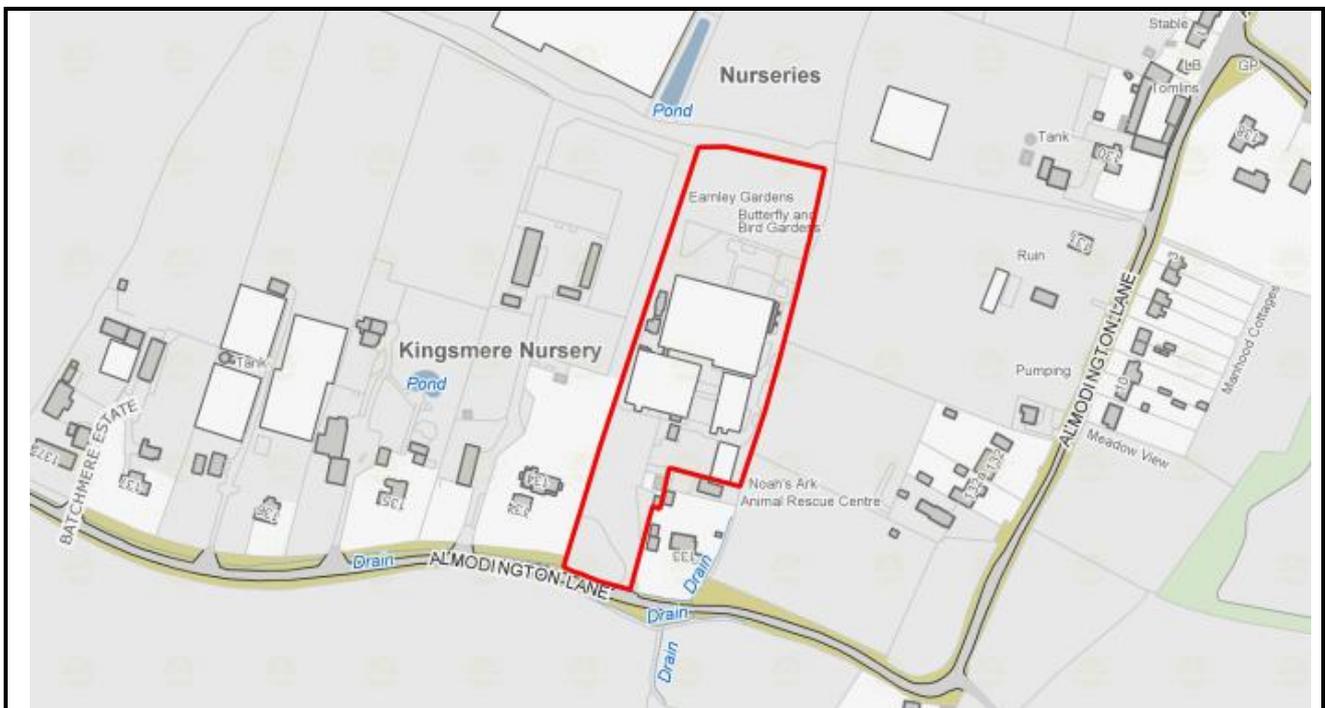


Parish: Earnley	Ward: The Witterings
--------------------	-------------------------

E/20/03289/FUL

Proposal	Demolition of existing property (buildings 1-13) and construction of 5 no. dwellings with ancillary garages.		
Site	Earnley Gardens Almodington Lane Almodington Earnley PO20 7JR		
Map Ref	(E) 482332 (N) 97456		
Applicant	Andy Young	Agent	Mr Simon Randell

RECOMMENDATION TO REFUSE



	<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>
---	----------------------------	--

1.0 Reason for Committee Referral

Red Card - Cllr Hamilton.

2.0 The Site and Surroundings

- 2.1 The application site is located within the Rural Area as defined by policy 2 of the Chichester Local Plan (CLP). The site is accessed from Almodington Lane to the south. Residential properties are located to the east and west along Almodington Lane.
- 2.2 The site comprises glasshouses and outbuildings set behind a gravelled parking area to the front, which formed a tourism attraction which included a zoo, butterfly gardens, café with sales and nostalgia centre. This business ceased trading in March 2020. The majority of the site is within Flood Zone 1, although there are significant parts of the site, predominately along the northern, southern and eastern boundaries, located within Flood Zones 2 and 3.

3.0 The Proposal

- 3.1 This application seeks full planning permission to clear the site of the existing buildings and construct five detached dwellings. There is no affordable housing required for this number of dwellings, and the market housing would have the following mix:

2 x 3 bed

2 x 4 bed

1 x 5 bed

- 3.2 The proposals show the existing access point to be closed and a new access formed to the south west corner of the site, extending along the majority of the depth of the western boundary of the site. The proposed dwellings would be set back in a broadly linear form centrally up the length of the site. The dwellings would be two storey with linked outbuildings, with Plots 1 and 4 also shown to feature detached garages.
- 3.3 At the request of the agent revised plans were submitted during the course of the application to amend the proposed layout and to remove references to live/work accommodation in the description and the plans, and therefore the application was re-advertised.

4.0 History

E/00036/88	PER	Childrens' zoo; butterflies; coffee shop; garden furniture & portable building sales.
94/00460/FUL	PER	Retention of visitors toilets & potters craft workshop (subject of PL75/15).
95/01298/FUL	PER	Change of use from childrens zoo/picnic area to static display of military vehicles, concrete path and fences.

95/01421/COU	PER	Change of use of part of garden centre to nostalgia centre to be relocated from Church Farm Lane, East Wittering.
96/02203/FUL	PER	Additional glasshouse for growing plants.
01/00986/OUT	PER	Proposed owners/managers dwelling.
02/01798/FUL	PER106	Detailed application for owner/manager's dwelling in lieu of outline consent ref E/01/00986/OUT.
03/01427/COU	PER	Change of use of potting shed to reptile house and plant area. Land to be used for animal runs and enclosures.

5.0 **Constraints**

Listed Building	NO
Conservation Area	NO
Rural Area	YES
AONB	NO
Tree Preservation Order	NO
EA Flood Zone	PART FZ1, FZ2 and FZ3
- Flood Zone 2	YES
- Flood Zone 3	YES
Historic Parks and Gardens	NO

6.0 **Representations and Consultations**

6.1 **Earnley Parish Council**

Amended scheme

No comments received

Original scheme (comments received 01.02.2021)

At its meeting on 28th January 2021 Earnley Parish Council resolved to SUPPORT this application due to advance technology and sustainability of this unique development, including the work life balance aspect. The Council were of the view that the proposed site density and the design of the properties is particularly suitable for the character of Almodington.

6.2 Environment Agency (summarised)

No objection. Conditions requested to ensure development is carried out in accordance with FRA, with finished floor levels set no lower than 5.55 m above AOD, and PD rights are removed for development in flood zone 2 and 3.

6.3 WSCC Highways (summarised)

Comments received 03.09.2021

West Sussex County Council, in its capacity as Local Highway Authority (LHA), have been re-consulted on proposals for 5 x dwellings and live/work accommodation. In comments dated 2 Feb 2021 the LHA raised no objection to the proposals, subject to advised conditions. The changes would not alter the LHA comments.

Comments received 02.02.2021

Almodington Lane is rural 'C' classified highway subject to 30mph speed restriction in this location. The LHA has reviewed data supplied to WSCC by Sussex Police over a period of the last five years. There have been no recorded injury accidents at the access with Almodington Lane. There is no evidence to suggest that the access or nearby road layout is operating unsafely.

Access Arrangements

The application proposes to create a new vehicle access approx. 20m west of existing shared access, comprising a 4.8m bellmouth with 6m radii. The existing access would be partially stopped up and formalised to serve the single neighbouring property only.

Visibility splays of 2.4m by 43m, as suitable for 30mph speed limit (Manual for Streets guidance) have been demonstrated. Visibility to a right turning vehicle has also been shown.

Refuse collection will take place within the site and swept path tracking plans show the achievability of this, with turning space so that a refuse collection vehicle can exit to the public highway in a forward gear. Fire tenders would also be able to enter the site and reach within accepted distance of buildings, as set out in Building Regulations.

The applicant would be required to apply for a minor works licence for the new access and access closure works as per the attached informative.

Trip Generation

A review of the number of visitors to the existing site use (mixed sui generis - butterfly farm, petting zoo and crazy golf) has been made and shows an average of 60 x visitors per day. On the estimated occupancy of 2.5 people per vehicle this could have resulted in 48 x daily 2-way visitor trips. With the addition of staff trips etc it is estimated that the existing use could see 50-60 movements per day.

TRICs has been used to anticipate likely traffic impact. Using suitable parameters it was found that the 5 x dwellings could create 2 x trips in the AM and 2 x trips in the PM peak hours with 23 x 2-way trips over the day. An overall reduction in both daily trips and peak hour trips is therefore anticipated as a result of the development and no road network capacity issue is raised.

Car Parking

The WSCC Car Parking Demand Calculator envisions a total demand for 24 x spaces. As 21 x allocated spaces plus 3 x visitor spaces are proposed the LHA consider that sufficient parking has been demonstrated. Cycle parking will be provided in line with WSCC guidance, details of which can be secured via condition.

Accessibility

The site is rural with no segregated footway on Almodington Lane. Nevertheless, the anticipated low traffic flows and speeds may allow for some walkers to use the carriageway and link to nearby Public Rights of Way such as footpath no. 54 east of the site which links to Earnley and onwards to Bracklesham.

It is considered that most local amenities and services are outside of the recommended maximum walking distance of 2km (CIHT - Journeys on Foot). Nevertheless, some local journeys could be made by cycle and cycle storage should be provided to promote this.

Bus services run from several locations along Bracklesham Lane. PROW no. 52 borders the north of the site and links to Bookers Lane. There may be some benefit for residents of the site to provide a link to the PROW and the applicant should consider this.

Conclusion

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

Conditions recommended in respect of access closure, site set up, cycle parking, access/parking/turning all as per approved plans and an informative to ensure consents sought from WSCC as Highways Authority.

6.4 WSCC Water and Access Manager (summarised)

No objection, condition recommended requiring the provision 1 fire hydrant or stored water supply within the site.

6.5 CDC Housing Enabling Officer

Comments received 26.08.2021

Following my consultation response dated 27 January 2021, the applicant has submitted revised floor plans. No changes have been made to the site density which remains at 5 units. In line with policy 34 of the Chichester Local Plan (CLP) no affordable housing is required.

The applicant has not changed the market housing mix since my previous comments but has provided a rebuttal statement to justify the provision of larger units. The Housing Delivery Team does not agree with the applicant's conclusions but will stipulate that the 4 bedroom market provision can be delivered as 4 or more bedrooms. It is the Council's policy to provide an appropriate housing mix to meet local housing needs. As the most up to date piece of evidence on housing need, the Chichester Housing and Economic Development Needs Assessment (HEDNA) 2020 identifies the most appropriate mix of housing to be delivered, which this application does not comply with.

As previously advised, the provision of larger executive style homes will not only contribute to the imbalance within the housing stock in Earnley but will be generally more expensive and unobtainable to first time buyers and will not provide suitable accommodation for older households looking to downsize. Chichester is recognised as one of the least affordable places to live outside of London with the ONS showing median resident and work placed earnings to house price ratios of 14.09 and 12.54 respectively. The addition of larger executive style homes ranging in sizes from 219 m² to 382 m² (more than double the nationally described space standards) will only perpetuate the affordability issue.

The applicant has not provided any viability evidence to warrant a departure away from the HEDNA mix requirements. Furthermore, should a reduction in unit size to meet the mix requirements enable an increase in the sites density i.e. 6 or more units can be provided, an affordable housing contribution would be required in line with Policy 34 of the CLP.

To conclude, the Housing Delivery Team is unable to support this application until the market housing mix is amended to meet the requirements set out in my 27 January comments.

Comments received 27.01.2021

This application seeks to demolish an existing building and construct 5 residential dwellings. In line with Policy 34 of the Chichester Local Plan, no affordable housing contribution is required to be delivered as it is providing less than 6 units in a rural designated parish under section 157 of the Housing Act 1985.

The applicant is seeking to deliver the following mix of market units:

- 2 x 3 bedroom houses
- 2 x 4 bedroom houses
- 1 x 5 bedroom house

The above mix is not in line with the Chichester Housing and Economic Development Needs Assessment (HEDNA) 2020 market mix requirements (5-15% 1 bedroom, 35-45% 2 bedroom, 30-40% 3 bedroom, 10-20% 4 bedroom) in that it provides too many larger units. Earnley's existing housing stock is weighted in favour of the larger 3+ bedroom properties (79.7%), which are largely unaffordable for first time buyers and will not provide suitable accommodation for older households looking to downsize. Taking into account the HEDNA 2020 mix requirements and existing housing stock and turnover, the following market mix is required to be delivered:

Required Market Housing Mix

Size	Mix	Percentage
2 bedroom	2	40%
3 bedroom	2	40%
4 bedroom	1	20%
Total	5	

It should be noted that should a reduction in unit size allow for an increase in the site density i.e. 6 or more units can be provided, then an affordable housing contribution would be required in accordance with Policy 34 of the Chichester Local Plan.

To conclude, the Housing Delivery Team is unable to support this application until the market mix has been amended to meet the above requirements.

6.6 CDC Estates

The proposal is for the demolition of the existing property at Earnley Gardens and the construction of 5 new dwellings with ancillary garages and live / work accommodation.

The application site was in use as the 'Earnley Butterfly, Birds and Beasts' visitor attraction until it closed on 2nd March 2020 having previously been open between March and October each year and trading for over 25 years.

The site itself is in a rural location and extends to nearly four acres. It comprises a selection of glasshouses and buildings, including a cafe and play area, various butterfly and bird sanctuaries, covered themed gardens and open space for other animals and attractions. There is parking for between 40 and 80 cars at the front of the site.

The attraction was marketed for sale between November 2018 and August 2020 at a price of £500,000. We have not been supplied with any valuation evidence or trading accounts in support of the list price and so we are unable to comment on the reasonableness of the list price. The agents listed the property under the commercial sections of four property websites including the agent's own website. The marketing particulars focus on the sale of the land rather than the business suggesting that the intention was not to sell the site as a going concern, particularly as the visitor attraction report states that certain attractions were repurposed elsewhere during early 2020.

In response to the advertising, 37 enquires were received with 14 parties proceeding to view the property. Of these, 8 applicants wished to convert the site into either a single home or multiple residential homes, but the majority of these withdrew their interest when advised that any sale would be unconditional on planning consent. Of the remaining applicants, 1 was looking to acquire the site in order to protect the boundary of his own adjoining dwelling, 1 showed signs of interest in continuing to run the business and build the residential dwelling at the rear, but withdrew due to the work required to the property and the lack of demand for the business. 4 applicants were interested in pursuing residential / commercial development, but didn't follow up after viewing.

Eventually, the site was acquired by one of these applicants with the transaction completing in March 2020. The marketing report indicates that the property was purchased with a view to development rather than continued operation as a tourist attraction. Information from the agent states that the purchaser requested that the marketing should be continued for a period after the transaction had been completed (data included in the figures above). There is no information about why the marketing continued after the site had been purchased or what the purchase price was.

The property and attraction appears not to have been well maintained resulting in a general deterioration over time and it is now of a low standard and presented in a poor state. The information provided indicates that the business was profitable until 2015, but has suffered financial losses in recent years. The business may well have been impacted by the Covid-19 pandemic, particularly as it is a mainly indoor experience with fewer opportunities for social distancing than other mainly outdoor attractions. However, this may be less of a concern moving forwards with restrictions being eased.

The property agents report that they have considered alternative uses for the site. These include:

- Continued use for leisure and tourism – this is considered unviable by the agents. The visitor attraction reports suggests a need for around £2 million of investment although it is not clear whether this is for the existing business or a new business. The visitor attraction report also notes that tourism is an important pillar of the economy with farm type attractions growing in popularity in recent times.
- Re-use for horticulture – this is considered unviable by the agents.
- Redevelopment for employment type uses – this is considered unviable by the agents.
The valuation provided is based on 50% office space and we have not enquired whether this would be reasonable in this location. A higher percentage of industrial type space would bring the construction costs down.
- Redevelopment for residential use – this is considered viable by the agents, but please note that no evidence has been presented to the Estates Service to support this.

The property has been given market exposure over a period totalling around 22 months, although this does include the period between March 2020 and June 2020 when the property market was effectively on hold due to the Covid-19 pandemic. It is not known whether registered applicants were approached directly or whether the agents relied upon advertising alone. It is also not known whether a 'for sale' board was placed on the site as this may have generated additional interest. It is also unclear to what extent the property

has been marketed as a going concern and whether it has been marketed through any specialist publications and websites in order to try and attract a buyer for its current use.

Although the leisure industry has faced challenges which have been exacerbated by the pandemic potentially suggesting a lack of demand for the business as a going concern, there is a lack of evidence to suggest that all opportunities to sell the property as a going concern have been pursued.

6.7 CDC Coast Protection & Land Drainage Officer (summarised)

Comments received 03.09.2021

We have considered the additional information submitted and can confirm we have no comments to make in addition to those which we made on the 29th January 2021, which remain valid in their entirety.

Comments received 29.01.2021

Flood Risk - Parts of the site fall within flood zones 2/3 (significant risk), however all of the new dwellings are located in flood zone 1 (low risk). The FRA proposes making the properties resilient to flood risk with minimum FFLs of 5.55m AOD, based on flood levels provided by the EA. We recommend this minimum level is conditioned.

We would expect the EA to be consulted and comment further, but subject to satisfactory surface water drainage we have no objection to the proposed use, scale or location based on flood risk grounds.

Surface Water Drainage: The proposal is to drain the new dwellings to the existing watercourse via ponds at a restricted rate (total 6 l/s), and the road via permeable paving. This approach is acceptable in principle and offers a significant benefit to the existing arrangement due to the reduction in impermeable areas across the site.

Condition recommended to secure full details of proposed surface water drainage scheme.

6.8 CDC Environmental Health (summarised)

Comments received 24.08.2021

This departments previous comments made in February 2021 are still applicable.

Comments received 02.02.2021

Land contamination

Given the land uses carried out at the site (nursery followed by wildlife centre) there is considered to be a low potential for land contamination at the site. Nevertheless, as the proposed development involves residential use including gardens it is recommended that site investigation and if necessary remediation is undertaken at the site. Conditions PC21, PC22 and PO14 should be applied.

It is noted that asbestos containing materials have been identified at the site and these must be handled and disposed of in accordance with the Control of Asbestos Regulations 2012. It is also noted that there was a former pond in the north of the site which appears to have been infilled. Both these issues should be investigated further as part of the site investigation works.

Construction - During construction works, measures to mitigate noise, dust and other environmental emissions should be put in place. There should be no burning of demolition or construction materials at the site and all wastes must be disposed of in accordance with Waste Regulations. It is recommended a construction environmental management plan should be secured via a condition to ensure construction activities are well managed.

Noise and air quality - It is considered that a good standard of thermal construction will enable both internal noise levels and air quality to be acceptable for future occupants and no additional design requirements will be necessary. The development is considered unlikely to impact local air quality and no further air quality assessment is required.

Conditions recommended to secure cycle storage, electric vehicle charging points and details of lighting scheme.

6.9 CDC Environmental Protection

Comments received 12.01.2021

Bats

Following submission of the EIA (Aug 2020) we are happy that the mitigation applicants should be aware that a Natural England Protected Species License will be required for the works, and this will need to be obtained prior to any works taking place.

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

All trees which have been identified as offering moderate or above bat roost suitability will be retained and protected within the scheme. Those trees identified as offering low suitability shall be soft felled under supervision if their removal is required.

Water voles

We are satisfied that a precautionary approach can be taken as no water voles have been found on site, however prior to start on site we would like to see a copy of the ditch protection plan which will be put in place during the construction phase.

Hedgehogs

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

Nesting Birds

Any works to the trees or vegetation clearance on the site should only be undertaken outside of the bird breeding season which takes place between 1st March 1st October. If works are required within this time an ecologist will need to check the site before any works take place (within 24 hours of any work). We would like a bird box to be installed on the extension / and or tree within the garden of the property.

Enhancements

We are pleased to see that a number of enhancements have been recommended within the EIA and require that these are incorporated within the scheme and shown with the landscaping strategy. These include;

Flowering plants

Nest boxes for a variety of bird species to the northern aspects of surrounding trees and integrated into the new buildings

Installation of bat boxes to the southern aspect of mature trees

Planting new native species-rich hedging

Planting an area of orchard within the site

Seeding the base of hedges and trees with suitable wildflower mix

Creation of areas of wildflower meadow of local provenance

Creation of a wildlife pond planted with native emergent and marginal vegetation

SuDS features and raingardens throughout the site

Climbing green-walls log and compost piles to the boundaries of the site invertebrate boxes suitable for solitary bees, or creation of a habitat wall south-facing bee bank from a mound of loose soil 2no. hedgehog houses to the base of boundary hedge lines

Native seed and berry producing trees

Enhancement of the adjacent ditch through scrub clearance and fence removal.

We require that gaps are included at the bottom of the fences to allow movement of small mammals across the site

Recreational Disturbance

For this application we are satisfied that the HRA issue of recreational disturbance can be resolved as long as the applicant is willing to provide a contribution to the Bird Aware scheme, the standard HRA Screening Matrix and Appropriate Assessment Statement template can be used.

Policy 40

We are satisfied that the details provided within the Design, Sustainability, & Access Statement rev 02 are suitable for this stage. We require that a condition is used to ensure further information relating to the requirements of policy 40 including the final design for renewable energy on site is provided prior to start on site

6.10 CDC Economic Development

Comments received 10.08.2021

The Economic Development Service does not support this application.

As this proposed development represents the loss of Commercial land, we are unable to support the application. Having said this site offers limited scope for business use and does not lend itself to many business applications due to the limited access to transport links and restricted access for larger delivery vehicles.

Although there is a shortage modestly priced commercial premises on the Manhood , the reality is developing a small business park on this site is unlikely to be commercially viable and would have the additional challenges of limited transport links and possible tensions with neighbouring properties if anything more than very light commercial activity was being undertaken.

Given its location, the site also has limited scope to develop into a commercially viable tourist or visitor attraction as it is not served by public transport and vehicle access is via minor roads.

Furthermore, we note the latest proposals take account of the national trend towards more home based working with the provision of space within each property to accommodate people working from home. The style and expected price point for these properties would appeal to successful business professionals looking to strike a balance between working from home and commuting to their place of work and we can see this being a strong selling point for these properties.

6.11 Third party support comments

Seven third party representations of support have been received concerning the following matters:

- a) The proposal would make a positive contribution to the community
- b) The existing site is dilapidated and the proposals would be an improvement to the existing situation
- c) The architecture is high quality
- d) The proposals would be of a high level of sustainability
- e) There is a need for housing and work space in the rural community
- f) The proposal is sympathetic to the rural surrounding area
- g) The proposal would not have a negative impact on traffic levels, amenities and services
- h) The proposal would enhance wildlife
- i) The proposal would not encourage flooding

- k) The provision of work space means residents will be around during the day rather than commuting

6.12 Agent's 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: Commercial Viability Report, Design Sustainability and Access Statement, Energy Efficiency and Renewables Statement, Ecological Impact Assessment, Flood Risk Assessment, Highways Statement, Land Contamination Statement, Planning Statement, Marketing Appraisal and Marketing Details.

7.0 Planning Policy

The Development Plan

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

Policy 30: Built Tourist and Leisure Development

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 46: Alterations, Change of Use and/or Re-use of Existing Buildings 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 51: Development and Disturbance of Birds in Pagham Harbour Special Protection Area

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

7.3 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.

7.4 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

S24: Countryside

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

DM13: Built Tourist and Leisure Development

DM16: Sustainable Design and Construction

DM18: Flood Risk and Water Management

DM28: Natural Environment

DM29: Biodiversity

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

National Policy and Guidance

- 7.5 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.
- 7.6 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.*
- 7.7 The following sections of the revised NPPF are relevant to this application: 2, 4, 5, 6, 8, 9, 11, 12, 14, 15, and Annex 1. The relevant paragraphs of the National Planning Practice Guidance have also been taken into account.

Other Local Policy and Guidance

- 7.8 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

Interim Position Statement for Housing Development

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

7.10 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.

7.11 The aims and objectives of the Chichester in Partnership Community Strategy 2016-2029 which are relevant and material to the determination of this planning application are:

- 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 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 application are considered to be:

- i. Principle of development and the policy position
- ii. Significance of the Interim Position Statement
- iii. Design, layout and impact on the character of the area
- iv. Housing Mix
- v. Residential amenity
- vi. Highway impact
- vii. Impact on trees
- viii. Ecological considerations
- ix. Sustainable design and construction
- x. Flood Risk
- xi. Surface water drainage and foul disposal

i. Principle of development and the policy position

- 8.2 There are three fundamental considerations in respect of whether the principle of the proposed development is acceptable; the loss of tourist or leisure development, the development strategy and hierarchy, and the lack of 5 year housing supply and tilted balance.

Loss of tourist or leisure development

- 8.3 Policy 2 of the Local Plan Key Policies - the Development Strategy and Settlement Hierarchy - sets out the broad strategy for guiding sustainable development across the Chichester Plan Area including a settlement hierarchy with development growth apportioned accordingly. The application site is located outside of any defined Settlement Boundary, within the Rest of the Plan Area as defined by Policy 2. The Rest of the Plan Area is defined by Policy 2 as: Small villages, hamlets scattered development and countryside.
- 8.4 The existing site has a sui generis use which would fall to be considered as tourist and leisure development. Policy 30 of the CLP sets out that proposals involving the loss of tourist or leisure development will only be granted where there is no proven demand for the facility and it can no longer make a positive contribution to the economy. Policy 30 requires proposals to demonstrate that genuine attempts have been made over an extended period to market the site for similar uses through the submission of supporting evidence. Appendix E of the CLP requires that this supporting evidence should include a marketing and viability assessment, and that marketing should be for between a year and 18 months.
- 8.5 The submitted Marketing Appraisal sets out that the site was marketed from November 2018 until August 2020. This exceeds the marketing period required in Appendix E of the CLP. The application was submitted in December 2020, which complies with the requirement for the marketing to have ended on a date within nine months of the date of the application. The submitted details advises that in response to the advertising, 37 enquires were received with 14 parties proceeding to view the property. Of these, eight applicants wished to convert the site into either a single home or multiple residential homes, but the majority of these withdrew their interest when advised that any sale would be unconditional on planning consent. Of the remaining applicants, one was looking to acquire the site in order to protect the boundary of his own adjoining dwelling, one showed signs of interest in continuing to run the business and build the residential dwelling at the rear, but withdrew due to the work required to the property and the lack of demand for the business. Four applicants were interested in pursuing residential / commercial development, but didn't follow up after viewing.
- 8.6 In providing comments on the marketing, the Council's Estates department has raised that they have not been supplied with any valuation evidence or trading accounts in support of the list price and so we are unable to comment on the reasonableness of the list price, and that no details of marketing boards at the premises have been provided. As part of the documentation submitted with the application the Viability Report and the Visitor Attraction Report highlight the need for further investment in the existing business as a tourist attraction, advising that at least £2,000,000 of further investment would be required and 70,000 visitors per

annum to justify the investment. This figure is based on the rebuilding the existing attraction to a reasonable standard and investment that may be required for other tourism or leisure uses has not been put forward. Although no evidence of marketing boards being displayed at the site has been submitted, given the period of time during the course of the applications where there limitations on travel due to COVID-19 and the location of the site where there would be limited passing traffic to view such boards, it is considered that the marketing that has been carried out is acceptable in this instance.

- 8.7 The Council's Economic Development Service have commented that they do not support this application as it is for the loss of commercial land, however they have provided comments on the suitability of the site. They advise that the site offers limited scope for business use and does not lend itself to many business applications due to the limited access to transport links and restricted access for larger delivery vehicles, and given its location, the site also has limited scope to develop into a commercially viable tourist or visitor attraction as it is not served by public transport and vehicle access is via minor roads. They have also commented the reality is developing a small business park on this site is unlikely to be commercially viable and would have the additional challenges of limited transport links and possible tensions with neighbouring properties if anything more than very light commercial activity was being undertaken. A business use has not been proposed and any application that may come forward for that would be required to demonstrate a local need and the highways considerations and amenities of neighbours would be assessed as part of that application. Given the ribbon development of residential properties it may be that if business uses were to be proposed only those which fall within subclass E(g) of Class E, which are those which can be carried out in a residential area without detriment to its amenity, would be acceptable.
- 8.8 Given the marketing that has been undertaken and the comments above regarding the investment required and alternative uses, on balance the proposal is considered to have satisfied the requirement of Policy 30 to demonstrate that genuine attempts have been made over an extended period to market the site for similar uses, and therefore the loss of the tourism and leisure development is considered acceptable in this instance.

Development strategy and hierarchy

- 8.9 With regard to the proposed development for housing, the parish, being in the Rest of the Plan Area, sits at the bottom of the settlement hierarchy, outside of any areas identified for development. Notwithstanding the fact that the Council agrees that, subject to the requirements of Policy 30 having been satisfied, this brownfield site is a windfall opportunity for development, it is important that the Council's overall settlement hierarchy is respected and that the strategic approach to development is not undermined. It is important therefore that development in the Parish is proportionate to the Parish's status within the hierarchy.

- 8.10 Policy 5 of the Local Plan Key Policies identifies Parish Housing Sites for the period 2012-2029. There is no housing allocation for Earnley in the policy. A footnote to the policy confirms that whilst no specific housing provision is made for the parish, housing may potentially come forward through rural exception sites limited to 100% affordable housing meeting a local need. The application site is not being put forward as an exception site for affordable housing and proposes no affordable housing provision at all, as in line with Policy 34 of the CLP no affordable housing is required as the scheme is for five dwellings. If the scheme was increased to six or more dwellings affordable housing or a commuted sum would be required by Policy 34.
- 8.11 The supporting Planning Statement accompanying the application recognises that Policy 45 requires development outside of settlement boundaries to demonstrate that they require a countryside location and meet an essential, small scale local need which cannot be met within or immediately adjacent to existing settlements. It is considered that the application does not supply sufficient information in this regard, stating that the proposal requires a countryside location as that is where the site is located. No evidence has been submitted as to why this particular development requires this location, and how that meets the other criteria of that policy in terms of meeting specific needs that cannot be met elsewhere in more sustainable locations. The scheme was originally submitted as including live/work in the description, and the first round of consultee and public comments were on such a scheme. Officers highlighted during the course of the application that the submission does not detail why live/work units have been chosen or the demand for the quantum of development and scale of the buildings. In response to this the agent provided information to advise that whilst the location is not as sustainable in planning terms as a site within a settlement boundary, they considered that this locational consideration was more than outweighed by other considerations. These include the reuse of brownfield land with a small scale residential development specifically designed to achieve PassivHaus low energy standards, the provision of a meaningful work space in a new live/work environment and greater emphasis on the use of electric cars. As highlighted above the scheme has been amended at the request of the agent to omit the live/work element.
- 8.12 Approval of the scheme for five large detached properties without any commercial use of the site would undermine the Plan Strategy which is to concentrate growth in sustainable locations and may make it difficult for the Council to resist other proposals for disproportionate growth in unsustainable locations. The occupiers of the properties proposed would be reliant on the use of motor vehicles as a result of the location of the site, which would be at odds with the overarching strategy to deliver development in sustainable locations.
- 8.13 Although the emerging Local Plan Review carries little weight for the decision maker in the absence of any examination it is worth noting that the proposed settlement strategy reflects that of the existing plan and that the proposals would preserve the existing settlement hierarchy.

- 8.14 Policy 2 of the Local Plan was informed by a Settlement Capacity Profiles study prepared by the Council in 2014. In respect of Earnley the document noted that; "the parish includes only dispersed rural housing development with no facilities and relatively poor access. The character of the parish is rural and agricultural, with some horticultural uses. The south of the parish lies within or close to the Medmerry Realignment Scheme. Due to its size, location, character and lack of facilities the parish is not considered suitable for future housing development".

Housing supply and tilted balance

- 8.15 It is important to note that due to the location of the site within the zones of influence for 2 Special Protection Areas (SPA) and the nature of the development which would result in a net gain in residential development within these areas the proposal would likely have a significant effect upon the European designated sites and therefore in accordance with the NPPF the tilted balance is not engaged despite the Council not being able to demonstrate a 5 year housing land supply.
- 8.16 The proposed development would only provide 5 dwellings which represent a modest number that would not significantly change the Council's housing supply or result in significant benefits.

Conclusions

- 8.17 It is not disputed that the application site is a previously developed windfall site that may be able to accommodate a development comprising housing and/or commercial use. However, the proposal as amended would result in 5 large detached properties, with no commercial/work element. The proposal would therefore not comply with the spatial strategy to deliver sustainable development. Any scheme on the site should be more respectful to the settlement hierarchy both for the reasons explained above and in combination with the harm that directly follows from the proposal in terms of scale and design and the impact on the character of the area which are articulated below.

ii. Significance of the Interim Position Statement

- 8.18 CDC 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) Regulations 2012 to provide up to date planning policies which are consistent with the National Planning Policy Framework (NPPF) 2021.

- 8.19 The CLP will continue to form part of the statutory development plan until the Local Plan Review is adopted, however Planning Practice Guidance makes it clear that where local plans have been adopted more than 5 years ago, the housing target against which the housing supply and delivery will be assessed should be derived from the Government's standard methodology for assessing housing need. From the 15 July 2020 (five years from the adoption of the CLP), the Council's housing supply and housing delivery is assessed against a calculation of Local Housing Need, as set out in national policy and guidance rather than the previously adopted housing target of 435 dwellings per annum. The most recent calculation of Local Housing Need is set out in the Council's 5 year Housing Supply Housing calculation as at 15 July 2020 is 628 dwellings per annum.
- 8.20 The Council acknowledges that it can no longer demonstrate a robust 5 year supply of housing as required in national policy. As such it recognises the presumption in favour of sustainable development as set out in the National Planning Policy Framework as set out in Paragraph 11 and its application in respect of Clause d) of paragraph 11. It has therefore produced an Interim Position Statement (IPS) which sets out how the Council is taking a proactive approach in seeking to boost its housing supply which reflects adopted and emerging plan work in order to provide a mechanism for the Council to provide clarity and confidence in relation to how planning applications should be determined in the interim period until the Local Plan review is adopted. It therefore sets out criteria defining what the Council considers to be good quality development in the Chichester Local Plan Area. The IPS is a material consideration in determining the application. It is therefore relevant to assess the proposal against the criteria contained within the IPS:

Criterion 1: Site Boundary contiguous in whole or in part with identified settlement boundary

Not compliant. The site is not within a defined settlement boundary and there is no defined settlement boundary around Earnley. The site is approximately 1.4km as the crow flies to the nearest identified settlement (East Wittering/Bracklesham).

Criterion 2: Appropriate scale having regard to the settlement's location in the settlement hierarchy and the range of facilities available

Not compliant. Site is in the countryside or 'Rest of Plan Area' - the lowest tier in the settlement hierarchy - where there are strict controls on development.

Criterion 3: Development does not result in actual or perceived coalescence of settlements

Compliant. The built development will not result in coalescence.

Criterion 4: Development should make the best and most efficient use of land whilst respecting the character and appearance of the settlement

Not compliant. The amount of development and housing mix does not respect the character and appearance of this area and would result in five, large dwellings that would not meet the appropriate housing mix.

Criterion 5: Development should not have an adverse impact on the surrounding townscape and landscape character

Not compliant. The development adversely affects the character of the area.

Criterion 6: Development proposals should not adversely affect the potential or value of wildlife corridors

Not relevant in this case as there are no strategic wildlife corridors.

Criterion 7: Development proposals should set out how necessary infrastructure will be secured

Not relevant for this scale of development.

Criterion 8: Development proposals shall not compromise on environmental quality and should demonstrate high standards of construction

In sufficient information to demonstrate that this proposal would be compliant with this criterion. As the proposal has not been put forward as a scheme complying with the Interim Policy Statement the technical details required to satisfy this criterion were not required as part of the validation of the application. The below sustainable design and construction section provides details on the measures proposed.

Criterion 9: Development proposals shall be of high quality design

Non-compliant. In isolation an individual dwelling can be considered high quality design, however there are wider concerns with the layout and scale addressed in this report.

Criterion 10: Development should be sustainably located

Not compliant. The site is not readily accessible other than by car.

Criterion 11: Development must be safe from flooding

Compliant. The site is in Flood Zones, 1, 2 and 3 however the area of the built form of the dwellings are within Flood Zone 1.

Criterion 12: Nitrate neutrality

Not relevant. The site would not discharge foul water to the protected waters of the Solent Maritime SAC

Criterion 13: Deliverability

Compliant. It is accepted by the Council that the scheme proposed is deliverable.

8.21 It is clear from the above summary against the IPS criteria that the submitted proposal would not constitute good development as described in the adopted position statement. Therefore even if the development were considered to constitute sustainable development within the terms of Paragraph 11 it is maintained that it should still not be approved because the adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the framework taken as a whole (NPPF Paragraph 11 d) ii).

iii. Design, layout and impact on the character of the area

8.22 The site is with a small ribbon of development to the north of Almodington Lane, with agricultural land to the south. There are residential properties to the east and west of the site, with the residential dwellings at the front of the site. There are examples of the development that has taken place further into the plots to the north of Almodington Lane, however these are developments that reflect the rural character of the area, and include equestrian buildings and glasshouses. The dwellings in the area typically have the appearance of chalet bungalows, although there are some examples of two storey properties in the area. The dwelling to the immediate west of the application site features a projecting glazed gable that extends from the ground floor into the roof slope.

8.23 The existing site is readily visible from the Almodington Lane to the south, with the buildings set back in the site behind a large gravel parking area. Due to the low roof heights and their positions, the existing buildings have a limited impact on the wider street scene, however they are of limited architectural merit and there is no objection to their loss.

8.24 The five dwellings proposed would be accessed from a new access point along the western boundary of the site. The landscaping proposed would improve on the existing gravel parking area which dominates the front of the existing site. The proposed dwellings are shown with a materials palette of a slate roof, vertical timber cladding and grey roofs, and include brick and flint elements, and the use of metal and sedum roofs for flat roof elements. Timber louvres and pergolas are incorporated into the designs. The linked single storey elements are shown black corrugated sheeting. The proposed materials are considered to be acceptable. However, due to the amount of the site located within Flood Zones 2 and 3 and the resultant need for the built form to be in Flood Zone 1 combined with the amount and scale of development proposed, the positioning of the dwellings on site is in a linear form, centrally within the site from north to south. The arrangement of the access drive and the position of the dwellings is considered to result in a regimented layout contrary to the grain of the ribbon of residential development within this rural area fronting the highway. The layout of the development is not being in keeping with the surrounding area, and it is considered that it would be harmful to the character and appearance of the area.

8.25 The impact of the regimented form of development would be exacerbated by the significant scale of the dwellings, which given the linked single storey elements, particularly of Plots 01, 02 and 03 would appear sprawling, with a scale and footprint out of character with the scale of properties within this rural area. The hierarchy of the proposed development, which increases in size from the smallest at the south of the to the largest at the north and furthest away from the highway would also be at odds with the pattern of development in this rural area. The resulting built form is also a significant increase in height over that of the existing development. Whilst the existing development covers a large area of the site, it is low in height compared to the proposed dwellings, with the existing main building being approximately 3.5m in height and the tallest building, Building 13, having a pitched roof of approximately 5m in height. By contrast to the height of the existing development and some of the other dwellings in the locality, the dwellings proposed are all two storey, with two storey eaves heights rather than accommodation in the roofspace. Eaves heights are shown to be approximately 5.75m, and a ridge height of approximately 7.6m. This is an increase of 2.6m over the highest existing building and 4.1m over that of the existing main building. Therefore the mass and bulk of development across the site would be significantly increased by the proposed development.

8.26 As above, the hierarchy of development proposed means that the largest dwellings would be located to the north of the site away from the road. Plots 01, 02 and 03 are orientated with the two storey elements with the ridge lines running broadly in an East/West direction and have that ridge line extending for approximately 17.5m in each case. All would have single storey projections from the two storey form. The projections from Plots 02 and 03 are subservient, however the projection from Plot 01 is 24m in a North/South direction. In addition to this, linked 'outbuilding' elements which would provide a study and parking for the dwellings are shown with an approximate footprint of 5m x 12m, 5m x 16m and 5m x 17m for Plots 01, 02 and 03 respectively. The above is indicative of how the proposals are of a scale which would appear sprawling and out of character with the surrounding area.

8.27 For the reasons detailed above, the position, design and scale of the proposed development would be at odds with, and detrimental to, the character and appearance of the area and would fail to enhance local distinctiveness or take the opportunity to improve the character and quality of the surrounding area. The proposal would therefore fail to comply with Policies 1, 2, 33 and 47 of the Chichester Local Plan 2014-2029 and Section 12 of the National Planning Policy Framework.

iv. Housing Mix

8.28 Criterion 5 of Policy 33 of the CLP requires that a scheme provides an appropriate density of development and that this will be determined by its immediate context, on-site constraints, the type of development proposed and the need to provide an appropriate mix of dwellings. The application proposes five dwellings with the below mix:

- 2 x 3 bedroom houses
- 2 x 4 bedroom houses
- 1 x 5 bedroom house

- 8.29 As advised by the Council's Housing Officer the above mix is not in line with the Chichester Housing and Economic Development Needs Assessment (HEDNA) 2020 and it would provide too many larger units. Earnley's existing housing stock is weighted in favour of the larger 3+ bedroom properties (79.7%), which are largely unaffordable for first time buyers and will not provide suitable accommodation for older households looking to downsize. Taking into account the HEDNA 2020 mix requirements and existing housing stock and turnover, based on the five units proposed a mix including 2 x 2 bedroom houses, 2 x 3 bedroom houses and only 1 x 4 bedroom houses would be more acceptable.
- 8.30 The matter of the housing mix was raised during the course of the application, however the number of units and housing mix remains the same on the revised plans as it did when originally submitted. During the course of the application a rebuttal statement in response to the consultee comments was submitted by the agent, although this was before the scheme was omitted to remove the live/work element. As such the references in the rebuttal to the bespoke live/work nature of the proposal are not relevant to current application and it carries no weight.
- 8.31 The Council's Housing Delivery team considered the rebuttal in their consultation response to the revised plans and description, and it is maintained that the provision of larger executive style homes will not only contribute to the imbalance within the housing stock in Earnley but will be generally more expensive and unobtainable to first time buyers and will not provide suitable accommodation for older households looking to downsize. Chichester is recognised as one of the least affordable places to live outside of London with the ONS showing median resident and work placed earnings to house price ratios of 14.09 and 12.54 respectively and the addition of larger executive style homes ranging in sizes from 219 m² to 382 m² (more than double the nationally described space standards) will only perpetuate the affordability issue.
- 8.32 The applicant has not provided any viability evidence to warrant a departure away from the HEDNA mix requirements. Furthermore, should a reduction in unit size to meet the mix requirements enable an increase in the sites density i.e. 6 or more units can be provided, an affordable housing contribution would be required in line with Policy 34 of the CLP. It is therefore considered that the proposal does not make the most efficient use of the site to provide housing that would meet the needs of the local community.
- 8.33 For the reasons given above the Housing Mix proposed would not provide an appropriate mix of dwellings and therefore the proposal is considered contrary to the requirements of Policy 33 of the CLP.

v. Residential Amenity

- 8.34 The position of the proposed dwellings ensures that they would be sufficiently distanced and orientated so that there would not be an adverse impact on the amenities in terms of overlooking or appearing overbearing to the existing neighbouring properties to the site, or between the plots proposed, subject to conditions.

- 8.35 As a result of the set-back position of the dwellings and separation to the neighbouring dwellings to the east and west there would be no significant detrimental impact to neighbouring amenity from the massing of the buildings. There would be some potential for Plot 05 to overlook amenity space of the dwelling to the west, however given the proposal is for secondary windows serving a bedroom at first floor facing west, these windows could be conditioned to be obscure glazed and fixed shut to safeguard the amenities of the neighbouring property.
- 8.36 Although the linear layout proposed would not be a traditional back to back arrangement, the proposed layout shown would comply with and exceeds the CDC guidance of 21m for back to back distances for two storey properties, with the exception of Plots 04 and 03. In this instance there would only be approximately 16m between the northern edge of Plot 04 and the southern edge of the two storey element of Plot 03. However the orientation of Plot 04 is in an East/West direction rather than North/South and there for it is a side to back arrangement, for which a shorter distance would be acceptable. The openings on the north of Plot 04 would be secondary windows serving bathrooms and a bedroom at first floor and ground floor and could be conditioned to be obscure glazed and non-opening below 1.7m above the finished floor level of that room if all other matters were acceptable.
- 8.37 For the reasons given above the proposal is considered acceptable in terms of residential amenity, and the proposal would comply with national and local policy in this respect.

vi. Highway Impact

- 8.38 The vehicular access to the application site is currently from an extended crossover shared with the neighbouring property from the C Class Almodington Lane, and this would be amended to provide access to the neighbouring property only with a new access for the proposed development. The Highways Authority at WSCC has been consulted and no objections have been received. The information submitted demonstrates that the proposal would result in sufficient visibility splays at the access, and the access and turning within the site would be suitable for refuse lorries and a fire engine. In addition there would be sufficient parking provided with 3 spaces for each 3 bedroom dwellings and 5 spaces for the larger dwellings, resulting in 21 allocated spaces and 3 visitor spaces which meets the WSCC demand calculator which indicates a need for 24 spaces. The provision of secure cycle parking and electric vehicle charging points could be conditioned should the proposal have been found to be acceptable.
- 8.39 Although no objection has been raised regarding the impact of the proposal upon highway safety and the highway network, it is important to note that the site is in a rural location with no segregated footway on Almodington Lane, although most local amenities and services would be outside of the recommended maximum walking distance of 2km in any event. In addition, the Highways Authority comments that the anticipated low traffic flows and speeds may allow for some walkers to use the carriageway and link to nearby Public Rights of Way such as footpath no. 54 east of the site which links to Earnley and onwards to Bracklesham. It is considered that

whilst some journeys may be made by cycle, it is highly likely that the proposal would result in a dominance on the private motor vehicles for residents to access facilities and services due to the location of the site some distance from the settlement hubs of Bracklesham and East Wittering and Selsey given the distance from these settlements and the lack of footpaths.

8.40 WSCC Highways have commented that the proposed use off the site is likely to result in a reduction in trips from 50-60 movements per day to 23 two-way trips per day. Whilst this indicates that the impact on the highway network would be reduced, it reinforces that the proposal would be reliant on the use of motor vehicles as a result of the location of the site, which would be at odds with the overarching strategy to deliver development in sustainable locations.

8.41 The proposals are acceptable from a highway safety and capacity point of view and no objection is raised in this regard, subject to recommended conditions, however the reliance on the motor vehicles by the future occupants would be at odds with the endeavours to secure sustainable development.

vii. Impact on trees

8.42 The application is supported by a Tree Schedule, Plan and Report. The proposals as submitted would result in the removal of some Category C trees and shrubs, which includes a series of non-native conifers alongside Plot 02 and smaller, self-seeded category C trees that would have been sited between the glass houses. A B category tree (T04 – White Poplar) is stated to be retained in the Tree Schedule however is in the position of the proposed access and is not shown on the site plan and would therefore need to be removed to facilitate the new access.

8.43 An indicative landscape plan has been submitted with the application and if all other matters were considered acceptable it is considered that full landscaping details, including tree protection measures to protect trees to be retained during construction, and replacement native planting to be incorporated into the landscaping proposals, could be secured by condition. It is considered that none of the proposed dwellings or gardens would likely be shaded by retained trees to the extent that this will interfere with their reasonable use or enjoyment by incoming occupiers, which might otherwise lead to pressure for a tree to be felling or severe pruning. For the reasons outlined above, the proposal would be acceptable in terms of its impact on trees.

viii. Ecological considerations

8.44 The application has been accompanied by an Ecological Appraisal which concludes that the site supports low numbers of roosting bats and breeding birds, while common amphibians, badgers and hedgehogs may commute across the area.

8.45 The scheme proposes a significant number of ecological enhancements:

- The use of flowering plants as listed within the RHS 'Plants for Pollinators' plant list within the soft landscape scheme;
- The provision of nest boxes for a variety of bird species to the northern aspects of surrounding trees and integrated into the new buildings;
- Installation of bat boxes to the southern aspect of mature trees;
- Planting new native species-rich hedging;
- Planting an area of orchard within the site;
- Seeding the base of hedges and trees with suitable wildflower mix;
- Creation of areas of wildflower meadow of local provenance;
- Creation of a wildlife pond planted with native emergent and marginal vegetation;
- SuDS features and raingardens throughout the site;
- Climbing green-walls where possible;
- Creation of log and compost piles to the boundaries of the site;
- Installation of invertebrate boxes suitable for solitary bees, or creation of a 'habitat wall';
- Creation of a south-facing 'bee bank' from a mound of loose soil, to provide valuable habitat for mining bees. The bee bank is to be located within an area of wildflower;
- Installation of 2no. hedgehog houses to the base of boundary hedgelines;
- Native seed and berry producing trees to provide a foraging resource for birds; and
- Enhancement of the adjacent ditch through scrub clearance and fence removal.

8.46 The proposed ecological enhancements are a significant positive of the scheme, resulting in a net gain in biodiversity which would be welcomed and secured by condition if the proposal was otherwise acceptable. The proposal would therefore be acceptable in this respect, however it is considered that the ecological enhancements do not outweigh harm identified.

8.47 The site is located within the 5.6km buffer zone of the Chichester and Langstone Harbours Special Protection Area (SPA) and within the 3.6km of the Pagham Harbour 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/Pagham Harbour Scheme is required in order to mitigate recreational disturbance as a result of the proposal.

8.48 When a development proposal falls into an area where the Chichester and Langstone Harbours SPA zones of influence and the Pagham Harbour Special Protection Area zone of influence overlap, as in this case, Natural England advise that some reduction in the contribution is reasonable. This is on the basis that the occupiers of the new dwellings cannot be at both Harbours at the same time. However the Local Planning Authority still has to ensure that a robust package of mitigation can be implemented. In order to do this only one contribution per net new dwelling unit is payable. This contribution would be whichever is the higher of the two contributions at the time, for the proposed development this is the Pagham SPA tariff of £940 per dwelling. A completed S106 agreement is required to secure this contribution. When paid the contribution would be divided in two, half for each of the two SPA mitigation schemes.

8.49 However in this instance, as the proposed development was considered unacceptable in principle, no mitigation has been sought, and the proposal would not pass the Habitat Regulations Assessment. However, were the applicants to appeal the Council's decision appropriate mitigation measures should be sought at this stage in the event an appeal were to be allowed. In the absence of such mitigation the proposal would be contrary to paragraph 182 of the 2021 National Planning Policy Framework, Policies 50 and 51 of the Chichester Local Plan: Key Policies 2014-2029 and Supplementary Planning Document Planning Obligations and Affordable Housing Supplementary Planning Document July 2016.

8.50 In conclusion, the proposal would be acceptable in terms of the onsite ecological considerations, however the proposal would not pass the habitat regulations assessment would likely result in a significant effect upon 2 designated sites as a result of recreational disturbance contrary to policies 50 and 51 of the CLP.

ix. Sustainable Design and Construction

8.51 Policy 40 of the CLP concerns Sustainable Design and Construction and required that evidence is provided by the developer to demonstrate that the criteria have been considered.

8.52 The applicants have provided an Energy Efficiency and Renewables Statement, and a Design, Access and Sustainability Statement which sets out how the proposals would meet the requirements of Policy 40. The application proposes minimising energy demand by meeting PassivHaus low energy standards. In terms of the design the 'fabric first' approach would be utilized by integrating significant thickness external walls into the design, maximising south-facing glazing with an element of passive solar control by virtue of the projecting form and solar shading. Sedum roofs have been used to boost thermal performance and encourage biodiversity.

8.53 Energy consumption would be minimalised by super insulating the buildings and using smart systems to reduce energy consumption and renewable technologies such as solar thermal water heating, photovoltaic electrical production and mechanical ventilation and heat recovery (MVHR). Two-way fast chargers for electric vehicles would be provided within covered carports so that electric vehicles could not only be charged but also provide power to the development's mini-grid when needed.

8.54 It is considered that the proposals would meet the requirements of Policy 40 and the Council's Environmental Strategy Officer is satisfied with the proposals in this regard subject to a condition requiring the final design for renewable energy is provided. The proposed sustainability measures are welcomed, however they benefits of the measures proposed would not outweigh the harm identified.

x. Flood Risk

8.55 The site is located within Flood Zones 1, 2 and 3. The layout of the development has been designed so that the all of the built form of the new dwellings are located within the areas of lowest risk of flooding, Flood Zone 1. The submitted Flood Risk Assessment proposes that the new dwellings are to be constructed with minimum finished floor levels of 5.55m AOD, based on flood levels provided by the Environment Agency.

8.56 The Environment Agency has been consulted on the application and no objection has been raised subject to a condition to secure the finished floor levels proposed and that no structure is erected within Flood Zones 2 and 3. The Council's Drainage Engineer also has no objection to the proposal on flood risk grounds.

xi. Surface Water Drainage and Foul Disposal

8.57 With regard to surface water drainage; the new dwellings would drain to the existing watercourse via ponds at a restricted rate, and to the road via permeable paving. The Council's Drainage Engineer has confirmed that this approach would be acceptable in principle and offers a significant benefit to the existing arrangement due to the reduction in impermeable areas across the site. The Council's Drainage Engineer has recommended a condition to secure full details.

8.58 Foul Water would be directed to the mains sewer, and connection to the sewer would be made via a s.106 agreement with Southern Water. The applicant has a 'right to connect' their development to the public sewerage network under s.106 of the Water Act. Southern Water is committed under its statutory duty to provide a fit for purpose foul drainage system to service the proposed development and is regulated in this regard by the industry regulator OFWAT. Any failings on behalf of Southern Water to deliver required improvements to the offsite network to satisfactorily service the proposed development are failings under Part 4 of the Water Industry Act 1991 not under the Town and Country Planning Act and the recourse for such failure therefore falls to be addressed under that Act through OFWAT.

8.59 It is considered that the information submitted demonstrates that the proposal would be acceptable in respect of the provision for surface water and foul water drainage.

Conclusion

8.60 Based on the above considerations, for the reasons given the proposal would conflict with local and national policies and would therefore be unacceptable.

8.61 Although it is acknowledged that the site is previously developed land and that the Council cannot demonstrate a five year Housing Land Supply, for the reasons given above there are no material considerations that would outweigh the harm identified and therefore the application is recommended for refusal.

Human Rights

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

RECOMMENDATION

REFUSE for the following reasons:-

1. The site lies outside of any identified settlement boundary and the proposed development does not comprise any of the exceptions contained within Policy 45 of the Chichester Local Plan: Key Policies 2014-2029. The scale of the development proposed would conflict with, and undermine, the Council's Development Strategy and Settlement Hierarchy, which identifies where sustainable development, infrastructure and facilities will be accommodated in terms of scale, function and character. Occupiers of the proposed development would be reliant on the use of motor vehicles as a result of the location of the site, which would be at odds with the overarching strategy to deliver development in sustainable locations. In addition, the Housing Mix proposed would not provide an appropriate mix of dwellings that would meet the identified local need. The quantum of development proposed would only result in a modest increase in housing supply, specifically large detached dwellings, and this would not outweigh the harm identified. The proposed development is therefore contrary to policies 2, 33 and 45 of the Chichester Local Plan: Key Policies 2014-2029 and paragraphs 80,110, 124 and 130 of the National Planning Policy Framework.

2. The position, design and scale of the proposed development would be at odds with, and detrimental to, the character and appearance of the area and would fail to enhance local distinctiveness or take the opportunity to improve the character and quality of the surrounding area. The Housing Mix proposed would not provide an appropriate mix of dwellings. The proposal would therefore fail to comply with Policies 1, 2, 33 and 47 of the Chichester Local Plan 2014-2029 and Section 12 of the National Planning Policy Framework.

3. The development lies within the 5.6km zone of influence upon the Chichester and Langstone Harbours Special Protection Area and within the 3.6km of the Pagham Harbour Special Protection Area where increases in net residential development are likely to have a significant effect on the Special Protection Area. There has been no appropriate avoidance and/or mitigation measures submitted that would enable the Local Planning Authority to ascertain that the permanent use would not adversely affect the integrity of the Special Protection Area. No mitigation measures or contributions have been provided and, therefore, the proposed dwellings are contrary to paragraph 182 of the 2021 National Planning Policy Framework, Policies 50 and 51 of the Chichester Local Plan: Key Policies 2014-2029 and Supplementary Planning Document Planning Obligations and Affordable Housing Supplementary Planning Document July 2016.

Decided Plans

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

Details	Reference	Version	Date Received	Status
Landscape Masterplan (A1)	LLD2013-LAN-FIG-001		12.01.2021	Refused
Tree Constraints Plan -	LLD2013-		12.01.2021	Refused

Drawing 3 of 3 (A1)	ARB-DWG-003			
Tree Constraints Plan - Drawing 2 of 3 (A1)	LLD2013-ARB-DWG-002		12.01.2021	Refused
Tree Constraints Plan - Drawing 1 of 3 (A1)	LLD2013-ARB-DWG-001		12.01.2021	Refused
Existing Site Location and Layout Plan (A1)	199/0.100	02	12.01.2021	Refused
Existing Elevations - Sheet 01 (A1)	199/0.201	02	12.01.2021	Refused
Existing Elevations - Sheet 02 (A1)	199/0.202	02	12.01.2021	Refused
Plot 05 - Proposed GA Plans and Elevations (A1)	199/3.105	02	12.01.2021	Refused
Plot 02 - Proposed Elevations (A1)	199/3.202	01	12.01.2021	Refused
Topographical Survey (A1)	H1375B-2		12.01.2021	Refused
Topographical Survey (A0)	H1375B-1		12.01.2021	Refused
Proposed Site Layout Plan (A1)	199/3.001	05	06.08.2021	Refused
PLOT 01 - PROPOSED GA PLANS (A1)	199/3.101	02	06.08.2021	Refused
PLOT 02 - PROPOSED GA PLANS (A1)	199/3.102	02	06.08.2021	Refused
PLOT 03 - PROPOSED GA PLANS (A1)	199/3.103	03	06.08.2021	Refused
PLOT 04 - PROPOSED GA PLANS AND ELEVATIONS (A1)	199/3.104	02	06.08.2021	Refused
PLOT 05 - PROPOSED GA PLANS AND ELEVATIONS (A1)	199/3.105	03	06.08.2021	Refused

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

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QLFXA3ERJVH00>