

Parish: Chidham & Hambrook	Ward: Harbour Villages
-------------------------------	---------------------------

**CH/20/00412/OUT**

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

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



	<p><b>NOT TO SCALE</b></p>	<p>Note: Do not scale from map. For information only. Reproduced from the Ordnance Survey Mapping with the permission of the controller of Her Majesty's Stationery Office, Crown Copyright. License No. 100018803</p>
---	----------------------------	--

## **1.0 Current situation regarding determination of this application**

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

## **2.0 Reason for Committee Referral**

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

## **3.0 The Site and Surroundings**

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

## **4.0 The Proposal**

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

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

Discounted market sales housing:

2 x 1 bedroom

3 x 2 bedroom

4 x 3 bedroom

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

## 5.0 History

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

## 6.0 Constraints

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

## 7.0 Representations and Consultations

### 7.1 Parish Council

#### **Additional comments received 10/09/2020**

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

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

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

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

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

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

#### 2. Proximity to the power lines

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

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

### 3. Density of housing

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

### 4. Design

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

### 5. Nitrate neutrality

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

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

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

### 6. Waste Water Treatment capacity

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

### **Additional comments received 23/03/2020**

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

## Comments received 20/03/2020

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

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

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

## 7.2 Chichester Harbour Conservancy - summarised by officer

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

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

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

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

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

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

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

## 7.3 Southern Electric

No comments received.

#### 7.4 Southern Water- *Summarised by Officer*

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

#### 7.5 Highways England-*Summarised by Officer*

##### **Comments received 21/09/2020**

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

##### **Comments received 18/03/2020**

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

#### 7.6 Natural England- *summarised by officer*

##### **Comments received 14/09/2020**

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

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

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

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

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

### **Comments received 26/03/2020**

We consider that without appropriate mitigation the application would:

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

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

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

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

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

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

## 7.7 WSCC Highways

### **Comments received 22/09/2020**

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

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

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

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

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

### **Comments received 02/09/2020**

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

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

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

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

### **Comments received 26/02/2020**

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

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

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

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

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

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

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

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

#### 7.8 WSCC Fire and Rescue Service

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

#### 7.9 WSCC Lead Local Flood Authority

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

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

#### 7.10 CDC Housing Enabling Officer - summarised by officer

##### **Comments received 21/09/2020**

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

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

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

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

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

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

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

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

#### **Comments received 04/09/2020**

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

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

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

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

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

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

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

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

### **Comments received 11/08/2020**

Comments on amended mix for 37 dwellings.

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

### **Comments received 23/03/2020**

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

### **Comments received 26/02/2020**

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

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

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

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

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

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

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

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

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

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

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

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

#### 7.11 CDC Drainage Engineer

##### **Comments received 26/02/2020**

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

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

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

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

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

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

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

Conditions are recommended.

#### 7.12 CDC Environmental Health Officer

##### **Comments received 23/09/2020**

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

## **Comments received 21/09/2020**

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

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

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

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

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

## **Comments received 26/03/2020**

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

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

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

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

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

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

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

Conditions to secure a noise mitigation scheme are recommended.

#### 7.13 CDC Environmental Strategy Officer

##### **Comments received 21/09/2020**

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

##### **Comments received 04/05/2020**

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

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

##### **Comments received 11/03/2020**

The hedgerows on site are used by bats for commuting and foraging and will need to be retained and enhanced for bats. This will include having a buffer strip around the hedgerows (5m) and during construction fencing should be used to ensure this area is undisturbed. Any gaps should also be filled in using native hedge species to improve connectivity. Conditions should be used to ensure this.

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

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

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

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

We require a number of enhancements are incorporated within the scheme and shown with the landscaping strategy. These include;

- Any trees removed should be replace at a ratio of 2:1
- Wildflower meadow planting used
- Filling any gaps in tree lines or hedgerows with native species
- Bat and bird boxes installed on the site (as detailed above)
- Grassland areas managed to benefit reptiles.
- Hibernaculum and log pile (as detailed within the reptile mitigation)
- We require that gaps are included at the bottom of the fences to allow movement of small mammals across the site
- two hedgehog nesting boxes included on the site

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

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

## 7.14 CDC Contract Services (Waste)

### **Comments received 21/09/2020**

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

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

### **Comments received 03/03/2020**

Refer to waste storage and collection service guide.

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

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

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

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

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

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

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

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

### 7.15 Third Party Representations

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

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

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

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

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

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

## **8.0 Planning Policy**

### The Development Plan

- 8.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029, the CDC Site Allocation Development Plan Document and all made neighbourhood plans. The Chidham and Hambrook Neighbourhood Plan was made on the 20th September 2016 and forms part of the Development Plan against which applications must be considered.
- 8.2 The principal planning policies relevant to the consideration of this application are as follows:

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

- Policy 1: Presumption in Favour of Sustainable Development
- Policy 2: Development Strategy and Settlement Hierarchy
- Policy 4: Housing Provision
- Policy 5: Parish Housing Sites 2012- 2029
- Policy 6: Neighbourhood Development Plans
- Policy 8: Transport and Accessibility
- Policy 9: Development and Infrastructure Provision
- Policy 33: New Residential Development
- Policy 34: Affordable Housing
- Policy 35: Affordable Housing Exception Sites
- Policy 39: Transport, Accessibility and Parking
- Policy 40: Sustainable Design and Construction
- Policy 42: Flood Risk and Water Management
- Policy 45: Development in the Countryside
- Policy 48: Natural Environment
- Policy 49: Biodiversity
- Policy 50: Development and Disturbance of Birds in Chichester and Langstone Harbours Special Protection Areas
- Policy 52: Green Infrastructure
- Policy 54: Open Space, Sport and Recreation

## Chidham and Handbrook Neighbourhood Plan

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

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

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

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

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

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

S1 Presumption in Favour of Sustainable Development  
S2 Settlement Hierarchy  
S3 Development Hierarchy  
S4 Meeting Housing Needs  
S5 Parish Housing Requirements  
S6 Affordable Housing  
S20 Design  
S23 Transport and Accessibility  
S24 Countryside  
S26 Natural Environment  
S27 Flood Risk Management  
S29 Green Infrastructure  
S32 Design Strategies for Strategic and Major Development Sites  
AL10 Chidham and Hambrook Parish

## **Part 2 - Development Management Policies**

DM2 Housing Mix

DM3 Housing Density

DM8 Transport, Accessibility and Parking

DM16 Sustainable Design and Construction

DM18 Flood Risk and Water Management

DM22 Development in the Countryside

DM29 Biodiversity

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

Harbours Special Protection Areas

DM32 Green Infrastructure

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

### National Policy and Guidance

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

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

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed;

or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole

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

### Other Local Policy and Guidance

8.8 Consideration has also been given to:

o Surface Water and Foul Drainage SPD

o Planning Obligations and Affordable Housing SPD

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

o CDC Waste Storage and Collection Guidance

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

o Interim Policy Statement for Housing

## **Interim Policy Statement for Housing Development May 2020**

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

## 9.0 Planning Comments

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

### i. Principle of Development and Policy Position

#### **Entry Level Exception Site**

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

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

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

- 9.9 The application proposes 35 no. new dwellings outside any defined Settlement Boundary. When considered against the policies of the adopted Local Plan, the application is considered contrary to policies 2 and 45 in that proposing new housing development outside the settlement boundary for Chidham and Hambrook in the countryside or Rest of Plan Area and would not meet an 'essential, small scale and local need' (policy 45). Additionally the site is not identified in the made Chidham and Hambrook Neighbourhood Plan and so it conflicts with policy LP1 of that Plan. Furthermore the proposal, in combination with the 4 housing sites identified with planning permission within the Chidham and Hambrook Neighbourhood Plan, would be significantly in excess of the indicative housing numbers for the Parish of Chidham and Hambrook as set out in Policy 5 of the Local Plan (25 homes). Therefore, and following a s.38(6) development plan approach, this application is contrary to policy.
- 9.10 However, as from 15 July 2020, the Council's housing policies in the Local Plan are no longer up-to-date and so no longer have full weight. The Local Plan Inspector in 2015 agreed that for a period of 5 years from the date of the Plan being adopted, i.e. by 15 July 2020, the Council could rely on a suppressed housing delivery target of 435 dwellings per annum (dpa) because of acknowledged strategic constraints in relation to transport capacity issues on the A27 and foul drainage capacity issues. The agreed delivery target of 435 dpa was on condition that the Council committed to undertaking a Review of the Plan and the changed housing requirements of the Plan area within the 5 year period. That review is well underway but it is not complete. The Chichester Local Plan Review - Preferred Approach for the period up to 2036 has yet to reach the stage where it can be submitted to the Secretary of State for examination and the Council's timetable indicates that this is not now anticipated until the Spring of 2021. The housing numbers stated in the Local Plan Review indicate the proposed direction of travel, the 'preferred approach' but they are not confirmed. The provisional allocation for Chidham and Hambrook Parish is 500 new homes (policy AL9). Consequently in terms of the decision-making process, the decision maker cannot rely or place any weight on these emerging policies. The Council is effectively therefore in a state of transition between an adopted Local Plan with out of date housing policies and allocations and a Review of that Plan which is not sufficiently advanced in the process towards adoption to be afforded any weight in decision making. Added to that the government requires Councils to now calculate their housing need through the standard method which on the basis of the Updated Position Statement on the Five Year Housing Land Supply at 15 July shows a need of 628 dpa i.e. significantly in excess of the previous 435 dpa.
- 9.11 As the housing policies in the Local Plan are out of date and the provisions in paragraph 11(d) of the NPPF (known as the 'tilted balance'; i.e. where there can be a presumption in favour of granting permission for sustainable development where there are out-of-date housing policies) are engaged. It does not necessarily follow that the absence of a 5 year housing supply means the application should be allowed on that basis alone, however, for the application to be refused the Council would have to demonstrate that the adverse impacts of permitting 35 houses on this site would significantly and demonstrably outweigh the benefits.

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

#### ii. Change of use of the land

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

#### iii. Highways Safety and Parking

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

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

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

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

#### iv. Residential Amenity

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

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

#### v. Ecology

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

#### vi. Impact on trees

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

#### vii. Habitat Regulations Assessment

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

#### **Nitrates**

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

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

### **Recreational disturbance**

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

## **Sub conclusion**

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

### viii. Land, air, light and noise pollution

#### **Land contamination**

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

#### **Air quality**

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

#### **Light pollution**

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

## Noise

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

### ix. Other Matters

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

### CIL

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

## Planning Obligations

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

- Provision of 35 dwelling units for first time buyers/renters with the following mix:
  - Affordable/Social Rented:
    - 10 x 1 bedroom
    - 9 x 2 bedroom
    - 5 x 3 bedroom
    - 2 x 4 bedroom
  - Discounted market sales housing:
    - 2 x 1 bedroom
    - 3 x 2 bedroom
    - 4 x 3 bedroom
- Appropriate management by an approved body and a nominations agreement to ensure compliance as an entry level exception site.
- Financial contribution of £63,105 (£1,803 per dwelling) towards the A27 Local Plan mitigation works in line with the Council's SPD 'Approach for securing development contributions to mitigate additional traffic impacts on the A27 Chichester Bypass'.
- Open Space (minimum of 317 sqm separate to landscape buffers) - provision, management and on-going maintenance.
- 5m wide landscape buffers along the southern and eastern site boundaries and 10m wide landscape buffer along the northern boundary - provision, management and on-going maintenance.
- Financial contribution of £18,057 for recreational disturbance mitigation, in accordance with Planning Obligations and Affordable Housing SPD (as of 1st April 2020).
- Nitrates mitigation - this will need to be informed by the final appropriate assessment (in consultation with Natural England) following the submission of an updated nitrates assessment. The S106 would need to set out the size and location of land currently used for cereal and secure its conversion to woodland. It should also secure its management and on-going maintenance in perpetuity (80/120 years).
- S106 monitoring fee of £1,692

## Significant Conditions

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

## Conclusion

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

## Human Rights

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

## **RECOMMENDATION**

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

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

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

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

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

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

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

3) The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Decided Plans"

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

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

- (a) the phased programme of demolition and construction works;
- (b) the anticipated number, frequency and types of vehicles used during construction,
- (c) the location and specification for vehicular access during construction,
- (d) the provision made for the parking of vehicles by contractors, site operatives and visitors,
- (e) the loading and unloading of plant, materials and waste,
- (f) the storage of plant and materials used in construction of the development,
- (g) the erection and maintenance of security hoarding,
- (h) the location of any site huts/cabins/offices,
- (i) the provision of road sweepers, wheel washing facilities and the type, details of operation and location of other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- (j) details of public engagement both prior to and during construction works, including a named person to be appointed by the applicant to deal with complaints who shall be available on site and contact details made known to all relevant parties,
- (k) measures to control the emission of dust and dirt during construction, to include where relevant sheeting of loads, covering and dampening down stockpiles and restriction of vehicle speeds on haul roads. A dust management plan should form part of the CEMP which includes routine dust monitoring at the site boundary with actions to be taken when conducting dust generating activities if weather conditions are adverse,
- (l) measures to control the emission of noise during construction,
- (m) details of all proposed external lighting to be used during construction and measures used to limit the disturbance of any lighting required. Lighting shall be used only for security and safety,
- (n) appropriate storage of fuel and chemicals, in bunded tanks or suitably paved areas,

- (o) measures to reduce air pollution during construction including turning off vehicle engines when not in use and plant servicing, and
- (p) waste management including prohibiting burning and the disposal of litter,
- (q) provision of temporary domestic waste and recycling bin collection point(s) during construction,
- (r) hours of construction.

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

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

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

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

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

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

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

8) **No development shall commence** until a scheme to deal with contamination of land and/or controlled waters has been submitted to and approved in writing by the Local Planning Authority (LPA). Unless the local planning authority dispenses with any such requirement specifically in writing the scheme shall include the following, a Phase 1 report carried out by a competent person to include a desk study, site walkover, production of a site conceptual model and human health and environmental risk assessment, undertaken in accordance with national guidance as set out in DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination CLR11.

Reason: In the interests of amenity and to protect the health of future occupiers of the site from any possible effects of land contamination in accordance with local and national planning policy. This is a pre-commencement condition as it goes to the heart of the permission.

9) If the Phase 1 report submitted pursuant to condition 8, identifies potential contaminant linkages that require further investigation then **no development shall commence** until a Phase 2 intrusive investigation report has been submitted to and approved in writing by the LPA detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011+A1:2013 - Investigation of Potentially Contaminated Sites - Code of Practice. The findings shall include a risk assessment for any identified contaminants in line with relevant guidance.

Reason: In the interests of amenity and to protect the health of future occupiers of the site from any possible effects of land contamination in accordance with local and national planning policy. This is a pre-commencement condition as it goes to the heart of the permission.

10) If the Phase 2 report submitted pursuant to condition 9, identifies that site remediation is required then **no development shall commence** until a Remediation Scheme has been submitted to and approved in writing to the Local Planning Authority detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. Any ongoing monitoring shall also be specified. A competent person shall be nominated by the developer to oversee the implementation of the Remediation Scheme. The report shall be undertaken in accordance with national guidance as set out in DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination CLR11. Thereafter the approved remediation scheme shall be fully implemented in accordance with the approved details.

Reason: In the interests of amenity and to protect the health of future occupiers of the site from any possible effects of contaminated land in accordance with local and national planning policy. This is a pre-commencement condition as it goes to the heart of the permission.

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

Reason: In order to safeguard the health of the occupiers of the proposed dwelling(s) in respect of atmospheric pollution. It is considered necessary for this to be a pre-commencement condition as these details need to be agreed prior to the construction of the development and thus go to the heart of the planning permission. This is a pre-commencement condition as it goes to the heart of the permission.

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

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

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

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

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

Reason: To ensure that trees, shrubs and other natural features to be retained are adequately protected from damage to health and stability. It is considered necessary for this to be a pre-commencement condition as these details need to be agreed prior to the construction of the development and thus go to the heart of the planning permission.

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

- o Minimising energy consumption to achieve at least a 19% improvement in the Dwelling Emission Rate (DER) over the Target Emission Rate (TER) calculated according to Part L of the Building Regulations 2013. This should be achieved through improvements to the fabric of the dwelling;

- o Maximising energy supplied from renewable resources to ensure that at least 10% of the predicted residual energy requirements of the development, after the improvements to the fabric explained above, is met through the incorporation of renewable energy.

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

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

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

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

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

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

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

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

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

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

Reason: In the interest of conserving and enhancing biodiversity.

20) **The development hereby permitted shall not be first occupied** until a verification report for the approved contaminated land remediation has been submitted in writing to the Local Planning Authority. The report should be undertaken in accordance with national guidance as set out in DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination CLR11.

Reason: In the interests of amenity and to protect the health of future occupiers of the site from any possible effects of land contamination in accordance with local and national planning policy.

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

Reason: To ensure the development benefits from appropriate infrastructure

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

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

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

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

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

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

Reason: In the interest of ecology.

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

Reason: In the interest of ecology.

## Decided Plans

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

Details	Reference	Version	Date Received	Status
PLANS - Plans PLAN -	18149-01	B	20.08.2020	Approved

### INFORMATIVES

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

#### 2) S106

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

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

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

4) The developer's attention is drawn to the provisions of the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats etc) Regulations 1994, and to other wildlife legislation (for example Protection of Badgers Act 1992, Wild Mammals Protection Act 1996). These make it an offence to kill or injure any wild bird intentionally, damage or destroy the nest of any wild bird intentionally (when the nest is being built or is in use), disturb, damage or destroy and place which certain wild animals use for shelter (including badgers and all bats and certain moths, otters, water voles and dormice), kill or injure certain reptiles and amphibians (including adders, grass snakes, common lizards, slow-worms, Great Crested newts, Natterjack toads, smooth snakes and sand lizards), and kill, injure or disturb a bat or damage their shelter or breeding site. Leaflets on these and other protected species are available free of charge from Natural England.

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

5) The applicant is reminded that the prior written consent of the Lead Local Flood Authority (WSSCC) or its agent (CDC) will be required in order to comply with the Land Drainage Act 1991 and Flood and Water Management Act 2010 for the discharge of any flows to watercourses, or the culverting, diversion, infilling or obstruction of any watercourse on the site. Any discharge to a watercourse must be at a rate no greater than the pre-development run off values. For further information please email [landdrainage@chichester.gov.uk](mailto:landdrainage@chichester.gov.uk).

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

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

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

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

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

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

## **APPENDIX 1**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Not applicable in this instance.

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

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

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

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

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

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

- 8) Development proposals shall not compromise on environmental quality and should demonstrate high standards of construction in accordance with the Council's declaration of a Climate Change Emergency. Applicants will be required to submit necessary detailed information within a Sustainability Statement or chapter within the Design and Access Statement to include, but not be limited to:**
- o Achieving the higher building regulations water consumption standard of a maximum of 110 litres per person per day including external water use;**
  - o Minimising energy consumption to achieve at least a 19% improvement in the Dwelling Emission Rate (DER) over the Target Emission Rate (TER) calculated according to Part L of the Building Regulations 2013. This should be achieved through improvements to the fabric of the dwelling;**
  - o Maximising energy supplied from renewable resources to ensure that at least 10% of the predicted residual energy requirements of the development, after the improvements to the fabric explained above, is met through the incorporation of renewable energy; and**
  - o Incorporates electric vehicle charging infrastructure in accordance with West Sussex County Council's Car Parking Standards Guidance.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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