

Parish: Birdham	Ward: The Witterings
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BI/20/02066/OUT

Proposal	Outline Application with all matters reserved apart from access for the erection of 73 dwellings, open space and associated works, Class B1 floorspace and retail floorspace		
Site	Koolbergen, Kelly's Nurseries And Bellfield Nurseries Bell Lane Birdham Chichester West Sussex PO20 7HY		
Map Ref	(E) 481700 (N) 99103		
Applicant	Mr and Mrs Paul Knappett	Agent	Mr Richard Stubbs

RECOMMENDATION TO DEFER FOR SECTION 106 THEN PERMIT



	<p>NOT TO SCALE</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>
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1.0 Reason for Committee Referral

Parish Objection - Officer recommends Permit

Officer's Recommendation contrary to Development Plan but in accordance with the Interim Position Statement for Housing

2.0 The Site and Surroundings

- 2.1 The application site is located on the western side of Bell Lane, comprises approximately 3 hectares and is flat and roughly rectangular in shape. It is within the countryside, outside of but adjacent to the settlement boundary for Birdham (as extended in the made Birdham Neighbourhood Plan). Abutting the northern site boundary is the former Rowan Nursery which following a successful appeal has been re-developed with 25 new dwellings. The site is 1.3km from Chichester Harbour and therefore falls within the 5.6km zone of influence relating to the Chichester and Langstone Harbours Special Protection Area. The site is approximately 150 m away from the Somerley Conservation Area which is to the south. It is outside the AONB boundary which follows the northern edge of the A286 approximately 250 m to the north.
- 2.2 The site comprises 3 horticultural nurseries albeit only Bellfield Nursery continues trading as such. Within the overall site is a mix of glasshouses (some of which are redundant for growing purposes), outdoor storage areas, parking areas, a storage barn and light industrial units, the footings and the floor base of a new farm shop (Kelly's Nursery), a nursery with a small shop (Bellfield Nursery) and one residential dwelling at Bellfield Nursery. The existing dwelling and its associated curtilage at Kelly's Nursery is retained and does not form part of the red lined application site. The derelict glasshouses on the southern part of the site at the former Koolbergen Nursery have been largely cleared away and the land left to rough scrub. Trees and hedgerows form the majority of the boundaries of the site apart from the east boundary with Bell Lane which is predominantly open. A high evergreen tree screen part lines the site's southern boundary. Surface water drainage ditches are found on the eastern and western boundaries. The whole site is located in Flood Zone 1.
- 2.3 There are three existing vehicular accesses into the site from Bell Lane: one serving Bellfield Nursery and its existing dwelling; one serving Kelly's Nursery, the existing dwelling there and the existing storage barn/light industrial area adjacent to the rear (west) boundary; and the third now disused one into the Koolbergen Nursery site. Bungalows abut the site to the north-east boundary and a 2-storey house (Seldens) is adjacent to the site in the south-east corner. Tawny Nursery and caravan site and Bell Caravan Park with associated dwellings are sited on the east side of Bell Lane. Farmland, woodland and paddocks abut the site to the south and west.

3.0 The Proposal

- 3.1 The proposal is to clear the site of all existing buildings and structures including the dwelling house at Bellfield Nursery and to carry out a residential-led mixed use development comprising the following main components:
- the erection of 73 new dwellings - a net gain overall of 72 dwellings - with associated open space and landscaping and an equipped children's play area.
 - a separate retail unit comprising a minimum of 150 sqm floorspace with dedicated parking court and landscaped area.
 - an employment building for uses within Use Class B1 of not less than 700 sqm floorspace, again with its own dedicated parking court and landscaped area.
- 3.2 The application is submitted in outline with all matters reserved apart from access. The proposal is for 3 no. vehicular accesses from Bell Lane. The existing access serving the dwelling house at Kelly's Nursery would be retained and slightly re-aligned to the north to serve as the vehicular access to the parking court for the proposed retail building. It is proposed to be configured as a simple priority arrangement T junction with an 8 metre bellmouth radii and a 6 metre wide access extending into the site. The second vehicular access is proposed to the south of the dwelling house at Kelly's Nursery. This will form the main vehicular access into the development again with a simple priority arrangement T junction with an 8 metre bellmouth radii and a 6 metre wide entrance. Via a short spur to the south of this access an access will be provided to the parking court for the proposed business employment units. The third vehicular access is proposed in the north-east corner of the site in approximately the same position as the existing vehicular access to Bellfield Nursery and will serve 1 dwelling, indicated illustratively on the submitted site layout as a 3 bedroom bungalow.
- 3.3 The main part of the application is for 73 dwellings comprising both market and affordable housing in the following mix:

Market Housing

1 x 1 bed
16 x 2 bed
24 x 3 bed
11 x 4 bed
Total 52

Affordable Housing

4 x 1 bed (all rent)
10 x 2 bed (6 rent, 4 shared ownership)
6 x 3 bed (3 rent, 3 shared ownership)
1 x 4 bed (rent)
Total 21

The application provides 21 affordable units with a mixed tenure. The Council's 30% affordable housing policy requirement requires 21.6 units and the applicant has therefore agreed to provide the extra 0.6 of a unit as a commuted sum in line with the calculations in the Planning Obligations and Affordable Housing SPD.

- 3.4 The approximate density of the residential component of the development on the basis of the illustrative layout and after deducting from the overall site area the servicing and landscaping areas of the proposed retail and employment uses and the footprint of the associated buildings as shown on the illustrative layout, is approximately 27 dph.
- 3.5 The proposed parking for the development as shown on the illustrative site plan and accepting that the application is submitted in outline with 'layout' as a reserved matter, suggests the following provision; 182 spaces for the residential component with 4 no. visitor spaces (so an average of 2.4 spaces per dwelling), 16 spaces for the retail unit plus provision for cycle parking and 22 spaces for the employment building.
- 3.6 The applicant has confirmed that surface water drainage will be conveyed via SuDS with infiltration to ground via soakaways as the proposed method. Foul drainage will be via connection to the existing off site mains sewerage system with foul water being conveyed to Sidlesham WwTW.
- 3.7 Whilst the application is submitted in outline and no specific details are provided at this stage of the developments sustainability measures, the applicant has confirmed that the proposals will commit to delivering on the Council's objectives in Local Plan policy 40 to provide a minimum 19% reduction in carbon emissions from a fabric first approach together with a further 10% energy saving through renewable energy in the form of solar panels or air source heat pumps. Furthermore there is a commitment to restricting water consumption to a maximum of 110 litres per person per day and the installation of electric vehicle charging points.

4.0 History

14/02662/OUT	REF	Outline application for the erection of 81 houses, B1 floor space, retail and open space with the retention of 1 dwelling.
16/00933/OUT	REF	Erection of 77 houses B1 floorspace, retail and open space with retention of 1 dwelling. APPEAL DISMISSED

5.0 Constraints

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

6.0 Representations and Consultations

6.1 Birdham Parish Council

Comments received 05.07.2021

Birdham Parish Council's Further Objection to Planning Application 20/02066/OUT.

Birdham Parish Council wishes to concur with the point raised by East Wittering and Bracklesham Parish Council in its objection to Planning Application 21/01376/OUT Land West Of Bracklesham Lane Bracklesham PO20 8SR. The cumulative effect of the planning applications on the Western Manhood is so significant that this application cannot be considered in isolation.

The total number of proposals of which we are aware is:

- 65 homes Land West of Bracklesham Lane Bracklesham PO20 8SR (21/01376/OUT)
- 100 homes Land South of Clappers Lane (20/03125/OUT)
- 65 homes Land West of Church Road (20/02491/OUT)
- 320 homes at Stubcroft Farm (21/01090/EIA)
- 73 homes at Koolbergen, Kelly's Nurseries And Bellfield Nurseries Bell Lane Birdham Chichester West Sussex PO20 7HY (20/02066/OUT)
- 25 homes at The South Side Of Church Lane Birdham West Sussex (20/03034/OUT)
- 30 homes at Earnley Concourse (20/02236/OUT)
- 5 homes at Earnley Gardens (20/03289/FUL)
- 160 homes. Whitecroft Farm, Main Road Birdham. At pre-application stage.

This is a total of 843 houses.

The latest proposed local plan housing allocation (Letter, 26 November 2020) for the Western Manhood is 200, all allocated to Birdham (unfairly, for a village of 200 houses, and in contravention of the Settlement Hierarchy). To be considering plans for 843 houses without the benefit of an overall plan is fundamentally unsound, as the infrastructure cannot be shown by CDC to be capable of supporting any of the proposed developments. It is, therefore, the Parish Council's view that this planning application, and all others on the Western Manhood, must be refused until the Local Plan has progressed to a point where a realistic number of houses can be accommodated with suitable infrastructure, properly taking into account the environmental importance of the Manhood Peninsula.

Comments received 23.06.2021

A previous planning application for a similar number of houses on this site was refused in 2016 (16/00933).

The reasons for our objection are as follows:

1. Birdham Parish Council is currently carrying out a review of its Neighbourhood Plan, which became out of date when the Local Plan became out of date. As part of this review, a call for sites was made, and 19 sites in the Parish are currently being evaluated. This site is included in the evaluation and it would be premature to approve this site before the call for sites evaluation has been completed, and consulted upon, so that the most suitable sites in the village can be utilised, rather than those first proposed.

2. A source of major concern highlighted by the review of the Birdham Neighbourhood Plan, is the very poor level of sewerage- service new developments in the village receive. There have been many complaints along these lines:

"Our sewage system backs up and things such as toilets, sinks and showers do not drain. In many cases boilers stop working as the condensate system is plumbed into the mains drainage and because of the backup, the boilers experience back pressure and shut down, leaving residents with no heating".

Southern Water's response to this application does not inspire any confidence that they have the capacity to serve existing clients, let alone a significant new development. All planning applications that feed to the Sidlesham WWTP will feature similar objections, and it is high time the District Council took its responsibilities seriously and refused all planning applications until proper infrastructure is provided.

3. As far back as 2002, a report by the Halcrow Group identified that "the increase in population and economic activity have created a demand for transportation that now exceeds the capacity of the transport infrastructure on the Peninsula".

The intervening years have seen little significant improvement in transport infrastructure on the Western part of the Peninsula.

Further developments have continued to be approved on the grounds that only a small increase in traffic movements will occur. However, as the table below shows, the cumulative effect of these approvals has seen a 9% increase in total traffic on the A286 up to 2016, the latest date for which figures are available. Anecdotally, the traffic has increased considerably since 2016. *[Planning Officer Comment: the table referred to was not included with the Parish Council's representation]*

There has been a marked deterioration in road safety. Between 2015 and 2020 there were 5 fatalities and 5 serious injuries on the A286, with a further 15 serious injuries and 2 fatalities on the B2179 and B2178.

Clearly the A286 has become an increasingly congested and dangerous road. Traffic movements in the summer are undoubtedly higher than shown above, as vehicles head along the Birdham Straight for the beaches. This results in disrupted bus timetables, traffic hold ups when vehicles need to turn off against the oncoming flow and causes long tailbacks when cyclists cannot be overtaken. There is sufficient evidence to oppose any further house building served by the A286, both in Birdham and Bracklesham/East Wittering, unless radical changes are made to increase the capacity and safety of the A286, or an alternative traffic corridor is developed such as a properly segregated cycle route connecting the Witterings, Birdham and Chichester.

4. The Parish Council does not consider that this project is deliverable in a 5 year time frame. One of the sites is still operating as a successful nursery, and there is no reason for this to change in the foreseeable future.

5. This is an outline planning application. It is our understanding that during the period where there is no current local plan the local authority will be giving preference to detailed planning consents. In the absence of a detailed consent, the local authority should be looking to condition the application with reference to a design code in order to protect this sensitive area (with close proximity to the AONB). The Parish is in the process of developing a design code to be attached to the new Neighbourhood Plan and would welcome the opportunity to participate in this process.

The development is overly dense in this location. The site is 2.34 hectares, and the 77 houses gives a supposed density of 32.9 per hectare, but which in fact will be higher as some of the space is taken by a retail unit and some light industrial units. Unacceptably high for this location.

6. The outline scheme does not clearly identify car parking allocated to each use.

7. It is possible that this site will score well in terms of suitability in our call for sites report. Currently the application is not a full application, and the layout looks particularly unsuitable for a rural location. Should the application be refused, and the site be approved as suitable for inclusion in our revised Neighbourhood Plan, the Parish Council undertakes to work with the developer to deliver a plan which will suit all parties, subject to proper sewerage and road improvement plans being implemented.

8. The Parish Council receives many complaints about the danger and unpleasantness of walking along the A286 in the village. Should the District Council be minded to approve this application, this should be on condition that the speed limit through the village is decreased to 30mph. The road layout should also be reviewed to assess whether the available space is being used to the best advantage of all road users.

Comments received 20.10.2020

Birdham Parish Council OBJECTS to this application on the following grounds:

- Residential development in this location is not in accordance with the current neighbourhood plan and it is premature for BPC to comment on this as it is currently reviewing this Plan. Similarly, CDC is finalising its Local Plan both of which are instrumental to any decisions of BPC. However, the site proposed in this application will be put into the Call for Sites for the Birdham Neighbourhood Plan review and considered alongside other sites to see whether it is suitable in light of the recently published HEELA.
- There is insufficient information provided and much of it appears to be contradictory.
- The access is not in accordance with current standards required as set out by WSCC
- Infrastructure improvements required by a development of this nature need to be identified, deliverable and funded
- There is insufficient educational capacity at Birdham Primary School to accommodate the requirements generated by this development
- The Parish require there to be a design code agreed at the stage of the outline planning application. This is to ensure that the development is of the quality commensurate to the rural location
- The development is overly dense in this location. The site is 2.34 hectares, and the 77 houses gives a supposed density of 32.9 per hectare, but which in fact will be higher as some of the space is taken by a retail unit and some light industrial units. Unacceptably high for this location
- The draft proposals do not identify where uses will be located on the site

- The outline scheme does not clearly identify car parking allocated to each use
- There is insufficient open space identified. We need to agree a statement and baseline for this at this stage
- The impact of a further 77 homes (undesigned in size) on the road infrastructure has not been assessed
- The site should be deliverable within two years but a third of the land area of this application does not belong to the applicant and it would seem unlikely that the time scale is achievable.

The waste water/sewage explanation assumes that the local water treatment works can accommodate the additional volume for this proposed MAJOR development together with the other current and proposed developments in the Manhood catchment area.

6.2 Earnley Parish Council

At its meeting on 22 October Earnley Parish Council resolved to fully support the objection comment and its contents submitted by Birdham Parish Council.

6.3 West Itchenor Parish Council

West Itchenor Parish Council supports Birdham Parish Council in all of its objections to this application. Although the Parish Council is fully aware it is not a statutory consultee it hopes that the District Council will take into account comments made as the proposed development will have a significant impact on other villages on the western side of the Peninsula.

6.4 Highways England

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 impacts the A27 Stockbridge Roundabout in the same way that a development at East Wittering / Bracklesham would, a contribution (using the standard formula) of £237,104 (73 x £3,248) is required.

6.5 Natural England

Your authority has measures in place to manage the potential impacts from recreational disturbance at the Chichester Harbour Special Protection Area(s) and Ramsar Site(s) through the agreed strategic solution which we consider to be ecologically sound. Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s).

[Planning Officer Comment: Notwithstanding the 'no objection' comment from Natural England (NE) subject to securing the necessary mitigation contribution (£45,419) to the Bird Aware Solent scheme, the proposed development has been assessed under the Habitat Regulations]

6.6 Southern Water

Southern Water has undertaken a desk study of the impact that the additional foul sewerage flows from the proposed development will have on the existing public sewer network. This initial study indicates that there is an increased risk of flooding unless any required network reinforcement is provided by Southern Water.

Any such network reinforcement will be part funded through the New Infrastructure Charge with the remainder funded through Southern Water's Capital Works programme.

Southern Water and the Developer will need to work together in order to review if the delivery of our network reinforcement aligns with the proposed occupation of the development, as it will take time to design and deliver any such reinforcement. It may be possible for some initial dwellings to connect, pending network reinforcement. Southern Water will review and advise on this following consideration of the development program and the extent of network reinforcement required. Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate wastewater network capacity is available to adequately drain the development.

6.7 Sussex Police

I have no objections about this amendment [*the reduction from 77 to 73 dwellings and the changed illustrative layout*] and therefore no further comments to make from a crime prevention perspective.

6.8 Chichester Harbour Conservancy

Objection. The proposal for this mixed housing / industrial estate / retail development on previously used agricultural land would physically change the character of the site within the countryside area, creating a clearly urban form of development in appearance and form which is out-of-place and out-of-keeping with this countryside location on the fringe of the nearby but visually important AONB.

6.9 WSCC - Highways

Essentially the latest application is a re-submission of the above. The applicant has resubmitted all the material which was subsequently agreed as part of the original 16/00933/OUT application. During the subsequent appeal process, the appellant was able to address the highway reason for refusing the application - i.e. that the proposal failed to demonstrate that safe and suitable access could be achieved for all people, and that the development would not result in a severe residual cumulative impact upon the operation of both the Local and Strategic Road Networks - and the highway reason for refusal was subsequently withdrawn. The S.106 agreement that would have been required in the event that planning permission had been granted for the previous application would still be required as part of this current application in order to secure the following: a shared pedestrian cycle link on the west side of Bell Lane between the site access road and the A286/B2179 junction as well as a scheme of associated street lighting; bus laybys to the south of the site access road on either side of Bell Lane; a bus shelter commuted sum.

6.10 WSSC - 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 flooding within the site: No

6.11 WSSC - Fire and Rescue Service

Additional fire hydrant(s) required to service the development. To be secured by condition.

6.12 CDC - Coastal And Drainage Engineer

Site is wholly within flood zone 1 (low risk) however we are aware of localised flooding in the surrounding area. Therefore although we have no objection in principle to the proposed use, scale or location based on flood risk, surface water drainage will need to be dealt with carefully to ensure no increase in flood risk on or off site. There are also watercourses abutting all sides of the site. The layout must ensure there is a 3 metre clear buffer from the top of each bank to ensure that the duties and responsibilities, as required under the Land Drainage Act 1991, and amended by the Flood and Water Management Act 2010, can be fulfilled without additional impediment following the development completion. A suitable maintenance plan for this including controls over fencing will also need to be in place, but can be controlled through condition. The surface water drainage system should be designed to cope with the 1 in 100 year plus 40% climate change event. Drainage conditions recommended regarding - full details of the proposed surface water drainage scheme based on SuDS including management and maintenance; layout shall not be agreed until such time that arrangements for the future access and maintenance of any watercourse or culvert (piped watercourse) crossing or abutting the site has been agreed by the LPA.

6.13 CDC - Housing Enabling Officer

A net increase of 72 dwellings is proposed which would require 21.6 units to be delivered as affordable housing in accordance with Policy 34 of the Chichester Local Plan. 21 units are proposed to be delivered on site which meets this requirement. Therefore the 0.6 unit should be delivered as an affordable housing financial contribution calculated in accordance with the planning obligations and affordable housing SPD. The proposed mix is broadly in line with the Housing and Economic Development Needs Assessment (HEDNA) 2018 mix requirements, albeit a slight departure on the provision of 1 bedroom dwellings which would usually account for 5%. The proposed mix is therefore acceptable. The affordable dwellings should not be clustered in groups of more than 10 and should not be externally distinguishable from the market dwellings. The Housing Delivery Team raises no objections to this proposal.

6.14 CDC - Economic Development

Comments received 11.08.2021

EDS recognises the importance which the Parish Council attaches to retention of small scale horticultural nurseries within the Parish, but equally recognises that the delivery of 700sqm minimum of B1 floorspace together with a retail unit of not less than 150sqm potentially offers greater employment opportunities locally and a more diverse employment base longer term. On this basis and subject to the commercial uses being subject to an appropriate marketing strategy secured through the Section 106 agreement, the application is considered capable of support.

Comments received 09.12.2020

Economic Development acknowledges that Koolbergen and Kelly's Nurseries are no longer viable as nursery premises. They are both largely derelict and have not operated as nurseries for some time. Bellfield Nursery however is a thriving nursery. The owner of Bellfield Nursery has recently confirmed to Economic Development that they are doing well despite the pandemic and do not intend to give up their business in the next 10 years, due to a surge in the interest in gardening due to Covid. Employment is provided at the site, with 5 FTE and seasonal workers as required. The recent change to the Use Classes Order means that both the retail and office would fall under Class E. This will give the commercial space the ability to provide a variation to retail or office. For example, a light industrial business or gym could locate here under Class E.

[Planning Officer Comment: Following receipt of the above consultation, the owner of Bellfield Nursery wrote to the Council to confirm that he fully supported the inclusion of his land in the proposals and of his total commitment to the application. He also confirmed he was aware of the requirement of the timeframe in paragraph 4.2 of the Interim Position Statement on Housing i.e. that sites should be deliverable at the time they are put forward for planning permission.]

6.15 CDC - Archaeology

The archaeological potential of this site would justify a staged process of investigation which would probably be best undertaken following clearance of the site. This can be secured by condition.

6.16 CDC - Environmental Strategy

Bats - 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. 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.

Reptiles - A reptile activity survey and the mitigation strategy (if required) will need to be conditioned.

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

Ecological Enhancements - include: hedgehog nesting boxes; bat and bird boxes; wildflower meadow planting; log piles on site; fill gaps in tree/hedgerow lines; gaps under fences for small mammals.

Recreational Pressure - contribution required to Bird Aware Solent.

Policy 40 - scheme needs to demonstrate how objectives will be achieved

6.17 66 Third Party Objections

- inadequate infrastructure, services already buckling and cannot cope e.g. schools, medical services
- serious road network issues on strategic A27 and local A286 both in terms of safety and congestion
- will exacerbate existing problems with foul sewage system which is not fit for purpose
- loss of popular thriving local nursery and employment
- what has changed since previous refusal
- area is already prone to surface water flooding this will make it worse
- site is in countryside outside settlement boundary
- development will urbanise rural Birdham
- greedy developers exploiting CDC failure to develop a Local Plan
- most house buyers are from outside the area, these will be second homes
- will result in loss of wildlife
- air pollution from increased traffic levels
- harm to AONB and Chichester Harbour
- too much development for this rural village
- harm to Somerley Conservation Area by almost eliminating gap with Birdham

6.18 Agents Supporting Information

The application is accompanied by a number of reports which can be read in detail on the Council's website. The reports address the following matters: Planning Statement; Design Statement; Transport Assessment; Road Safety Audit; Heritage Statement; Arboricultural Report; Ecological Appraisal and preliminary Roost Assessment Survey; Bat Emergence Survey; Foul Sewage and Utilities Assessment.

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. The Birdham Parish Neighbourhood Plan 2014-2029 was made on 19th July 2016 and forms part of the Development Plan against which applications must be considered.
- 7.2 The principal policies of the Chichester Local Plan relevant to the consideration of this application are as follows:

Policy 1: Presumption in Favour of Sustainable Development

Policy 2: Development Strategy and Settlement Hierarchy

Policy 3: The Economy and Employment Provision

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 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 47: Heritage and Design

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

The Birdham Parish Neighbourhood Plan

7.3 The principal policies of the neighbourhood plan relevant to the consideration of this application are as follows:

- Policy 1 - Heritage Assets and Their Setting
- Policy 3 - Habitat Sites
- Policy 4 - Landscape Character and Important Views
- Policy 5 - Light Pollution
- Policy 7 - Integration and Sense of Community
- Policy 9 - Traffic Impact
- Policy 10 - Footpaths and Cycle Paths
- Policy 11 - Village Severance
- Policy 12 - Housing Development
- Policy 13 - Settlement Boundary
- Policy 15 - Rural Area Policy
- Policy 16 - Housing Density and Design
- Policy 17 - Housing Need
- Policy 19 - SUDS Design and Management
- Policy 20 - Surface Water Run-off
- Policy 21 - Wastewater Disposal
- Policy 22 - Development for Business Use
- Policy 23 - Retention of Businesses

7.4 Preliminary work to review the neighbourhood plan is now underway by the Parish Council. However, it is at a very early stage and can therefore attract no weight in terms of decision making on planning applications consistent with government policy in paragraph 48 of the NPPF.

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

7.5 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, significant further work has been identified and the Council is currently reviewing its Local Development Scheme (LDS). The revised LDS timetable now anticipates adoption of the LPR in March 2023.

7.6 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 2016-2035

S6: Affordable Housing

S12: Infrastructure Provision

S20: Design

S23: Transport and Accessibility

S26: Natural Environment

S27: Flood Risk Management

Part 2 - Development Management Policies

DM2: Housing Mix

DM3: Housing Density

DM8: Transport, Accessibility and Parking

DM9: Existing Employment Sites

DM16: Sustainable Design and Construction

DM18: Flood Risk and Water Management

DM27: Historic Environment

DM28: Natural Environment

DM29: Biodiversity

DM30: Development and Disturbance of Birds in Chichester, Langstone and Pagham Harbours Special Protection Areas

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

National Policy and Guidance

7.7 Government planning policy now comprises the revised National Planning Policy Framework (NPPF 2021), which took effect from 20 July 2021 and related policy guidance in the NPPG.

7.8 Paragraph 11 of the revised Framework states that plans and decisions should apply a presumption in favour of sustainable development, and for decision-taking this means:

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

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

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

or

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

7.9 The following sections of the revised NPPF are relevant to this application: 2, 4, 5, 8, 9, 11, 12, 14, 15, 16 and Annex 1. The relevant paragraphs of the National Planning Practice Guidance have also been taken into account.

Other Local Policy and Guidance

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

- Surface Water and Foul Drainage Supplementary Planning Document (SPD)
- Planning Obligations and Affordable Housing SPD
- Interim Position Statement for Housing Development
- Somerley Conservation Area Character Appraisal and Townscape Analysis Map

Interim Position Statement for Housing Development

7.11 In accordance with national planning policy, the Council is required to regularly prepare an assessment of its supply of housing land. The Council's most recent assessment of its housing supply has identified that as of 15 July 2020 there is a potential housing supply of 2,831 net dwellings over the period 2020-2025. This compares with an identified housing requirement of 3,297 net dwellings (equivalent to a requirement for 659 homes per year). This results in a deficit of 466 net dwellings which is equivalent to 4.3 years of housing supply. The inability to demonstrate a 5 year supply of housing contrary to the requirements of government policy triggers the presumption in favour of permitting sustainable development, as set out in paragraph 11 of the National Planning Policy Framework.

7.12 To pro-actively manage this situation prior to the adoption of the Local Plan Review, the Council has brought forward an Interim Position Statement for Housing Development (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 IPS 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 were processed. The IPS, with the proposed revisions, was reported back to the 4th November 2020 Planning Committee, where it was approved with immediate effect. New housing proposals considered under the IPS, such as this application, will therefore need to be assessed against the 13 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 and in the context of what the alternatives might be if it wasn't available for use. New housing proposals which score well against the IPS criteria where relevant are likely to be supported by officers.

7.13 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:

- Maintain low levels of unemployment in the district
- Support local businesses to grow and become engaged with local communities
- Encourage and support people who live and work in the district and to adopt healthy and active lifestyles
- Support and empower communities and people to help themselves and develop resilience
- 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 and the policy position
 - ii) Highway Impact
 - iii) Layout
 - iv) Landscape Impact
 - v) Drainage
 - vi) Employment and Retail Uses
 - vii) Loss of Horticulture
 - viii) Other Matters (ecology and biodiversity, Habitat Regulations Assessment, heritage impact, residential amenity and sustainability of location)
- i) Principle of development and the policy position

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

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

- 8.3 For certainty and clarity a plan-led approach to decision making on planning applications relies on a development plan which is up-to-date, particularly with regard to its housing policies and the proposed delivery of that housing. When assessed against the policies of the adopted Local Plan, the current application is considered to be contrary to policies 2 and 45 in that it is proposing new housing outside the settlement boundary for Birdham and in the countryside or Rest of Plan Area and it would not meet an "essential, small scale and local need" (policy 45). Additionally, the proposal would be considerably in excess of the indicative housing numbers for the Parish of Birdham, as set out in Policy 5 of the Local Plan (50 homes plus any small windfalls) particularly when it is considered cumulatively with the completed developments at Rowan Nursery, Bell Lane (25 dwellings), Tawny Nursery, Bell Lane (30 dwellings) and Chichester Marina (Opal Building) (9 dwellings). Therefore, following a S38(6) development plan approach, this application is clearly contrary to policy.
- 8.4 However, the policy position is not so clear cut because from 15 July 2020 the Council's housing policies in the Local Plan for the delivery of new housing 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 conditional on the Council 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 crucially it is not complete. The Chichester Local Plan Review 2016-2035 Preferred Approach (LPR) 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 for some considerable time. The provisional LPR allocation for Birdham in the Preferred Approach is a minimum of 125 new homes (policy S5). It is noted that the Parish Council is aware of a revised housing distribution that has been undergoing evidence testing since the end of 2020 which includes a revised figure of 200 dwellings. However, at this stage of plan preparation, no weight can be given to the draft policies of the LPR and the housing allocation numbers. The revised housing numbers stated in the LPR indicate the proposed direction of travel, the Council's 'preferred approach' but importantly they are not confirmed. In terms of the decision-making process, the decision maker cannot rely or place any weight on these emerging policies. The Council is effectively therefore in a state of transition between an adopted Local Plan with out of date housing policies and allocations and a Review of that Plan which is not sufficiently advanced in the process towards adoption to be afforded any weight in decision making. Added to that the government requires councils to now calculate their housing need through the standard method which, on the basis of the Updated Position Statement on the Five Year Housing Land Supply at 15 July, shows a need of 628 dpa i.e. significantly in excess of the previous 435 dpa.

- 8.5 The Committee will note from the Planning History above that this application is on the same site where an outline application for 77 dwellings, a retail unit and B1 employment space was refused and then dismissed at appeal in November 2018 (APP/L3815/W/17/3182355). Less than 3 years later it does not automatically follow suit that a planning decision now, on what is a very similar application, should result in the same outcome. This is because the policy situation at the time of the previous application and subsequent appeal was notably different in key respects from consideration of this current application. At the time of the appeal decision, the Council's Local Plan policies particularly for the supply of housing were up to date, relevant and could be relied on in decision making in the context of S38(6) of the PCPA 2004. In a balanced appeal decision, the Inspector placed weight on the fact that the Council could demonstrate a 5 year housing supply, albeit that supply was marginal, and the proposals were in direct conflict with the objectives of the settlement hierarchy as set out in policies 2, 5 and 45 of the Local Plan. That situation has now wholly changed. With out of date housing policies and no 5 year housing land supply the 'tilted balance' in paragraph 11 d) of the NPPF is engaged.
- 8.6 Paragraph 11 d) of the NPPF is quite clear when it states that where development plan policies are out of date planning permission should be granted for sustainable development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The development plan also comprises the Birdham Parish Neighbourhood Plan (BPNP) and NPPF paragraph 14 is clear that in situations where the presumption at paragraph 11 d) applies, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided **all** of the following apply:
- a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
 - b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;
 - c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 74); and
 - d) the local planning authority's housing delivery was at least 45% of that required over the previous three years.
- 8.7 The BPNP was made in July 2016 therefore it does not meet the criteria in point (a). The made BPNP also only contains policies and allocations relevant to meet the now out of date housing requirements for Birdham in the adopted Local Plan so it does not meet the required criteria in point (b) and it is not possible therefore to maintain that the application is in conflict with the housing policies in the BPNP.

- 8.8 The housing supply policies both in the Local Plan and importantly those in the BPNP are no longer up-to-date and cannot be relied on in decision making. That is a fundamental change in circumstances since the previous appeal and in a planning system which is founded on decisions being made in accordance with the development plan unless material considerations indicate otherwise, that is key. In the context of neighbourhood planning, the Parish Council is understood to be in the early stages of reviewing the draft requirements for future housing allocations in the parish, but as the Parish housing figures for the Local Plan Review have yet to be confirmed by the Council, that process is not sufficiently advanced for any weight to be attached to it. A technical study commissioned by the Parish Council and carried out between December 2020 and April 2021 as part of the evidence base being used to prepare the Birdham Neighbourhood Plan Review, looked at 19 potential future housing sites and ranked them according to their suitability to provide new housing. The 19 sites were assembled from a combination of the Parish Council's 'Call for Sites' exercise and the Council's Housing and Employment Land Availability Assessment (HELAA) in March 2021. Out of the 19 sites assessed the application site ranked third most suitable, potentially delivering 75 new homes.
- 8.9 The Council's HELAA has identified the site as capable of achieving around 70 dwellings plus 850sqm of employment uses. Importantly the HELAA is a technical background document which provides a tool to assist the Council in its consideration of potential housing sites under the LPR, it is not a policy document of the Council. Notwithstanding that, its significance is that despite the previous appeal decision, the application site has been identified as suitable, available and deliverable across a phased timeframe to provide new housing in response to the absence of a 5 year housing land supply. In terms of anticipated delivery, the HELAA estimates 30 dwellings would be delivered in years 1 - 5 in the housing trajectory and the remaining balance in years 6 -10. The phased delivery is in response to the current active horticultural and other business uses on key parts of the site.
- 8.10 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 2023, 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 Position Statement for Housing Development (IPS). When considered against the 13 criteria in the IPS which define what the Council considers good quality development in the Local Plan area, the current application scores well and the Council has not identified any adverse impacts. It is relevant to consider each of the IPS criteria in turn:

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

The north site boundary (Bellfield Nursery) adjoins the extended settlement boundary for Birdham which is now formed by the southern boundary of the housing development at Rowan Nursery now known as Rowan Close. The criterion is satisfied.

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

Birdham is a sustainably located settlement defined as a Service Village in the Local Plan (Policy 2) and draft Policy S2 in the LPR. In the context of the previous appeal for 77 homes on the site, the Inspector found that the site is in a sustainable location and would provide economic benefits in terms of the employment use. In this context the proposed development is considered appropriate and the criterion is therefore satisfied.

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

It is considered that the development meets this point. There is no actual or perceived coalescence likely to arise from permitting this development. The development maintains an approximate 150m gap to the boundary of the Somerley Conservation Area to the south from which it is screened with hedgerow and a high coniferous screen on the sites southern boundary. There is no direct inter-visibility. The criterion is considered to be satisfied.

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.

Whilst 'layout' is a reserved matter on the application, on the basis of the illustrative layout submitted with the application, the proposals would result in a density of approximately 27 dwellings per hectare. The application site is in different ownerships but will be developed in its entirety on a phased basis. There is no artificial sub-division in that regard. In the context of the rural edge of settlement location, this level of development compares favourably with the Council's 'benchmark' density value of 35dph for greenfield sites and is considered acceptable. The proposal meets this criterion.

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

See section on landscape impact below but it is considered that the proposal would comply with the above criterion.

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

The application site is outside of the proposed Strategic Wildlife Corridors set out in the draft Local Plan Review. The criterion is not therefore applicable in this instance.

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

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

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

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

The applicant has advised that the development will meet this criterion through a combination of fabric first, air source heat pumps and/or solar PV panels. The application is submitted in outline and the details will be secured by condition through the subsequent reserved matters application/s. A maximum 110 litres per person per day water use will be conditioned and electric vehicle charging points will be incorporated in accordance with WSCC requirements. There is no reason to suggest that this criterion will not be complied with and appropriate conditions will ensure the criterion is met.

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 development is submitted in outline with 'appearance' and 'layout' as reserved matters. There is no reason to suggest on this application that an appropriate high quality design and layout using materials appropriate to the context in Birdham cannot be secured. In the absence of evidence to the contrary it is considered that this criterion will be satisfied.

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.

Birdham is defined in the extant Local plan and in the draft LPR as a 'Service village'. In terms of its proximity to existing services and facilities, the site lies approximately 500 m walking distance from the local Nisa shop/post office, 600 m to the village hall and recreation ground and 1 km to the village primary school. In terms of sustainable transport links the site is within 300 m walking distance of an existing bus stop to the south and a new bus stop with layby and shelter for the Stagecoach 52/53 service (Chichester/East and West Wittering) is to be provided as part of the application proposals at the site frontage on each side of Bell Lane. The proposals also incorporate a shared footpath/cycle way on Bell Lane to link the site with the existing settlement and its facilities to the north. The distances to facilities and services are less than the 1.6 km which the recent National Travel Survey (2019) indicates the majority of walking distances made are within and are not considered prohibitive in terms of walking and/or cycling. The site is therefore sustainably located and the criterion is complied with.

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

This criterion is considered to be satisfied (refer to the assessment below). The site is located within EA flood zone 1, as an area with the lowest level of flood risk. The drainage system is to be designed through SuDS to satisfactorily manage the discharge of surface water from the development.

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

The site will discharge its foul water flows to the Sidlesham WwTW away from the vulnerable protected waters of the Chichester Harbour SPA and Solent Maritime SAC. There is currently no nitrate issue in this regard. The criterion is not applicable.

13) Development proposals are required to demonstrate that they are deliverable from the time of the submission of the planning application through the submission of a deliverability statement justifying how development will ensure quicker delivery.

The Council will seek to impose time restricted conditions on planning applications to ensure early delivery of housing

The applicant has stated his intention to bring forward the land for development as soon as possible following the grant of planning permission and a separate letter submitted with the application from the owner of Bellfield Nursery confirms commitment to the proposals. A reduced time frame of 2 years in which to submit the reserved matters following the grant of outline planning permission and a 2 year period thereafter in which to begin implementation of the approved details is accepted. It is acknowledged that clearance of the existing structures on the site including demolition of the existing dwelling house at Bellfield Nursery and the potential relocation of the existing employment uses at the rear of the site could potentially delay construction, but there are no significant abnormalities that would otherwise restrict implementation of the development following the discharge of pre-commencement conditions. The indicative timeframe indicated in the HELAA of 30 dwellings being delivered in years 1 - 5 and the remaining balance in years 6 -10 reflects the constraints and is therefore considered realistic. The development will provide a phased delivery of new housing in response to the current shortfall which is to be secured via the phasing condition attached to the recommendation and in this regard the criterion will be met.

8.11 The proposed development is considered to meet all the relevant criteria in the IPS. In the absence of an up-to-date Local Plan the Council cannot rely on a plan-led approach to decision making on major housing applications as it ordinarily would and as a development management tool to assist in decision making officers attach weight to the conclusions reached on the 13 criteria above. The 'tilted balance' in NPPF paragraph 11 d) is triggered by this proposal and whilst in the context of out of date housing policies the 'principle' of housing development on this sustainable site is considered acceptable, it is necessary in the subsequent paragraphs of this report to establish - in addition to those comments made on the IPS criteria - whether any adverse impact of other material considerations would be sufficient to significantly and demonstrably outweigh the benefits of providing that new housing.

ii) Highway Impact

- 8.12 Highway issues in terms of access, safety and the cumulative impact of traffic generation upon the operation of both the local and strategic road networks comprised a reason for the Council refusing the previous application for 77 dwellings on the site in February 2017 but these matters were subsequently addressed prior to the public inquiry taking place. WSCC Highways withdrew its objection on highway grounds subject to conditions and securing infrastructure improvements through the S.106 agreement. On this application, which is for 4 fewer dwellings, WSCC Highways has re-affirmed that it has no objection to the proposals being approved, provided that the mitigation measures secured in the previous S.106 agreement are again secured. The measures necessary to make the proposals acceptable from a highways perspective are set out in the S.106 Agreement section of this report and include provision of a bus stop and shelter on each side of Bell Lane and a combined pedestrian cycleway on the west side of Bell Lane from the main site entrance north along Bell Lane to the point where it meets the A286 roundabout. Whilst the Parish Council's request for a Traffic Regulation Order (TRO) speed restriction on Bell Lane to 30mph down from its current 40mph is noted, this is not something which WSCC Highways has required to make the development acceptable in highway terms following its consideration of the application and the submitted road safety audits.
- 8.13 Less than 3 years on from the determination of the previous appeal on the site in respect of the application for 77 dwellings, neither WSCC or Highways England on consultation under the current application have identified that the proposals would result in severe cumulative impacts on the road network sufficient to refuse development on highway grounds which is the relevant test to be applied in terms of NPPF paragraph 111. Highways England has advised it will require a developer contribution to the A27 junction improvements as per the requirements of the Council's SPD and this is to be secured through the S.106 agreement.
- 8.14 Subject to recommended conditions and S106 obligations, the proposals are acceptable from a highway safety and capacity point of view and no objection is raised.

iii) Layout

8.15 'Layout' is not a matter put forward for consideration by the applicant under this outline application, however the applicant has submitted illustratively what in essence is a proving layout to demonstrate that the quantum of development being applied for and the infrastructure necessary to service it - the estate roads, landscaping and open space - can all be fitted into the available space. It is necessary to pass comment on this given the likelihood that a similar layout is likely to be submitted for more detailed consideration as part of the later reserved matters. The illustrative layout originally submitted with the application was considered to be particularly poor and officers, being mindful of the emphasis placed on design considerations in the NPPF, have worked hard to get this amended. The layout now shows a perimeter block arrangement with dwellings with short front gardens fronting onto the internal roads and a large more centrally located area of open space with equipped children's play area. A small number of bungalows are shown in the north-east corner of the site fronting onto Bell Lane which reflects the character of existing development immediately to the north. The proposed retail and employment use buildings are shown fronting but set back from Bell Lane. The proposals on the basis of the illustrative layout achieve a housing density of development of approximately 27dph. Whilst this appears somewhat short of the Council's suggested benchmark figure of 35dph, the form of the development, located as it is on the outer southern rural edge of Birdham, does not appear as an inefficient use of the available land. Officers are therefore satisfied that the quantum of mixed use development proposed as shown on the illustrative layout is capable of receiving officer support when that matter comes up for detailed consideration at reserved matters stage.

iv) Landscape Impact

8.16 Despite being in the countryside area the application site does not comprise 'open' countryside. Much of the site has been subject to some degree of development predominantly of a horticultural nature. The site's southern and western boundaries are well screened, by dense trees and hedgerows which prevent any intervisibility with the countryside beyond. The development would therefore not be seen other than from Bell Lane or from Birdham's built-up area. In the previous appeal, the Inspector identified that the sites 'semi-rural' character would be changed to being more urban and that the development would therefore cause some harm to the area's character and appearance. However the Inspector balanced this by finding that *"...the site is part of a village fringe area which is visually distinct from the more open country surrounding it. This part of Bell Lane is characterised mainly by plant nurseries, caravan sites, scattered dwellings and small-scale employment uses. On the appeal site itself, although the extensive glasshouses, polytunnels and covered growing areas are recognisably agricultural or horticultural in nature, visually they give much of the site at least a partly developed appearance. This impression is further reinforced by the two existing dwellings, and by the brick-built garage/office building at Kelly's Nursery, and the former barns and mobile home to the rear."* This led the Inspector to go on to conclude *"...the harm that the proposed development would cause to the area's character and appearance would be quite limited. Whilst the protection of landscape character is one of the aims behind the CLP's countryside policies, none of those policies seeks to insulate the whole of the District outside settlement boundaries from any change at all. NPPF paragraph 170 [174 in the July 2021 NPPF revision] advocates that the countryside's intrinsic character and natural beauty should be recognised, but this does not necessarily mean protecting sites where those qualities are lacking."*

8.17 The Inspector's conclusion on the issue of landscape impact was that the development would cause limited harm to the area's character and appearance and that it did not add significant weight to the case against the proposal. The site is approximately 250 metres south of the A286, the northern edge of which marks the boundary of the AONB. Given the amount of intervening development between the site and the AONB boundary it is not considered that there would be any harmful impact on its setting from the proposed development. It is noted that the Inspector did not raise or have any specific concerns about the setting of the AONB being impacted. In terms of the overall planning balance the effect was considered to be 'neutral'. Officers agree that the impact of the proposed development on the character and appearance of the area is not a matter on which this application could be refused in principle and that the precise details would be considered through a future reserved matters application dealing with 'layout', 'appearance' and 'landscaping'.

v) Drainage

8.18 Surface Water Drainage - The proposed development is to dispose of surface water via SuDS and the principle of on site infiltration through soakaways. Surface water will naturally filter into the drainage ditches on the site boundaries from where it will be gravity fed towards the ditch on the west side of Bell Lane which then drains to the south. The site lies in flood zone 1 i.e. with the least probability of flooding and there are no recorded incidents of flooding on the site itself. The Council's Drainage Engineer has raised no objection in principle to the proposals subject to the layout maintaining a 3m buffer to the water drainage ditches on the site boundaries for maintenance purposes which the latest iteration of the illustrative layout indicates can be achieved. Detailed conditions are recommended to ensure that the site drains effectively and does not lead to off-site drainage issues. There is no objection to the proposals on the grounds of surface water disposal.

8.19 Foul Water Drainage - The proposed development would connect to the existing off-site mains sewer system in Bell Lane via a new pumping station to be erected on the site. This will pump sewage from the site north into the existing system along Bell Lane from where it will be directed east and then south-east to the Sidlesham WwTW where there is sufficient capacity to accept the additional foul flows. Southern Water has indicated in its consultation response that there may need to be some network reinforcement associated with the development to avoid a potential increased risk of flooding. These works would be part funded through the New Infrastructure Charge with the remainder funded through Southern Water's Capital Works programme. Southern Water advise that occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate wastewater network capacity is available to adequately drain the development. The applicant's foul water pumping station is indicatively shown on the submitted site plan to the north of the proposed employment building and is complete with a service lay-by. The pumping station would also include a 24 hour holding facility in case of failure. Given the potential for the off-site infrastructure serving development to be delivered over a 2 year period as Southern Water advise, it is considered essential that there is an interim solution on site to manage the foul flows in the event that homes on the site are ready to be occupied and the off site infrastructure improvements are not completed. Condition 10 on the recommendation is drafted to address that situation.

8.20 Furthermore, it is intended that as part of the conditions to be attached to the recommendation to permit this application, a construction phasing plan is submitted at the same time as the first reserved matters application is submitted and agreed in writing by the Local planning Authority. This will allow some dwellings to be constructed and occupied in a phased manner whilst the network reinforcements - if required - take place, whilst also allowing for an appropriate timescale for the winding down of the existing horticultural operation at Bellfield Nursery.

8.21 Officers note the concern of Birdham Parish Council with regard to the foul drainage implications arising from the proposed development including the reference to reported pollution incidents elsewhere in the village. However, on the basis of the evidence available, the Local Planning Authority is confident that there is capacity at the Sidlesham WwTW to accommodate the additional foul flows and ultimately it is the statutory duty of Southern Water to ensure that the off-site infrastructure leading to the WwTW is fit for purpose, that the development is satisfactorily drained, and that the proposed development does not lead to problems elsewhere in the system. If Southern Water is not performing its statutory function then the recourse is to the industry regulator OFWAT. Any failings on behalf of Southern Water to deliver required improvements to the offsite network are failings under Part 4 of the Water Industry Act 1991 not under the Town and Country Planning Act. Southern Water has no objection to this planning application subject to potential network reinforcements carried out under its own statutory regime.

vi) Employment and Retail Uses

8.22 Whilst the application is residential led it is for a mixed use development and also comprises a proposed B1 Use Class building and a retail unit. Both are shown on the illustrative site plan located adjacent to the Bell Lane site frontage. As with the scheme which was dismissed at appeal, the proposed Class B1 building would provide 700 sqm of light industrial space, in one or more units. The Appeal Inspector identified that a building of this size and type would have the potential to accommodate a variety of small enterprises, possibly including start-ups or existing small firms seeking to expand and that it might also be suitable for the relocation of some of the businesses currently operating from the former barns located on the west boundary of the appeal site. Local Plan policy 3 supports the provision of a flexible supply of employment land and premises to meet the District's needs including a wider range of opportunities in the rural area. Policy 22 of the BPNP also encourages small-scale development for business use, albeit this is directed to sites within the village boundary. The proposal finds support in the NPPF which seeks to support a prosperous rural economy, through sustainable growth and expansion of businesses in rural areas, including well-designed new buildings (paragraph 84).

8.23 The Inspector adjudged that because the commercial space proposed was only a minor element of the development proposed, there was no requirement in terms of the Local Plan for marketing evidence to have been produced to show that there was a local need, particularly given the supportive policy background. The Inspector's conclusion was that an employment use in this location was a potential benefit to the local economy and therefore carried some weight in the overall planning balance. Officers have no reason to reach a different conclusion on this application however it is proposed that the S.106 attached to this permission will require the developer to undertake a marketing strategy to ensure the prospects of obtaining a tenant/s are enhanced.

8.24 The appeal Inspector drew similar conclusions to the proposed employment use in respect of the proposed retail unit which was the same as proposed again on this current application. In the Inspector's judgment, *"A unit of around this size [150sqm minimum] would be sufficient to provide a small convenience store or similar type of local retail business..... There is no evidence that the proposed unit would adversely affect Birdham's existing small supermarket, or that it would be unable to attract an operator..... In the context of the appeal scheme as a whole, it seems to me that the proposed retail unit could potentially provide a useful, small-scale local service, not only for future occupiers of the proposed development itself, but also for other residents of Birdham. As such, it would help to sustain the local community and add to its vitality."* As with the employment use building, the Inspector regarded the retail unit as a modest benefit of the scheme overall to be again factored into the planning balance. Part of that balancing exercise was an assessment of the weight to be attached to the loss of the existing horticultural uses on the site which would result from the granting of planning permission for alternative development, and it is to that matter the report now turns.

vii) Loss of Horticulture

8.25 The presence of small scale horticultural uses has been a characteristic part of the warp and weft of Birdham life. In recent years some of those former nurseries have either in whole or in part been re-developed with new housing. Rowan Nursery which adjoins the application site to the north and Tawny Nurseries on the opposite side of Bell Lane were both re-developed for housing at a time in 2014 when, as now, the Council was also not able to demonstrate that it had a 5 year housing land supply and again both sites were outside of the settlement boundary. In the case of Tawny Nurseries which was determined at appeal, the Inspector found that, *"The Council is unable to demonstrate a 5-year supply of deliverable housing land. In these circumstances the NPPF advises that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole. There would be some minor harm to the character and appearance of the area... However, in the absence of the 5 year housing supply, the site would provide a deliverable supply of much needed land for housing in an accessible location [that] would be a considerable benefit of the scheme. The adverse effects of granting planning permission would not, therefore, significantly and demonstrably outweigh the benefits which are considerable when assessed against the policies of the NPPF when taken as a whole."*

8.26 Notwithstanding the judgment of the appeal Inspector on the Tawny Nurseries site, it is relevant to this application to note that both the Tawny Nurseries and Rowan Nursery decisions were made prior to the emergence of policy 23 of the BPNP which seeks amongst other things to support and to avoid adverse impacts on local businesses in certain specific sectors, one of which is the horticultural industry, together with the farming, tourism and marine sectors. The development now proposed would mean the loss of a currently active horticultural business, at Bellfield Nursery and would mean that although horticultural uses have ceased at Kelly's Nursery even though the existing glasshouses are in generally good condition, there would be no prospect of a similar use recommencing there. The Inspector in the previous appeal on the application site considered this point and found that, *"I conclude that the proposed development would have a significant adverse impact on the local horticultural industry, due to the loss of the existing business at Bellfield Nursery, and the loss of any prospects for the resumption of horticultural use at Kelly's Nurseries. These adverse impacts bring the appeal proposals into conflict with BPNP Policy 23."* Although finding that the loss of the horticultural use weighed against permitting the appeal proposals, the Inspector also recognised that this loss would be tempered to an extent by the proposed provision of the B1 employment uses and the retail unit. This all falls to be considered again now on the current application in carrying out the tilted balance under paragraph 11 d) of the NPPF.

8.27 The Committee will note that the Council's Economic Development Service (EDS) has considered the application. EDS recognises the importance which the Parish Council attaches to retention of small scale horticultural nurseries within the Parish, but equally recognizes that the delivery of 700sqm minimum of B1 floorspace together with a retail unit of not less than 150sqm potentially offers greater employment opportunities locally and a more diverse employment base in the longer term. On this basis and subject to the commercial uses being subject to an appropriate marketing strategy secured through the Section 106 agreement, officers consider that the balancing exercise weighs more in support of the mixed use re-development proposals for the site than for retention of the nursery and the application is therefore considered capable of support in that regard.

viii) Other Matters

Ecology and Biodiversity

8.28 The application site is subject to no particular ecological designation. The well-screened tree and hedgerow boundaries are potentially a rich source of biodiversity with the ecological value stemming from their grouping rather than as individual specimens. They also provide potentially important wildlife corridors. The Council's Environment Officer has assessed the proposals and made a number of recommendations (see paragraph 6.16) to ensure the protection of wildlife and to secure site enhancements to encourage wildlife, all of which can be secured by condition.

Habitat Regulations Assessment

- 8.29 The site is located within the 5.6km buffer zone of the Chichester and Langstone Harbours Special Protection Area. 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 financial contribution towards the Bird Aware Solent Scheme is required in order to mitigate recreational disturbance as a result of the proposal. The contribution is based on the number of dwellings proposed and the different size of dwellings in terms of bedrooms. For the development proposed a contribution of £45,419 would be sought and a completed S106 agreement is required to secure this contribution. Natural England has confirmed that this provides acceptable mitigation against the potential recreational impacts of the development on the protected site.
- 8.30 There is no requirement for the application to address the issue of Nitrates and Nitrate Neutrality given that the site will send its foul water flows to the Sidlesham WwTW with discharges thereon away from the protected waters of the Solent Maritime SAC and Chichester Harbour SPA. Officers have completed an Appropriate Assessment in terms of the recreational pressure issue.

Heritage Impact

- 8.31 The edge of the proposed development would be approximately 150 metres to the north of the Somerley Conservation Area. The southern boundary of the application site is heavily screened by hedgerow and tall trees which permit no intervisibility between the site and the Conservation Area. The southern part of the site was formerly a horticultural nursery (Koolbergen) until most of the dilapidated glasshouses which were erected on it were recently cleared. The application site is not mentioned in the wider context of the Somerley Conservation Area Character Appraisal in terms of proximity or in terms of any negative impact or other impact or association, nor does it appear on the associated Townscape Analysis Map as a negative feature and nor does the application site feature in the outer reaches of 'Adopted views' out from the Conservation Area. Officers are satisfied that there is no conflict with Local Plan policy 47 in terms of the setting of the Conservation Area and the listed buildings within - the setting of the heritage assets. In terms of the NPPF, the circumstances of the proposed development i.e. the presence of a significant separation gap and significant boundary screening mean that the development does not even reach the test of having to assess whether it causes less than substantial harm to the heritage assets.

Residential Amenity

- 8.32 The application site adjoins the re-developed former Rowan Nursery site to the north, now Rowan Close. It is separated from that site by a line of trees and hedging which follow the line of the drainage ditch and whilst the residents of that new development will clearly be aware of the proposals it is considered that subject to the approval of a satisfactory layout including landscaping and scale (height) of buildings as part of the reserved matters, the residential amenity of that development can be safeguarded. Similarly, the detached dwelling 'Seldens' adjacent to the south-east corner of the site is located within a large well screened curtilage and through the reserved matters application appropriate control can be exercised over the siting and relationship of the proposed dwellings with that property to ensure that its existing amenity is protected.

Sustainability of Location

- 8.33 The application site is considered to be sustainably located in terms of it being adjacent to the settlement boundary of a Service Village which the development strategy of the Local Plan and the development strategy of the draft LPR accept as settlements appropriate for some new housing development. Officers are aware of the Committee's concerns more generally on the Manhood Peninsula regarding housing proposals which are just housing proposals and which provide nothing more in terms of other infrastructure or facilities such as for example employment opportunities or highway improvements. This application is not just for housing but is also proposing a minimum of 700 sqm of new employment space and a retail unit both of which are measures improving the sustainable nature of the area. The application also offers transport benefits – two new bus stops and shelters and a combined pedestrian/cycle link from the site entrance to the roundabout at the north end of Bell Lane and the junction with the A286. The CIL contribution realised from the development will contribute to medical and/or education requirements where required and identified through the Infrastructure Business Plan 2021-26 which WSCC partake in.
- 8.34 The appeal Inspector less than 3 years ago commented that, *'There is no dispute that the site is close to the existing facilities in Birdham. Those facilities are not very numerous, but they do include a primary school, convenience shop, village hall and recreation ground. Bell Lane is also served by existing bus services. The opinion surveys carried out for the BPNP did not appear to show any strong public objection to development in this part of the village.'* He also commented that, *'...the proposed new pedestrian and cycle path, the new bus lay-bys, and the public open space and play area, would all be of some benefit to the local community, over and above the need to mitigate the development's own impacts.'* The current application would realise the same benefits. The application cannot therefore be refused on the grounds of sustainability.

Significant Conditions

- 8.35 The key conditions that are recommended to make this development acceptable have been discussed in the relevant sections of this report. These conditions would include details of a construction phasing plan to be submitted with the first reserved matters application showing how the developer proposes to deliver the housing across the site allowing for the commercial winding up of Bellfield Nursery and demolition of the dwelling on that site, vehicular, pedestrian and cycle access, construction management plan, surface water drainage and its long term management and maintenance, sustainability components, soft landscaping and tree protection measures, ecological mitigation and enhancements.

Section 106 Agreement

8.36 The development is liable to pay the Council's CIL charge at £147.45 sqm (indexed amount) which will address most of the infrastructure matters. At the time of preparing this report, work was progressing on preparing a Section 106 agreement including the relevant triggers for providing the infrastructure. The applicant has confirmed he will enter into an agreement. The anticipated final heads of terms are:

- 30% Affordable Housing 21 units (requirement is 21.6 units) with a tenure split as set out in paragraph 3.3 above
- A commuted sum for the 0.6 of an affordable unit not provided and calculated in accordance with the Council's Planning Obligations and Affordable Housing SPD
- Financial contribution of £237,104 (£3,248 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'.
- Financial contribution of £45,419 for recreational disturbance mitigation at Chichester and Langstone Harbours SPA in accordance with Local Plan Policy 50 and Planning Obligations and Affordable Housing SPD.
- Public Amenity Open Space including a Local Area of Play (LAP) (minimum of 232 sqm), provision, management and on-going maintenance.
- Highway Works: Stage 2 and 3 safety audit; shared pedestrian cycle link on west side of Bell Lane between site access road and the A286/B2179 junction; street lighting improvement for Bell Lane between the site access and the A286/B2179 junction; bus laybys to south of site access road on either side of Bell Lane
- Bus Shelter contribution of £11,000 (this is the figure previously agreed on the earlier appeal scheme. A revised/updated figure is still to be finalised for this application)
- Provision of B1 employment building (700 sqm minimum) and retail building (150 sqm minimum)
- Arrangements for management and on-going maintenance of the B1 employment building and retail building
- Marketing requirements for B1 employment building and retail building
- S106 monitoring fee of £5,106

Conclusion

- 8.37 Whilst this application is being considered less than 3 years since the same proposal was refused at appeal - albeit it is now with 4 fewer dwellings - there has been a fundamental shift in planning policy circumstances which means that this time around it doesn't attract the same recommendation. The fundamental policy shift is that whereas at the time of the appeal the Council could demonstrate that it had a 5-year housing land supply, it no longer has a supply, in fact it has a significant deficit. The Council's housing policies in the development plan are also now out of date. In such circumstances the Council by reason of paragraph 11 d) of the NPPF is required to consider favourably planning applications for sustainable new housing unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole. The application has been tested against the relevant 13 criteria in the IPS and there are no significant or demonstrably adverse consequences that would result from the development being permitted. The development is considered to be sustainable development in terms of the established parameters used to make such an assessment.
- 8.38 The conflict identified at the time of the planning appeal in terms of the loss of the horticultural use at Bellfield Nursery and to a lesser extent at Kelly's Nursery is clearly a remaining weakness in the current scheme and is contrary to policy 23 of the BPNP. When carrying out the planning balance, the Committee must decide whether the provision of 73 new dwellings which is a sizeable contribution towards the housing supply shortfall and includes 21 affordable dwellings plus the provision of new employment space and a shop, is of sufficient weight to outweigh the permanent loss of horticulture in this part of Birdham. Officers are of the opinion that the loss of the horticultural use on its own is not sufficient to outweigh the benefits of permitting the development when applying the tilted balance. The new housing and the B1 and retail unit would all bring some potential social and economic benefits for the local community as would the S.106 provisions for the footpath/cycleway, bus lay-bys, open space and play facilities. The development would also cause little harm to the area's character or appearance and would be reasonably well located for access to some local facilities. The previous appeal Inspector found that, "*The potential benefits arising from the proposed scheme are numerous*". However, at that time the Council had up to date housing policies and a 5 year housing supply and there was nothing that was so material as to necessitate moving away from a plan-led approach to decision-taking as required by section 38(6) of PCPA 2004, and hence the appeal was refused. Quite plainly that situation no longer exists today for the reasons explained in the report.

8.39 Whilst the wider concerns and objections of the Parish Councils and third parties are noted regarding the level and suitability of existing infrastructure on the Manhood peninsula, there can be no expectation as a consequence of a general moratorium on housing developments in the south part of Chichester District given the paramount importance of the Council addressing its 5-year housing land supply shortfall. Nor can this planning application in its own right be expected to remedy existing perceived shortfalls in local infrastructure. There is no compelling evidence arising from consideration of this application that the existing infrastructure cannot cope with the new development proposed. The development will wash its own face in terms of the infrastructure requirements it generates through obligations secured under the S.106 agreement and potential wider benefits could be secured through the development's CIL receipts and the IBP. The proposals are considered to meet all tests from the Interim Position Statement where these are relevant/applicable. Officers regard this as a good sustainable site for new housing and a proposal which responds well to the constraints which the report has identified above. The application is recommended for approval.

Human Rights

8.40 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 the following conditions and informatives:-

- 1) (i) Approval of the details of the layout of the site, (including housing mix), the scale and the appearance of the buildings, 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, (including housing mix), the scale and the appearance of the buildings, 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 **two years** from the date of this permission.

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

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

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

3) The development hereby permitted shall be carried out in accordance with the approved plans in so far as they relate to the matters of detail hereby approved: PI-03 REV 2_2; PI-04 REV 2_2; PI-01 REV 2_5; 2017-4143-001 REV C; 2017-2449-0016 REV C.

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

4) As part of the first reserved matters application the developer shall submit to and have approved by the Local Planning Authority a construction phasing plan (including timescales) for the carrying out of the development as a whole which shall show how the approved dwellings are to be delivered on the site including a timetable for the demolition of the dwellinghouse at Bellfield Nursery and the removal of all buildings and structures on the site. The development shall thereafter be carried out in accordance with the approved timetable unless any variation is first agreed in writing by the Local Planning Authority.

Reason: To ensure that the delivery of the approved housing is carried out in a timely manner and that the development is completed in its totality in accordance with the terms of the application and criterion 13 of the Council's Interim Position Statement on Housing.

5) Notwithstanding that 'layout' and 'landscaping' are reserved matters on this application the subsequent reserved matters details to be submitted for approval by the Local Planning Authority shall incorporate the following mitigation measures and ecological enhancements:

- wildflower meadow grass planting
- filling gaps in tree lines or hedgerows with native species
- the provision of bat brick/boxes to be installed into the dwellings and bird boxes to be installed within the retained trees on site
- the provision of 2 no. log piles as hibernacula for reptile mitigation
- gaps to be provided at the bottom of the fences to allow movement of small mammals across the site.
- 3 metre wide ecological and watercourse access corridors along the north, south and west site boundaries

Reason: In the interest of conserving and enhancing biodiversity.

6) **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 development 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 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.

7) **No development shall commence** on site, including demolition, until protective fencing has been erected around all trees and shrubs on the north, south and west site boundaries 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.

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.

9) If the Phase 1 report submitted pursuant to condition 8 above 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.

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

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

11) **No development shall commence** until details of the proposed overall site-wide surface water drainage scheme has been submitted to and been 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.

12) **No development shall commence** until details of the arrangements for the future access and maintenance of any watercourse or culvert (piped watercourse) crossing or abutting the site have been submitted to and been approved in writing by the Local Planning Authority but such arrangements shall include the provision of a minimum 3 metre buffer for access. The future access and maintenance shall thereafter be carried out in accordance with the approved details. At no time shall current and future land owners be restricted or prevented as a result of the development from undertaking their riparian maintenance responsibilities of any watercourse on or adjacent to the site.

Reason: To ensure the continued effectiveness of the surface water drainage system is maintained.

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

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

14) **Before the development hereby permitted is begun** full details shall be submitted to and be approved in writing by the Local Planning Authority showing how the development is to achieve the objectives in Policy 40 of the Chichester Local Plan: Key Policies 2014-2029 and criterion 8 in the Interim Position Statement for Housing (November 2020). The development shall thereafter be carried out in accordance with the approved details.

Reason: To accord with policy 40 of the Chichester Local Plan: Key Policies 2014-2029, criterion 8 of the IPS and the principles of sustainable development as set out in the NPPF.

15) **Before the development commences** including the demolition of any buildings a reptile activity survey shall be carried out and the results of that survey together with a reptile mitigation strategy (if required) including a program for its implementation shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the strategy shall be implemented fully in accordance with the approved details.

Reason: To ensure that the protection of the species is fully taken into account during the construction process in order to ensure the development will not be detrimental to the maintenance of the species. It is considered necessary for this to be a pre-commencement condition as these details need to be agreed prior to the construction of the development and thus go to the heart of the planning permission.

16) **No construction of any buildings above slab level** shall be carried out unless and until a full schedule of all materials and finishes including samples and finishes for external walls and roofs of the proposed buildings and surfacing materials have been submitted to and been approved in writing by the Local Planning Authority. At the same time a design statement shall be submitted detailing how the proposed materials respond to design considerations for new development in the made Birdham Parish Neighbourhood Plan. All approved materials and finishes shall be used for the development 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.

17) **No part of the development in respect of the construction of the dwellings shall be begun** until the vehicular access has been constructed in accordance with drawing no. 2017-2449-0016 REV C including the provision of visibility splays from the vehicular access onto Bell Lane, set back 2.4 metres from the edge of the carriageway and extending 175 metres to the north and south. Once provided the splays shall thereafter be retained and kept free of all obstructions over a height of 0.6 metres above the adjoining carriageway level.

Reason: In the interests of providing safe vehicular access and egress to the site.

18) **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. The manual shall also include the arrangements for the future access and maintenance details of any watercourse or culvert (piped watercourse) crossing or abutting the site. Upon completed construction of the SUDS system, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual, including the approved access and maintenance details for any watercourse or culvert.

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.

19) 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.

20) **Before first occupation of any dwelling** details of any external lighting of the site shall be submitted to and 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.

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

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

21) **No part of the development shall be occupied** until the vehicle parking and turning spaces including parking spaces within garages or carports for that part of the development have been constructed in accordance with a layout plan to be first submitted to and approved in writing by the Local Planning Authority. Once provided these spaces shall thereafter be retained in perpetuity for their designated use unless otherwise first approved in writing by the Local Planning Authority.

Reason: To ensure that the development provides satisfactory parking for the development in the interests of proper planning.

22) **No dwelling shall be first occupied** until such time as a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be completed in accordance with the latest guidance and good practice documentation as published by the Department for Transport or as advised by the Highway Authority and shall include the provision of a residents' Travel Information Pack to the first occupants of each dwelling. The Travel Plan once approved shall thereafter be implemented as specified within the approved document.

Reason: To encourage and promote sustainable transport.

23) **No part of the development shall be first occupied** until the footway link from the site to the southern bus stops has been widened to 2m as far as is achievable within land in the applicants control / public highway in accordance with plans and details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and to ensure that local bus services are accessible.

24) **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

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

Reason: In the interests of amenity and in accordance with The Fire and Rescue Services Act 2004.

26) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, and the Town and Country Planning (General Permitted Development) Order 2015, or in any other statutory instrument amending, revoking and re-enacting the Order, the proposed B1 building shall not be used other than for purposes within Use Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 or in any provision equivalent to that Class in any other statutory instrument revoking and re-enacting that Order).

Reason: To accord with the terms of the application and to ensure that the use of the building does not have a harmful environmental effect in the interests of protecting the character of the area and protecting residential amenity.

27) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, and the Town and Country Planning (General Permitted Development) Order 2015, or in any other statutory instrument amending, revoking and re-enacting the Order, the proposed retail unit shall not be used other than for purposes with Use Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 or in any provision equivalent to that Class in any other statutory instrument revoking and re-enacting that Order).

Reason: To accord with the terms of the application and to ensure that the use of the building does not have a harmful environmental effect in the interests of protecting the character of the area and protecting residential amenity.

INFORMATIVES

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

2) The applicant is advised to enter into a legal agreement with West Sussex County Council, as Highway Authority, to cover the off-site highway works. The applicant is requested to contact The Implementation Team Leader (01243 642105) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.

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 applicant is advised to contact the Highway Licensing team (01243 642105) to obtain formal approval from the highway authority to carry out the site access works on the public highway.

5) 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.

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

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QF7QFCERMUA00>