


Parish: Chichester	Ward: Chichester North
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CC/20/03226/FUL

Proposal	Redevelopment of the site with creation of 5 no. flats and parking, landscaping associated works.		
Site	23 Lavant Road Chichester PO19 5RA		
Map Ref	(E) 485764 (N) 106960		
Applicant	Mr Peter Carver & Mrs Rachel Ritchie	Agent	Mrs Kerry Simmons

RECOMMENDATION TO DEFER FOR SECTION 106 THEN PERMIT, SUBJECT TO NO OBJECTION FROM NATURAL ENGLAND REGARDING AN APPROPRIATE ASSESSMENT



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1.0 Reason for Committee Referral

1.1 City Council Objection – Officer recommending approval

2.0 The Site and Surroundings

- 2.1 The application site is located on the western side of Lavant Road to the north of Chichester City, within the settlement boundary. The area is characterised by large residential dwellings set in good sized plots, with mature trees, set back from the main road. There are a number of trees that cover the front of the site.
- 2.2 The existing property is served by a single access onto Lavant Road, leading to a gravel parking area to the front of the property. The 2 storey property is double fronted, with an integral garage. To the rear there is a good sized garden, laid to lawn with mature trees and vegetation forming the boundaries to the site. Directly to the north and east are single residential properties and to the south there is a new flatted 2.5 storey development located on the corner of Lavant Road with Plainwood Close. There are also other examples of flatted development close to the application site on Lavant Road.

3.0 The Proposal

- 3.1 This application seeks planning permission for the demolition of an existing dwelling and the construction of a two storey building comprising 5 no. flats, (1 two bed and 4 three bed). The application has been amended during the determination of the application, reducing the ridge and eaves height of the building and reducing the rear element to single storey in part.
- 3.2 The proposed building would have a ridge height of 9.3 metres, with eaves at 5.1 metres, a width of 15.3 metres and a depth of 22.8 metres. The main part of the building would be two storeys, with hips roofs and a gable to the front. To the rear is a proposed part two storey and part single storey element with a balcony. This element is set in from the main part of the building, with hipped roof lines.
- 3.3 The rear garden would provide an amenity area for the proposed flats, while to the side of the building there would be storage for bins and cycles. To the front of the building would be parking spaces for 9 cars and further bin storage. The access to the site would be retained as existing to ensure the retention of the existing trees along the front boundary.

4.0 History

00/03151/TPO	REF	To fell one Pine. Topping of Fir to 35 feet (From current height of approx 55 feet).
02/00396/TPO	PER	To fell 1 no. Douglas Fir tree.
88/00906/CC	REF	To fell 1 Scots Fir and 1 Pine.
78/00389/CC	PER	Two storey extension.
75/00525/CC	PER	First floor extension.

98/00372/DOM	PER	Close boarded, 2 metre fence inside boundary hedge and enlarge existing enclosed part of rear veranda.
09/05029/DOM	PER	Demolition of sunroom, erection of garden room and entrance canopy.
18/03320/FUL	REF	Redevelopment of the site with a terrace of 2 no. 4-bed and 2 no. 3-bed dwellings, parking, landscaping and associated works.
19/02574/OUT	WDN	Demolition of existing dwelling replaced with a terrace of 3 no. dwellings, parking, landscaping and associated works.
19/03008/FUL	REF	Erection of 5 no. flats and parking, landscaping and associated works.
01/00071/REF	DISMIS	To fell one Pine. Topping of Fir to 35 feet (From current height of approx 55 feet).
19/00041/REF	DISMIS	Redevelopment of the site with a terrace of 2 no. 4-bed and 2 no. 3-bed dwellings, parking, landscaping and associated works.

5.0 Constraints

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

6.0 Representations and Consultations

6.1 Parish Council

Objection due to harm to the character of the area and to biodiversity, and because re-purposing agricultural land, particularly in a piecemeal fashion, is not a sustainable method of nitrate mitigation and could lead to insufficient supply of agricultural land.

6.2 WSCC Local Highway Authority

Summary

This proposal is for the redevelopment of the site to create five residential flats, with associated works. The site is located on Lavant Road, an A-classified road subject to a

speed restriction of 30mph in this location. WSCC in its role as Local Highway Authority (LHA) raises no highway safety concerns for this application.

The LHA previously provided comments pertaining to highway matters for this site for application CC/19/03008/FUL, raising no objections. The Planning Authority refused the application on grounds unrelated to highways and a subsequent appeal was dismissed.

Access and Visibility

The applicant proposes to utilise the existing vehicular access on Lavant Road for this development. The access is to be widened to 4.8m in width, which is wide enough for two vehicles to pass one another when using this access. The applicant has demonstrated suitable visibility for this access, with visibility splays of 2.4m x 43m achievable in both directions. Pedestrian visibility splays of 2m x 2m have also been demonstrated either side of the access.

An inspection of collision data provided to WSCC by Sussex Police from a period of the last five years reveals no recorded injury accidents attributed to road layout within the vicinity of the site. Therefore, there is no evidence to suggest the existing access is operating unsafely, or that the proposal would exacerbate an existing safety concern.

Parking and Turning

The applicant proposes nine car parking spaces for this development. The WSCC Car Parking Demand Calculator indicates that a development of this size in this location would require at least nine car parking spaces. Therefore, the LHA consider the proposed parking provision to be sufficient.

From inspection of the plans, the parking bays have been drawn to a suitable size and specification. There is space within the parking area for cars to turn on-site and exit onto the maintained highway in a forward gear.

In the interests of sustainability and as result of the Government's 'Road to Zero' strategy for at least 50% of new car sales to be ultra-low emission by 2030, electric vehicle (EV) charging points should be provided for all new homes. Active EV charging points should be provided for the development in accordance with current EV sales rates within West Sussex (Appendix B of WSCC Guidance on Parking at New Developments) and Chichester Local Plan policy. Ducting should be provided to all remaining parking spaces to provide 'passive' provision for these to be upgraded in future. Details of this can be secured via condition and a suitably worded condition is advised below.

The applicant has demonstrated five cycle stores for this development, which meets the WSCC requirements for cycle parking. The inclusion of secure and covered cycle parking provision will help promote the use of sustainable transport methods.

Sustainability

The site is situated in a sustainable location within walking distance of shops and cycle distance from schools. Nearby bus stops on Lavant Road offer half hourly connections between Chichester and Midhurst. Chichester Train Station is approximately nine minutes from the site by cycle.

Conclusion

The LHA does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 109), and that there are no transport grounds to resist the proposal.

If the LPA are minded to approve the application, the following conditions should be applied:

- Cycle parking
- Electric Vehicle Charging Spaces
- Vehicle parking and turning

6.3 Environmental Strategy Officer

Bats

Following submission of the Bat Emergence and Re-entry Survey (Aug 2020) we are happy that the mitigation proposed would be suitable. A condition should be used to ensure this takes place.

The applicants should be aware that a Natural England Protected Species License will be required for the works, and this will need to be obtained prior to any works taking place.

The lighting scheme for the site will need to take into consideration the presence of bats in the local area and the scheme should minimise potential impacts to any bats using the trees, hedgerows and buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding.

Hedgehogs

Any brush pile, compost and debris piles on site could provide shelter areas and hibernation potential for hedgehogs. These piles must be removed outside of the hibernation period mid- October to mid-March inclusive. The piles must undergo soft demolition. A hedgehog nesting box should be installed within the site to provide future nesting areas for hedgehogs.

Nesting Birds

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 bird box to be installed on the building / and or tree within the garden of the property.

Recreational Disturbance

For this application we are satisfied that the HRA issue of recreational disturbance can be resolved 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 Sustainability Statement 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 20%. This will be achieved with a fabric first approach and through installing PV onsite.

We are pleased to see that 5 electric vehicle charging points will be installed onsite and if demand for these is high, more units will be installed.

Nutrient Neutrality

Following submission of the Nutrient Neutrality Management Plan (Dec 2020) the proposal will cause an increase in nitrogen of 2.8 kg/N/yr. Due to this increase we require that mitigation has been proposed with 0.11ha of land in Apuldram being planted with broadleaf trees. This should be secured within the S106 agreement in perpetuity for 85 years.

6.4 CDC Archaeology Officer

It is unlikely that works associated with the proposal would impinge on archaeological deposits to the extent that refusal or the requirement of other mitigation measures would be justified.

6.5 Third party objection comments

Thirty one third party representations of objection have been received concerning the following matters:

- a) Drafting inaccuracies with the plans and arb report
- b) Rear terraces causing overlooking
- c) Loss of privacy
- d) Noise nuisance
- e) Identical to refused and dismissed scheme
- f) The size and scale of the scheme
- g) No local support
- h) Out of keeping
- i) Impact on local services
- j) Lack of construction management
- k) Overdevelopment of the site
- l) Lack of solar panels
- m) Traffic
- n) Lack of neighbour notification
- o) Biodiversity

7.0 Planning Policy

The Development Plan

- 7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029, the CDC Site Allocation Development Plan Document and all made neighbourhood plans. There is no made neighbourhood plan for Chichester at this time.

7.2 The principal planning policies relevant to the consideration of this application are as follows:

Chichester Local Plan: Key Policies 2014-2029

Policy 1: Presumption in Favour of Sustainable Development
Policy 2: Development Strategy and Settlement Hierarchy
Policy 9: Development and Infrastructure Provision
Policy 33: New Residential Development
Policy 34: Affordable Housing
Policy 39: Transport, Accessibility and Parking
Policy 40: Sustainable Design and Construction
Policy 42: Flood Risk and Water Management
Policy 47: Heritage
Policy 49: Biodiversity
Policy 50: Development and Disturbance of Birds in Chichester and Langstone Harbours Special Protection Areas

Chichester Local Plan Review Preferred Approach 2016 - 2035

7.3 Work on the review of the adopted Local Plan to consider the development needs of the Chichester Plan Area is now well underway. Consultation on a Preferred Approach Local Plan has taken place and following detailed consideration of all responses to the consultation, it is intended that the Council will publish a Submission Local Plan under Regulation 19 early in 2021. Following consultation, the Submission Local Plan will be submitted to the Secretary of State for independent examination. It is anticipated that the new Plan will be adopted by the Council in 2022. However, at this stage, it is considered that very limited weight can be attached to the policies contained within the Local Plan Review.

National Policy and Guidance

7.4 Government planning policy now comprises the revised National Planning Policy Framework (NPPF 2019), which took effect from 19 February 2019. Paragraph 11 of the revised Framework states that plans and decisions should apply a presumption in favour of sustainable development, and for decision-taking this means:

- i) approving development proposals that accord with an up-to-date development plan without delay; or
- ii) 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:
 - a) 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
 - b) *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

7.5 Consideration should also be given to the following paragraph and sections: Sections 1, 2, 4, 5, 9, 12 and 14. The relevant paragraphs of the National Planning Practice Guidance have also been taken into account.

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

Other Local Policy and Guidance

7.7 The following documents are material to the determination of this planning application:

- Planning Obligations and Affordable Housing SPD
- Surface Water and Foul Drainage SPD
- CDC Waste Storage and Collection Guidance

7.8 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:

- Support communities to meet their own housing needs
- Support and promote initiatives that encourage alternative forms of transport and encourage the use of online services
- Promote and increase sustainable, environmentally friendly initiatives in the district
- Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area

8.0 Planning Comments

8.1 The main issues arising from this proposal are:

- i. Principle of development
- ii. Design and impact upon character of the surrounding area
- iii. Impact upon amenity of neighbouring properties
- iv. Impact upon highway safety and parking
- v. Ecology
- vi. Sustainability
- vii. Drainage
- viii. Trees
- ix. Impact on the Chichester and Langstone Harbours SPA
- x. Nitrates

Assessment

i. Principle of development

- 8.2 The application is located within the settlement boundary of Chichester, which Policy 2 of the Chichester Local Plan identifies as a sub-regional centre where sustainable development, infrastructure and facilities will be accommodated which in terms of scale, function and character support the role of the settlements.
- 8.3 The application site has been subject to two previous refusals and dismissals at appeal. Application reference 18/03320/FUL sought planning permission for the redevelopment of the site with a terrace of 2 no. 4- beds and 2 no. 3-bed dwellings, parking, landscaping and associated works. The application was refused on two grounds, with the main issue relating to the impact of the proposal on the character and appearance of the area. Subsequently planning application 19/03008/FUL sought planning permission for a revised scheme comprising a single building containing 5 flats. The application was recommended for approval, however this recommendation was overturned with the application was refused and latterly dismissed at appeal. The reasons for refusal included over-development of the site and the resultant impact upon the character and appearance of the area, impacts upon biodiversity and also harm to a designated site as a result of development not being nutrient neutral.
- 8.4 Whilst the Inspector dismissed the recent appeal, it is clear from the decision that the reason for dismissing the appeal is solely concerned with the issue of protecting the integrity of the Special Protection Area in relation to achieving nutrient neutral development. A paragraph 19 – 26 of the decision concludes *‘the scale, form, and design of the proposed development would be sympathetic to the prevailing residential built form and verdant character of the surrounding area. Thus, it would not cause harm to the character and appearance of the area’*.
- 8.5 The recent appeal decision established the acceptability of the proposal in terms of the amount of development, the design of the scheme and its impact upon the character of the locality. Additionally, schemes modest contribution in regards to housing supply was noted in its favour, particularly at this time when council is unable to demonstrate a 5 year supply of housing, where in accordance with Paragraph 11 of the NPPF there is a presumption in favour of sustainable development. The appeal was therefore dismissed on the absence of a S.106 agreement to secure the required nitrogen mitigation only. The proposal remains unchanged from the dismissed appeal, however a bat survey has been submitted and the applicants are in the process of entering into a Section 106 agreement to secure appropriate mitigation to offset the increase in nitrogen to ensure the development is ‘nitrate neutral’. Therefore the Inspector’s reason for dismissing the appeal has been overcome and the principle of the scheme remains acceptable, subject to the considerations as laid out below.

ii. Design and impact upon character of the surrounding area

- 8.6 Policy 33 of the LP refers to new residential development and sets out that proposals must meet the highest standards of design and a high quality living environment in keeping with the character to the surrounding area and its setting in the landscape; in addition that its

scale, form, massing and siting, height and design respects and enhances the character of the surrounding area and site.

- 8.7 Policy 33 of the Chichester Local Plan sets out that any proposed development must meet the highest standards of design and provide a high quality living environment in keeping with the character of the surrounding area and its setting in the landscape. This includes considering its proportion, form, massing, siting, layout, density, height, scale and neighbouring and public amenity. Policy 47 relates to design and requires development to respect distinctive character and sensitively contribute to creating places of high architectural and built quality.
- 8.8 The application site is located on the western side of Lavant Road and is currently occupied by a single detached two storey property. Lavant Road is largely residential with a mixture of styles and designs of dwellings, which are generally set back from the road, broadly in line, and detached. To the south of the application site, permission was granted to demolish the existing dwelling and construct a new building containing 8 flats under application 18/00769/FUL, this development has been completed. There are also other apartment buildings in close proximity to the site.
- 8.9 The proposed building would be located in approximately the same position of the existing dwelling, albeit on a larger footprint. Its siting would be in keeping with the pattern of development along this side of Lavant Road, with the building set back from the road frontage. The building would also be set away from the north boundary by 3 metres and from the southern boundary by 2 metres, which is in keeping with the surrounding properties. To the front of the building 9 no. parking spaces are proposed, retaining the current access point. As the access point is off-centre, the majority of the parking spaces would not be readily visible from the public road. In addition the majority of the landscaping to the front would be retained, further softening the building and amount of parking.
- 8.10 The design of the building incorporates art and crafts elements which reflect the existing two properties to the north. The proposal would include clay tile hanging at part of the first floor with painted render and black timber. To the ground floor would be brick, with a tile roof. The depth of the building is not entirely at two-storey, as it steps to partly storey to the rear, with a drop in the ridge line of the rear two-storey element. Roofs to the rear are also hipped, reducing the massing of the building. The scale, form and design of the building is such that it would appear similar in its form and scale to that of a detached large dwelling. There would be a single door to the front of the building which would allow access to the 5 flats. It is considered that although the number of units on the site would increase, the proposal represents a sensitive re-development of the plot resulting in a more efficient use of the land without harm to the verdant and characterful nature of the site and its surroundings.
- 8.11 In his assessment, the inspector found the following to be true of the proposed development:

'In terms of appearance the materials palette would be reflective of the local vernacular and so the building would suitably integrate within the context of neighbouring development'.

'Whilst the proposal would result in a building with increased bulk and massing compared to the existing dwelling on the site, taking into account the aforementioned factors, it would not result in a development that would appear dissimilar in its form and scale to that of a substantial detached dwelling. The proposed development would not, therefore, appear out of place within the context of the prevailing form of existing development in the area, nor would it appear cramped considering the spaciousness of the plot and the space that would remain between the proposed apartment building and the neighbouring properties.'

8.12 It is therefore considered the proposal would be in keeping with the character of the area, in terms of its design, scale and form and as such is considered acceptable. The proposal therefore accords with policy 33 of the Chichester Local Plan.

iii. Impact upon amenity of neighbouring properties

8.13 The NPPF states in paragraph 127 that planning should ensure a good quality of amenity for all existing and future occupiers of land and buildings, and policy 33 of the CLP include requirements to protect the amenities of neighbouring properties.

8.14 The properties most impacted by the proposal would be to the north, west and south of the application site. The property to the north of the application site would be 12 metres from the proposed building with an access between. Given this distance and window positions it is not considered the proposal would have a harmful impact to neighbouring amenity of its properties. The property to the west would be 27 metres from the proposed building, given this distance it is not considered the proposal would impact the amenity of the occupiers. The building to the south is a block of flats, which would be 5.5 metres from the proposed building and broadly inline. Given the window position on both the proposed building and the neighbouring building, the proposal would not result in an unacceptable degree of overlooking. Furthermore, given the siting of the proposed building in relation to the building to the south, the proposal would not have in an overbearing impact.

8.15 The Inspector did not raise any concerns about the proposed relationship with the neighbouring dwellings, and it is considered that the proposal would accord with national and local planning policies in this respect.

iv. Impact upon highway safety and parking

8.16 Policy 39 of the Chichester Local Plan seeks to ensure that new developments do not result in residual cumulative impacts which are severe and ensure a safe and adequate means of access for all modes of transport.

8.17 The WSCC Highway Authority has been consulted and no objection has been raised. Conditions have been suggested and these are included in this recommendation. The applicant proposes to widen the existing access to 4.8m in width. The Highways authority has advised that the applicant has demonstrated vehicular visibility splays of 2.4m x 43m in both directions for the proposed access. This meets the minimum requirements for visibility for 30 mph roads. In addition the Highways authority has advised that the applicant has also demonstrated pedestrian visibility splays of 2m x 2m for the access. The applicant has demonstrated nine car parking spaces for this development. The WSCC Car Parking Demand Calculator indicates that a development of this size in this location would require nine car parking spaces. Therefore, the proposal provides sufficient amount of parking.

8.18 The submitted plans show 4 no. electric charging points to the parking area to the front of the proposed dwelling, a condition is recommended to ensure these are provided prior to occupation. Five purposely designed cycle storage units are proposed to the sides of the dwelling, these again can be secured prior to occupation by condition.

8.19 Therefore, the proposal would accord with policies, 8 and 39 of the CLP which seeks to ensure that new development has acceptable parking levels, and access and egress to the highway.

v. Ecology

8.20 Policy 49 of the Chichester Local Plan requires the biodiversity of the site to be safeguarded, and for ecological enhancements to be secured by new development.

8.21 The council's ecology officer has reviewed the submitted Bat Emergence and Re-entry Survey (Aug 2020), considering the mitigation proposed to be acceptable. The mitigation shall be secured via condition. In addition, a number of recommendations and enhancements have been suggested, including; bat, bird and hedgehog nesting boxes, many of which are shown on drawing DP319, and the restriction of external lighting, all of which can be adequately secured via condition. Subject to compliance with the recommended conditions, the proposal is considered acceptable in respect of its ecological impacts.

vi. Sustainability

8.22 Policy 40 of the CLP concerns Sustainable Design and Construction for all new dwellings and determines that evidence will be required by the developer to demonstrate that all 10 criteria have been considered, although this should be proportionate to the scale of development.

8.23 The application has been accompanied by a comprehensive sustainability statement, which shows the numerous methods this development shall employ to achieve a reduction of CO2 emissions by 20%. This will be achieved with a fabric first approach, through the installation of photovoltaic (PV) panels on the southern facing roof slopes and the use of air source heat pumps to provide heating and hot water. In addition, water saving measures shall be deployed throughout the properties, ensuring a water usage level of a maximum of 110 litres per person per day.

8.24 A condition is recommended to ensure the development is undertaken in accordance with the sustainable design and construction measures proposed, alongside conditions for landscaping, ecology enhancements and the provision of electric car charging points. Subject to these conditions it is considered that the proposal would protect and enhance the environment and the proposal would therefore comply with policy 40 of the CLP.

vii. Drainage

8.25 Policy 42 of the Chichester Local Plan seeks to ensure that new development is not at risk of flooding and it would not result in a net increase of surface water runoff. The application site is located within flood zone 1 and proposes to connect to the mains foul sewage and a soakaway for surface water. This is considered acceptable in this regard and accords with policy 42 of the Chichester Local Plan.

viii. Trees

8.26 The north east corner of the site has 7 trees that are subject to a tree preservation order (TPO) comprising of a spruce, pine, lime, cherry, laburnum and scots fir. A tree survey has been submitted to assess the quality and contribution of these trees and the appropriate mitigation. In addition a number of trees within the rear garden and around the edges of the site have been assessed with regards to their quality and suitability for retention.

8.27 The north eastern corner of the site would comprise of parking areas for the new development and all of the TPO trees would be retained. A number of mitigation measures to retain the trees are proposed including protective fencing and sensitive surfacing material. These mitigation measures are considered to be acceptable and appropriate and would safeguard their future health and amenity. With regards to the remaining trees, in particular the rear gardens, a number of trees are to be removal however it has been demonstrated that these trees are of a low amenity value. Coupled with a proposed landscaping scheme it is considered that the proposals would adequately protect those trees worthy of retention for their contribution to the verdant character of the area. On this basis the proposals are considered acceptable and would comply with Policy 48 of the Local Plan.

ix. Impact on the Chichester and Langstone Harbours SPA

8.28 The site lies within 5.6km of the Chichester and Langstone Harbours Special Protection Area (SPA), where new residential development is likely to have significant environmental impacts on this internationally important designation. Local Plan Policy 50 relates to development and disturbance of birds within this internationally designated Special Protection Area. Effective mitigation, against potential recreational impact arising from new residential properties, needs to be provided. In accordance with Policy 50, the Recreational Disturbance of Birds in SPAs Guidance 2019, and as recommended by Natural England, a financial contribution to the established Bird Aware Solent mitigation scheme is appropriate in this instance. An appropriate assessment has been carried out and the mitigation proposed is acceptable. The mitigation is to be secured via a S106 agreement.

8.29 The proposal is therefore considered to provide appropriate mitigation against impacts on the SPA, and therefore would not be detrimental to the SPA in accordance with Local Plan Policy 50 and local and national guidance.

x. Nitrates

8.30 The proposal comprises new development with overnight accommodation, where the development will connect to the Apuldram Wastewater Treatment Works (WwTW) and therefore the treated effluent from the development will eventually discharge into a

European or internationally designated protected site, with the potential for harm to be caused to those sites by the overall increase in nitrate levels. It is Natural England's view that the cumulative increase in nitrate levels from development is likely to have a significant effect on such designated sites. This is therefore directly connected to the increase in wastewater from the development.

- 8.31 In such instances, the implications from the proposed development (that is the nutrient content of the discharge), together with the application of measures to avoid or reduce the likely harmful effects from the discharge, are required to be tested by the LPA via an 'appropriate assessment' to assess the impact on the designated sites in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended). Natural England must then be consulted on any such Appropriate Assessment.
- 8.32 The applicant has followed the methodology provided by Natural England 'Advice on Achieving Nutrient Neutrality for New Development in the Solent Region' and established the nitrate calculations for this proposed development. This calculation has informed an Appropriate Assessment. Natural England's methodology sets out how to achieve nutrient neutrality and thereby addresses the existing uncertainty surrounding the impact of new development on designated sites. Specifically Natural England's advice sets out the methodology on how to calculate the nutrient budget generated from the development. Where the size of the site and the use of then is not changing, which is the case in this instance it is not necessary to calculate the existing nitrogen from the current land use.
- 8.33 The nutrient budget generated from the development would be 2.8kg/TN/yr which represents a nitrogen surplus from the WwTW and so requires mitigation to achieve nitrogen neutrality. In order to achieve nitrogen neutrality, appropriate mitigation measures that would remove a minimum of 2.8kg/TN/yr must be secured to ensure that at the time of the LPA undertaking the Appropriate Assessment it is certain that the neutralising nitrogen benefits will be delivered in the long term.
- 8.34 The mitigation measures indicate that in order to mitigate the increase in nitrogen, 0.11 ha of former agricultural land shall be removed from cereal production and replanted with broadleaf trees at a density equivalent to 100 per hectare (a minimum of 10 trees). Appendix 1 of the nitrogen budget (drawing no. 100) shows the location of land to be removed from agriculture. At the time of writing, the applicants are in the process of entering into a S106 agreement to secure the nitrates mitigation land and planting for the lifetime of the development. Once completed, the development would achieve nitrogen neutrality and would accord with Policy 12 of the CLP.
- 8.35 The city council has raised an objection regarding the proposed loss of agricultural land, necessary to provide the nitrogen mitigation. The repurposing of agricultural land, via tree planting or rewilding is however a common practice of nitrogen mitigation, accepted by Natural England and therefore the proposed mitigation is considered to be acceptable. Natural England have been consulted upon in respect of the Council's appropriate assessment and subject to no objection being received the proposal would be acceptable in respect of nitrogen neutrality.

Conclusion

8.36 Based on the above it is considered the principle of additional residential units on the site are acceptable, furthermore the scale and form of the proposal is acceptable in terms of the character of the area and impact to neighbouring amenity. Furthermore, the proposal would retain trees on the site, provide ecological enhancements, incorporate sustainable design construction measures and suitable mitigation would be secured to ensure nitrate neutrality. In the absence of an up to date development plan and 5 year housing land supply applications or sustainable development shall be granted planning permission unless there is conflict with policies within the NPPF. There is no conflict with the NPPF, the proposal complies with development plan policies, and there are no material considerations that would justify refusing the application. Therefore the application is recommended for approval.

Human Rights

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

RECOMMENDATION

DEFER FOR SECTION 106 THEN PERMIT SUBJECT TO NO OBJECTION FROM NATURAL ENGLAND REGARDING AN APPROPRIATE ASSESSMENT and subject to the following conditions and informatives:

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

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

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

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

3) **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 the recommendations of BS5837:2012. Thereafter the protective fencing shall be retained for the duration of the works, unless otherwise agreed in writing by the Local Planning Authority. No unauthorised access or placement of goods, fuels or chemicals, soil or other materials shall take place inside the fenced area; soil levels within the root protection area of the trees/hedgerows to be retained shall not be raised or lowered, and there shall be no burning of materials where it could cause damage to any tree or tree group to be retained on the site or on land adjoining at any time.

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

for this to be a pre-commencement condition as these details need to be agreed prior to the construction of the development and thus go to the heart of the planning permission.

4) Notwithstanding any details submitted no development/works shall take place above slab level until a full schedule of all materials and finishes and samples of such materials and finishes to be used for external walls and roofs of the building have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved schedule of materials and finishes unless otherwise agreed in writing by the Local Planning Authority.

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

5) The solar panels and air source heat pumps hereby permitted shall not be first installed until full details, to include manufacturers details and the proposed location(s) of the solar panels and air source heat pumps within the property and site has been submitted to and approved in writing by the Local Planning Authority. Once approved, these sustainability measures shall be fully implemented within the proposed development and thereafter retained in perpetuity for their designated use.

Reason: To minimise the impact of the development upon climate change.

6) The development hereby permitted shall not be first occupied unless and until the following ecological enhancements have been implemented;

1. Installation of a bat brick/box to the property or within a tree sited within the grounds of the property, facing a south/south westerly and positioned 3-5m above ground.
2. Installation of a bird box to the property or within a tree sited within the grounds of the property.
3. Installation of a hedgehog nesting box within the site to provide future nesting areas for hedgehogs.

Once installed, the ecological enhancements shall be retained in perpetuity.

Reason: In the interests of securing a biodiversity enhancement.

7) **No part of the development hereby permitted shall be first occupied** until a minimum of four (4) Electric Vehicle (EV) charging points have been provided in accordance with drawing DP319. Thereafter the Electric Vehicle Charging point shall be retained for that purpose, indefinitely and unless otherwise agreed in writing by the Local Planning Authority

Reason: To provide alternative sustainable travel options in accordance with local and national initiative to reduce carbon emission and current sustainable transport policies.

8) The following ecological mitigation measures shall be adhered to at all times during construction;

- i. Due to the potential for hedgehogs and or reptiles hibernating or sheltering within the brush pile, compost and debris piles on site, they shall not be removed between mid-October to mid-March inclusive, and shall undergo a soft demolition.
- ii. If any works need to take place 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).

Reason: In the interests of protecting biodiversity and wildlife.

9) Prior to first occupation of the development hereby permitted details of the existing (those to be retained) and proposed boundary treatments and walled garden shall be provided in accordance with a scheme that shall first be submitted to and approved in writing by the Local Planning Authority.

The scheme shall include;

- (a) a scaled site plan showing the location and lengths of the boundary treatments and scaled elevations,
- (b) details of the materials and finishes, and
- (c) provision of gaps within boundary treatments to allow small mammals to move freely

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

Reason: In the interests of protecting visual amenities and to conserve and enhance the character and appearance

10) The development hereby permitted shall not be first brought into use until full details of the hard and soft landscaping have been submitted to and agreed in writing by the Local Planning Authority. The details shall include a scaled site plan indicating the planting scheme for the site showing the; schedule of plants and positions, species, plant sizes (at time of planting) and proposed numbers/densities. In addition, the scheme shall include details of all existing trees and hedgerows on the land including details of any to be retained, together with measures for their protection during the course of the development. The scheme shall make particular provision for the conservation and enhancement of biodiversity on the application site. The landscaping scheme shall also include full details of any proposed hard landscaping showing any external hard surfaces and their positions, materials and finishes. The works shall be carried out in full accordance with the approved details and in accordance with the recommendations of the appropriate British Standards or other recognised codes of good practice. The approved scheme shall be carried out in the first planting season after practical completion or first occupation of the development, whichever is earlier, unless otherwise first agreed in writing by the Local Planning Authority. Any trees or plants which, within a period of 5 years after planting, are removed, die or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual amenities of the locality and to enable proper consideration to be given to the impact of the proposed development on existing trees and to conserve and enhance biodiversity.

11) **No part of the development hereby permitted shall be first occupied** until the car parking has been constructed and laid out in accordance with the approved site plan and the details specified within the application form. These spaces shall thereafter be retained at all times for their designated purpose.

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

12) **No part of the development hereby permitted shall be first occupied** until covered and secure cycle parking spaces and refuse and recycling storage have been provided in accordance with drawing no DP319, unless otherwise agreed in writing by the local planning authority. Thereafter the cycle parking shall be retained for that purpose in perpetuity.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies and to ensure the adequate provision of onsite facilities in the interests of general amenity and encouraging sustainable management of waste.

13) The development hereby permitted shall be carried out with strict accordance with the Bat Emergence and Re-entry Surveys, produced by ARBTECH (August 2020) unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of biodiversity and protecting identified species on site.

14) The development hereby permitted shall be carried out with strict accordance with the Arboricultural Impact Assessment & Method Statement, produced by Trevor Heaps (December 2018) unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of the health and protection of the trees within the site.

15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) no external illumination shall be provided on the site other than in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the proposed location, level of luminance and design of the light including measures proposed to reduce light spill. Thereafter the lighting shall be maintained in accordance with the approved lighting scheme in perpetuity.

Reason: In the interests of protecting wildlife and the character of the area.

16) The proposed hard surface/s hereby permitted shall either be made of porous materials or provision shall be made to direct run-off water from the hard surface/s to a permeable or porous surface within the site and thereafter shall be maintained as approved in perpetuity.

Reason: To ensure adequate provision for surface water drainage and avoid discharge of water onto the public highway.

Decided Plans

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

Details	Reference	Version	Date Received	Status
PLAN - Location plan.	300		11.12.2020	Approved
PLAN - Proposed block plan.	301		11.12.2020	Approved
PLAN - Proposed context plan.	302		11.12.2020	Approved
PLAN - Proposed site plan.	303		11.12.2020	Approved
PLAN - Proposed ground floor plan.	304		11.12.2020	Approved
PLAN - Proposed first floor plan.	305		11.12.2020	Approved
PLAN - Proposed second floor plan.	306		11.12.2020	Approved
PLAN - Proposed front/east elevation.	307		11.12.2020	Approved
PLAN - Proposed side/south elevation.	308		11.12.2020	Approved
PLAN - Proposed rear/west elevation.	309		11.12.2020	Approved
PLAN - Proposed side/north elevation.	310		11.12.2020	Approved
PLAN - Proposed street scene and gate elevation.	311		11.12.2020	Approved
PLAN - Visibility splays.	313		11.12.2020	Approved
PLAN - Site plan.	DP319		11.12.2020	Approved

INFORMATIVES

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

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

These make it an offence to:

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

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

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

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

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

The onus is therefore on you to ascertain whether any such species are present on site, before works commence. If such species are found or you suspected, you must

contact Natural England (at: Natural England, Sussex and Surrey Team, Phoenix House, 32-33 North Street, Lewes, East Sussex, BN7 2PH, 01273 476595, sussex.surrey@english-nature.org.uk) for advice. For nesting birds, you should delay works until after the nesting season (1 March to 31 August).

4) The applicants should be aware that a Natural England Protected Species License will be required for the works, and this will need to be obtained prior to any works taking place.

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

To view the application use the following link -

<https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QL6E7GERJNL00>

