions saving of at least 19%. This will need to be delivered together with a further 10% carbon savings through the installation of renewable technology. In respect of the latter, the illustrative housing layout suggests that a number of dwellings will have south or close to south facing roofslopes which indicates that they would be suitable for PV's to achieve the 10% savings.

8.24 Conditions are also attached to the recommendation to secure a maximum water consumption standard of 110 litres per person per day including external water use and in relation to electric vehicle charging infrastructure which will need to provide passive charging provision across the site and active charging provision as per the requirements of the County Council's Parking standards. It is considered that secured in this way the development meets the requirements of criterion 8 of the IPS and therein the objectives of Local Plan policy 40. The Council's Environment Officer has confirmed that the applicant's approach is acceptable but that more detail will be required at the reserved matters stage to demonstrate the level of CO2 savings.

### **Education**

8.25 **At the 9 September Planning Committee meeting clarification was sought as to whether there was sufficient schools capacity within the Loxwood area catchment to manage the demand for school places arising from the proposed development. Evidence provided from WSCC in terms of the most up to date Infrastructure Business Plan to deliver the current Local Plan is that in terms of Primary, Secondary, sixth form and special educational needs, a scheme of further expansion of primary schools within the Billingshurst planning area, that sits within Chichester district, by up to a half form entry would be required in the medium to long term period but this is not planned until at least 2027. There is no suggestion that as a direct consequence of the current application a further expansion of school capacity would be needed. The funding sources are through CIL for which the proposed development is liable at £200 sqm and through WSCC (including a central government Basic Need Grant from the Department for Education).**

8.26 **The comments from WSCC's Assistant Director for School Organisation at paragraph 6.6 above confirm that the number of children on the Roll is 175 (as of October 2019 census) compared to a schools capacity of 210 so there is no pressure at the moment. A development of 24 homes is regarded as unlikely to require further schools expansion. This is based on working to a general average of 1000 homes producing 30 pupils per year of entry so 24 homes would have a very small impact.**

### **Significant Conditions**

8.27 Key conditions attached to the recommendation include securing the vehicular and pedestrian access arrangements, the precise details of the foul water and surface water drainage systems and the sustainable development components.

### **Section 106 Agreement**

8.28 This development is liable to pay the Council's CIL charge at £200 sqm which will address most of the infrastructure matters. At the time of preparing this report work was advancing on drafting a section 106 agreement which the applicants have confirmed they will enter into. The anticipated final heads of terms are:

- 30% Affordable Housing (requires 7.2 units, the proposal is for 7 units) in accordance with the required SHMA mix. Tenure 70:30
- 0.2 unit as an Affordable Housing commuted sum calculated in accordance with the provisions of the Planning Obligations and Affordable Housing SPD July 2016

- 3 metre wide landscape buffers on the west and south site boundaries, a 15 metre wide landscape buffer on the east boundary - provision, management and on-going maintenance
- Amenity Open space provision, management and on-going maintenance
- Traffic calming in the form of a contribution towards a vehicle activated sign (VAS) or similar on High Street
- S.106 Monitoring fee £1,692

### Conclusion

- 8.29 This application is a re-submission of a previous application for 22 dwellings which was refused by the Council under Officers delegated powers and which is now the subject of an appeal. In order to substantiate reaching a different decision on the slightly amended proposal submitted this time around it would be necessary for the Council to demonstrate that there has been a material shift in circumstances. The material shift in circumstances here is that whereas on the first application, which is now at appeal, the Council was able to demonstrate that it had a 5 year supply of housing land, under this application that is no longer the case as the housing policies in the Local Plan are now out of date. Government policy in the NPPF requires local planning authorities to demonstrate that they have a rolling 5 year supply and when there is less than a 5 year supply the NPPF engages what is known as the 'tilted balance', that is a presumption in favour of permitting new sustainable housing development.
- 8.30 The first application was refused on the basis that the Council had a 5 year housing supply and could therefore rely on the Local Plan to resist new housing applications outside of the settlement boundary in Loxwood. In the absence of that supply, that reason now falls away. The Council also cited that the level of proposed development on the site did not result in an effective use of that land in meeting the need for homes contrary to paragraph 117 of the NPPF. The applicant has increased the number of dwellings proposed on the current application from 22 to 24. Whilst this might appear a modest increase given the need to boost the Council's housing supply, it is considered an appropriate increase in the context of the site's rural surroundings and the additional requirements of the site to accommodate landscape buffers, wildlife areas and SuDS infrastructure. The second reason for refusal on the first application therefore also falls away.
- 8.31 In terms of assessing the current application against the Interim Planning Strategy for Housing, the application insofar as it is submitted in outline scores well and overall officers consider that this is a good site for additional housing in Loxwood. No adverse consultation responses have been received which might suggest that the development should not go ahead. Local concerns regarding sewage disposal and the current state of the off-site network are noted but improvements where necessary of that infrastructure is the specific statutory function of Southern Water under the Water Industry Act against whom the industry regulator OFWAT has the power to enforce against if the required statutory function is not being satisfactorily discharged. On the basis of the consultation response received from Southern Water no formal objection to the application is raised and it would be both unreasonable and untenable for officers to recommend a reason for refusing the application on this basis, noting also that no such reason for refusal was cited on the first application. The application will deliver much need housing including 7 units of affordable housing and will help to address the Council's housing supply shortfall.

The application is therefore recommended for permission subject to the applicant entering into a S.106 agreement to secure the required affordable housing, traffic calming and other infrastructure.

### Human Rights

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

### **RECOMMENDATION**

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

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

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

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

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

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

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

3) The development hereby permitted shall not be carried out other than in accordance with the approved plans: 19001/S101; 130524-01 Rev B; PRI18650-03 Rev E

Reason: To ensure the development complies with the planning permission.

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

- (a) the phased programme of demolition and construction works;
- (b) the anticipated number, frequency and types of vehicles used during construction,
- (c) the location and specification for vehicular access during construction,
- (d) the provision made for the parking of vehicles by contractors, site operatives and visitors,
- (e) the loading and unloading of plant, materials and waste,
- (f) the storage of plant and materials used in construction of the development,
- (g) the erection and maintenance of security hoarding,
- (h) the location of any site huts/cabins/offices,
- (i) the provision of road sweepers, wheel washing facilities and the type, details of operation and location of other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- (j) details of public engagement both prior to and during construction works, including a named person to be appointed by the applicant to deal with complaints who shall be available on site and contact details made known to all relevant parties,
- (k) measures to control the emission of dust and dirt during construction, to include where relevant sheeting of loads, covering and dampening down stockpiles and restriction of vehicle speeds on haul roads. A dust management plan should form part of the CEMP which includes routine dust monitoring at the site boundary with actions to be taken when conducting dust generating activities if weather conditions are adverse,
- (l) measures to control the emission of noise during construction,
- (m) details of all proposed external lighting to be used during construction and measures used to limit the disturbance of any lighting required. Lighting shall be used only for security and safety,
- (n) appropriate storage of fuel and chemicals, in bunded tanks or suitably paved areas,
- (o) measures to reduce air pollution during construction including turning off vehicle engines when not in use and plant servicing, and
- (p) waste management including prohibiting burning and the disposal of litter,
- (q) provision of temporary domestic waste and recycling bin collection point(s) during construction,
- (r) hours of construction.

Reason: These details are necessary pre-commencement to ensure the development proceeds in the interests of highway safety and in the interests of protecting nearby residents from nuisance during all stages of development and to ensure the use of the site does not have a harmful environmental effect.

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

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

6) **No development shall commence** unless and until details of the proposed means of foul water sewerage disposal including the proposals for the associated off-site infrastructure improvements have been submitted to and been approved in writing by the Local Planning Authority acting reasonably in consultation with Southern Water. Thereafter all development shall be undertaken in accordance with the approved details. No occupation of any dwelling shall take place until the approved off-site works have been completed or, in the event that the agreed off-site works are not completed in full by the time of first occupation, detailed interim on-site measures for the disposal of foul water sewerage shall be first agreed in writing by the Local Planning Authority in consultation with Southern Water **and implemented in full**.

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

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

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

8) The development hereby permitted shall not be carried out other than in accordance with the recommendations for mitigation and ecological enhancements set out in the Preliminary Ecological Appraisal by ACD Environmental (24.06.20) and shall be carried out in accordance with specific details and a timetable for implementation to be submitted to and agreed in writing by the Local Planning Authority **before work commences on site**. For the avoidance of doubt the mitigation measures and ecological enhancements shall include; implementation of the measures in the Reptile Mitigation Strategy by ACD Environmental (24.06.20) for the trapping and translocation of slow worms, the provision of bat boxes, bird boxes and 2 no. hedgehog nesting boxes within the new development.

Reason: To accord with the terms of the application and to enhance the ecological and biodiversity value of the site.

9) **No development shall commence** on the site until a written scheme of archaeological investigation of the site has been submitted to and been approved in writing by the Local Planning Authority. The scheme shall include proposals for an initial trial investigation and mitigation of damage through development to deposits of importance thus identified, a schedule for the investigation, the recording of findings and the subsequent publication of results. Thereafter the scheme shall be undertaken fully in accordance with the approved details, unless any variation is first submitted to and agreed in writing by the Local Planning Authority.

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

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

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

11) **Before construction of any dwelling above slab level** the developer shall provide details of how the development will accord with the West Sussex County Council: Guidance on Parking at New Developments (August 2019) in respect of the provision of Electric Vehicle (EV) charging facilities. These details shall be approved in writing by the Local Planning Authority and carried out as approved. Specifically the development shall provide passive provision through ducting to allow EV charging facilities to be brought into use at a later date for the whole site. Active EV charging facilities shall be provided in accordance with the table at Appendix B of the West Sussex County Council: Guidance on Parking at New Developments (August 2019) and no dwelling which is to be provided with an active charging facility shall be first occupied until the EV charging facility for that dwelling has been provided and is ready for use.

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

12) **Before construction commences above slab level** on any dwelling hereby permitted specific details shall be submitted to and be approved in writing by the Local Planning Authority showing how the development shall comply with the terms of the submitted 'Sustainable Design and Construction and Energy Statement' prepared by Castle Land and Development and submitted with the application and with the requirements of criterion 8 of the Interim Planning Statement for Housing Development (July 2020). The details shall include the proposed location, form, appearance and technical specification of the air/ground source heat pumps (including acoustic performance) and the form and siting of the solar PV panels which shall be designed to be inset and flush fitting with the plane of the roof. The development thereafter shall be carried out in accordance with the approved details.

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

13) Notwithstanding the illustrative landscaping details submitted with the application **no construction of any dwelling above slab level** shall take place unless and until a detailed scheme of soft landscaping for the whole site has been submitted to and been approved in writing by the Local Planning Authority. The scheme shall include a planting plan and schedule of plants noting species, plant sizes and proposed numbers/densities, and shall include a program/timetable for the provision of the landscaping. In addition all existing trees and hedgerows on the land shall be indicated including details of any to be retained, together with measures for their protection during the course of development. The scheme shall make particular provision for the conservation and enhancement of biodiversity on the application site and boundary fencing shall include gaps underneath to enable the passage of small mammals (hedgehogs). The works shall be carried out in accordance with the approved details and planting timetable and in accordance with the recommendations of the appropriate British Standards or other recognised codes of good practice. Any trees or plants which, within a period of 5 years after planting, are removed, die or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved unless otherwise first agreed in writing by the Local Planning Authority.

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

14) **No dwelling shall be first occupied** unless and until such time as the vehicular access, footway and associated works serving the development have been constructed in accordance with the details shown on the drawing no. 130524-01 Rev B 'Proposed Access Arrangement and Visibility Splays'.

Reason: In the interests of road safety and to accord with the terms of the application.

15) **No dwelling shall be first occupied** unless and until visibility splays of 2.4 metres by 59 metres have been provided at the proposed site vehicular access onto High Street (B2133) in accordance with drawing no. 130524-01 Rev B 'Proposed Access Arrangement and Visibility Splays'. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above the adjoining carriageway level unless any variation to this requirement is specifically agreed in writing by the Local Planning Authority in consultation with WSCC as the Local Highway Authority.

Reason: In the interests of road safety.

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

Reason: To ensure the development benefits from appropriate infrastructure

17) The dwellings hereby permitted shall be designed to ensure the consumption of wholesome water by persons occupying a new dwelling must not exceed 110 litres per person per day, as set out in in G2 paragraphs 36(2) and 36(3) of the Building Regulations 2010 - Approved Document G - Sanitation, hot water safety and water efficiency (2015 edition with 2016 amendments). **No dwelling hereby permitted shall be first occupied** until the requirements of this condition for that dwelling have been fully implemented, including fixtures, fittings and appliances.

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

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

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

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

## INFORMATIVES

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

2) The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

3) The applicant is advised that the erection of temporary directional signage should be agreed with the Local Traffic Engineer at West Sussex County Council prior to any signage being installed. The applicant should be aware that a charge will be applied for this service.

4) The applicant is required to obtain all appropriate consents from West Sussex County Council, as the Local Highway Authority, to cover the off-site highway works. The applicant is requested to contact The Implementation Team Leader (01243 642105) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.

5) A formal application to Southern Water for connection to the public sewerage system is required in order to service this development. Attention is drawn to the New Connections Services Charging Arrangements document which has now been published and is available to read on Southern Water's website via the following link: [southernwater.co.uk/developing-building/connection-charging-arrangements](https://southernwater.co.uk/developing-building/connection-charging-arrangements)

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

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QCOST4ERKYM00>