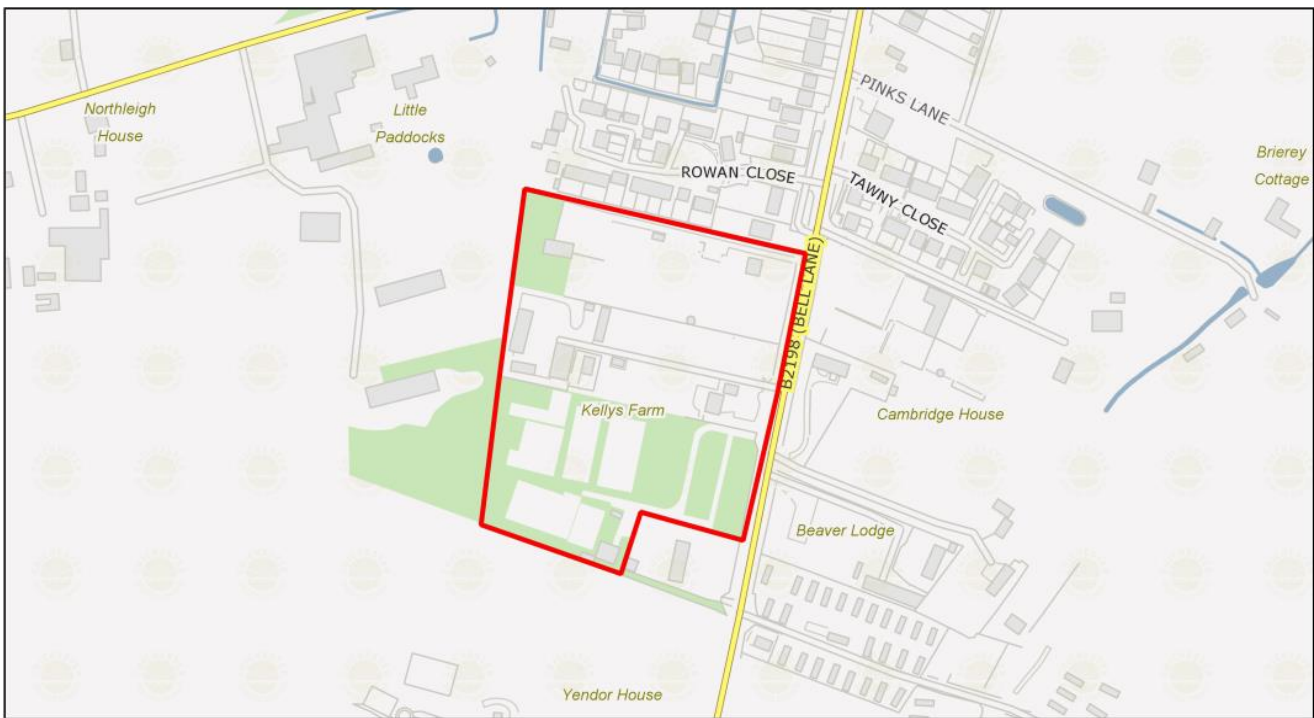



Parish: Birdham	Ward: The Witterings
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BI/20/02066/OUT

Proposal	Outline Application with all matters reserved apart from access for the erection of up to 73 dwellings, open space and associated works, Class E(g) business floorspace and Class E(a) 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 REFUSE



	NOT TO SCALE	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
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1.0 Reason for Committee Referral

This application was deferred at the 8 September 2021 meeting of the Planning Committee for further information on the following grounds:

- To request attendance at the Committee by Southern Water in respect of foul drainage issues at Bell Lane and the wider cumulative impact of development
- To request attendance at the Committee by National Highways in respect of the wider cumulative impact of development on the A27
- Attendance at the Committee by WSCC Highways regarding the local highway impact
- Information from WSCC Education on local school places
- Clearer information showing the 3 metre buffers to the boundary watercourses for maintenance purposes

In the intervening period the Council has published its 5 year housing land supply position for 2021-2026 (updated position at 1 April 2021) which now reveals that the Council benefits from a supply of 5.3 years. The implication of this changed position is the need to re-appraise the planning application and following on from that a necessary re-structuring of the report submitted to the Planning Committee in September in order to reflect the revised recommendation.

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 development's 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 East Wittering and Bracklesham Parish Council

EWBPC recently added an environmental incident reporting page to our website to assist us in gathering evidence when considering current planning applications and in anticipation of likely planning appeals. Please find attached the most recent extract of the data we have captured. We have also recorded the data on the Parish Online mapping system, and where residents have submitted photographic evidence, this has also been appended to the map file.

We have only been collecting information for a few weeks, but it is already yielding results with regards to evidencing resident's concerns, and shows the scale of the sewage and foul water problems that occur after only minimal rainfall.

Please can you ensure that this information is lodged against all of the following planning applications, to which it is directly, materially relevant.

[Planning Officer Comment: the 'data' referred to above is an environmental record of incidents in the Witterings, Bracklesham, Selsey, Apuldram and Birdham and is attached to the Parish Council's online comments. It includes five references in 2021 to tankering of sewage from the Pinks Lane pumping station]

6.5 Selsey Parish Council

Objection on the basis of the impact on the inadequate local infrastructure as follows:

- (i) there is not sufficient road infrastructure to handle the traffic for the additional 73 houses;
- (ii) not enough potential school places, especially at the Selsey Academy as it is already at 87% capacity;
- (iii) the site is within 9km of a SSSI
- (iv) the inadequate sewerage infrastructure

6.6 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.

[Planning Officer Comment: A representative from National Highways (formerly Highways England) will attend the Planning Committee]

6.7 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]

6.8 Southern Water

Additional comments received 17.11.2021

Tankering in Birdham

We can confirm that tankers are still required for Birdham during wet weather due to the wastewater pumping station (WPS) being overwhelmed by excess flows entering the network.

We believe the main issue in the area is groundwater infiltration which is causing the WPS's not to cope in wet weather.

The tankers are a temporary solution until the larger issue is addressed.

Unfortunately, without the tankers, residents in the surrounding area tend to flood, lose the use of their facilities and their electrics cut out leaving them with no heating.

There is a scheme planned to electroscan survey the Birdham area this winter. This is scheduled to start beginning of January and finish by the end January, but this is subject to variables such as the groundwater conditions at the time. This will allow Southern Water to identify public sewers which may be letting groundwater in through poor pipe joints and overwhelming the sewerage system. Once we have identified the leaking pipes, we will then be able to determine a forward plan to seal these, which is normally done by lining through the existing network to make the joints watertight. Once the surveys are complete, we will know more about the cause and start to address the issue.

Complaints Received

We can confirm we have had the following contacts recorded in relation to pollution incidents, backing up or flooding in the vicinity of the application site on Bell Lane PO20 7HY.

[Planning Officer Comment: the consultation response then reports that there were 35 no. contacts recorded by Southern Water between 4 March 2019 and 4 February 2021 regarding sewage incidents – backing up in customers properties, blocked drains and toilets, manholes full, sewage over-flowing. The list of these contacts is attached to Southern Water's online comments. For data protection reasons it does not include names or any other information which could lead to the identification of individuals or their addresses.]

Original comments

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.

6.9 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.

6.10 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.

6.11 WSSC - Highways

Additional Comments received 16.11.2021

The applicants for planning application 21/01376/OUT Land West of Bracklesham Lane have submitted new traffic counts, queue length surveys and video footage of the Bell Lane/Main Road/B2179/Chaffinch Close junction. WSSC Highways are now of the opinion that the junction modelling provided does not require the use of adjustments factors to enable it to replicate existing conditions (as has previously been used in the Land South of Clappers Lane assessment planning application 20/03125/OUT). From the further information submitted any queues that did form appear to be from the platooning of traffic behind slow moving vehicles rather than as a result of the junctions operation. The information submitted for the prospective development 21/01376/OUT Land West of Bracklesham Lane includes the now refused applications of Land South of Clappers Lane 20/03125/OUT and Land West of Church Road 20/02491/OUT and as such the [Bell Lane] development would not result in a severe impact on the junction or require mitigation either when assessed as a standalone scheme or cumulatively with all live or consented applications. The Land South of Clappers Lane was modelled as 30AM and 36PM trips through the junction and has now been refused. The Kellys Nursery site would generate a comparable trip generation and WSSC would be confident that the effects of the development have been assessed. WSSC as Highway Authority would not seek further mitigation at the Bell Lane/Main Road/B2179/Chaffinch Close junction from these applications.

Original comments

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.

6.12 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

6.13 WSSC - Fire and Rescue Service

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

6.14 WSSC – Education

Currently there is sufficient capacity within the local schools to accommodate the anticipated increase in pupil numbers, therefore, for this particular proposed development contributions would be sought through CIL.

[Planning Officer Comment: For clarification an IBP bid through CIL would be required for any necessary expansion to accommodate the future child product from the proposed development but in this instance WSSC has confirmed this is not required.]

6.15 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.

6.16 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.

6.17 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, a letter from the owner of Bellfield Nursery was provided 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.]

6.18 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.

6.19 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

6.20 97 (total) 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
- Frequent tankering of sewage from Pinks Lane pumping station during/after heavy rainfall to avoid overflowing and backing up in local residents properties

6.21 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-date⁸, granting permission unless:

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

or

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

⁸ This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

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 Five Year Housing Land Supply was published on 24 November 2021 and provides the updated position as at 1 April 2021. The assessment identifies a potential housing supply of 3,536 net dwellings over the period 2021-2026. This compares with an identified housing requirement of 3,329 net dwellings (equivalent to a requirement of 666 homes per year). This results in a housing surplus of 207 net dwellings, equivalent to 5.3 years of housing supply. Notwithstanding the benefit of having a housing supply which is considered to be robust, the Council nevertheless recognises the importance of maintaining and where appropriate reinforcing the supply with appropriate new development.
- 7.12 To help pro-actively manage the Council's housing supply and ensure that it maintains in a positive balance prior to the adoption of the Local Plan Review, the Council will continue to use the Interim Position Statement for Housing Development (IPS), which sets out measures to help increase the supply of housing by encouraging appropriate housing schemes in appropriate locations. A draft IPS was originally approved for use by the Planning Committee at its meeting on 3 June 2020 at a time when the Council could not demonstrate that it had a 5 year housing land supply. Following a period of consultation and subsequent revisions it was reported back to the 4 November 2020 Planning Committee, where it was approved for use with immediate effect. Whilst the Council, with a 5 year housing supply, can rely on the provisions of the development plan for decision making up until a new plan is adopted, new housing proposals such as this application will also continue to be considered under the IPS and 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. 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 and where there is no conflict with relevant policies in the development plan 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). Whilst acknowledging that the 5 year period set by the Local Plan Inspector to review the policies of the Local Plan has now passed, the Council is nevertheless in the midst of reviewing the future housing distribution in the Plan area as part of the Local Plan Review process. However, that process is not yet complete, and, with a 5 year housing land supply there is a need to wait for the plan led approach to establish the appropriate distribution of new housing. It is too early to make assumptions – the Council's Preferred Approach has not been tested at examination and does not have enough weight in decision making. Therefore, following a s.38(6) development plan approach, this application is clearly contrary to policy.

- 8.4 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 (Planning Inspectorate reference APP/L3815/W/17/3182355). Three years later and with the Council once again able to demonstrate a 5 year housing land supply which crucially it could not demonstrate when Members considered the application at the September 2021 Planning Committee, it should follow that the planning decision on what is a very similar application albeit for 4 fewer dwellings should result in the same outcome. 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 (he found that the supply was 5.2 years), 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 not changed. With a demonstrable housing supply the 'tilted balance' in paragraph 11 d) of the NPPF i.e. the presumption in favour of permitting sustainable development is not engaged and the Council is not required by 11 d) ii) to assess whether the adverse impacts of issuing a permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
- 8.5 The development plan also comprises the Birdham Parish Neighbourhood Plan (BPNP) which was made in July 2016. 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. 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.
- 8.6 The Council's HELAA is a technical background document and has identified the site as capable of achieving around 70 dwellings plus 850sqm of employment uses. Its significance is as a tool to assist the Council in its consideration of potential future housing as part of the LPR which is not yet complete. The HELAA in conjunction with the Parish Council's site suitability study whilst potentially indicating a future direction of travel in the allocation of new housing sites in Birdham, are not policy documents. They cannot therefore be afforded any weight in decision making on the current application particularly at a time when the Council is able to show it is demonstrably producing enough dwellings to satisfy the government's housing requirement.
- 8.7 The Council has acknowledged that the Local Plan in terms of its housing policies for the supply of new housing are out-of-date but this is now balanced out by the fact that the Council has enough housing to demonstrate a 5 year housing supply. In order to ensure that this housing supply is maintained on a rolling year on year basis, the Council has committed to using the Interim Position Statement for Housing Development (IPS). It is relevant to consider the application against 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 would 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 inter-visibility 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.

Wastewater disposal will be through the statutory undertaker. It is accepted by Southern Water that there are existing problems with the off-site network in the vicinity of the application site and these are discussed in more detail later in the report. Affordable housing, open space, and highways improvements would all be secured through a Section 106 agreement and/or by planning conditions were the application recommended for approval. Following the September Planning Committee officers have consulted with WSCC Education whose response confirms that there is sufficient capacity within the existing system as outlined in the comments in paragraph 6.14 above.

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 could be secured by condition through the subsequent reserved matters application/s to ensure the criterion is met. There is no reason to suggest that this criterion could not be complied with.

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 could not be secured. In the absence of evidence to the contrary it is considered that this criterion could 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 although the consultation response from the Council's Economic Development Officer suggests some uncertainty over the timeframe (paragraph 6.17 above). A reduced time frame of 2 years in which to submit the reserved matters following a 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.

- 8.8 At the September Planning Committee in the absence of a 5 year housing land supply there was a need to apply the tilted balance and under those circumstances the proposals were considered to address the relevant IPS criteria. That situation has now changed. The Council now benefits from a 5 year housing land supply and there is no requirement to apply the tilted balance. With a 5 year housing land supply and a revised neighbourhood plan in progress, the distribution, allocation and scale of potential new housing sites outside the settlement boundary should follow the plan led system. The following paragraphs of this report assess whether there would be any adverse impact from material considerations relevant to the proposal to deliver new development on the site.

ii) Highway Impact

- 8.9 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.

- 8.10 Three years on from 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 would be secured through a S.106 agreement in the event that the application were to be permitted.
- 8.11 At the September meeting of the Planning Committee further information and clarification was sought on both the individual and cumulative impacts of the proposed development on the local highway network as well as the strategic highway network in terms of the A27. A further consultation response has been provided by WSCC Highways which has considered the impact of the proposed development and the summary response of this is provided at paragraph 6.11.
- 8.12 WSCC has analysed traffic information provided by the applicant for the concurrent outline application EWB/21/01376/OUT for 65 dwellings on Land West of Bracklesham Lane. This information includes the use of video footage of traffic movements at the roundabout junction of Bell Lane with the A286/Chaffinch Close/B2179. It also factors in the cumulative impacts on this junction of potential developments at Land South of Clappers Lane 20/03125/OUT and Land West of Church Road 20/02491/OUT (both refused, the latter of which has been appealed). On the basis of the traffic information provided for the Land West of Bracklesham proposals, WSCC is now satisfied that the current application at Bell Lane either as a standalone proposal or cumulatively would not result in a severe impact on the junction (the test which must be applied and satisfied by paragraph 111 of the NPPF). No junction mitigation is therefore required or sought.
- 8.13 Subject to recommended conditions being imposed and S106 obligations secured in the event that the application were permitted, the proposals are considered acceptable by the highways authorities from a highway safety and capacity point of view and no objection is raised.

iii) Layout

8.14 '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 as well as the infrastructure necessary to service it - the estate roads, landscaping and open space - can all be fitted into the available space. The illustrative layout originally submitted with the application was considered to be particularly poor and given the emphasis placed on design considerations in the NPPF, it has been 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. Following the Committee's request at the September meeting a revised illustrative layout has been provided which demonstrates that the quantum of proposed housing in addition to the employment building and retail building could all be accommodated on the site whilst allowing for the required 3 metre buffers on the boundaries to allow for periodic maintenance of the watercourses.

iv) Landscape Impact

8.15 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."*

8.16 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 outline application could be refused in principle. The precise details would fall to be considered through any future reserved matters application dealing with 'layout', 'appearance' and 'landscaping'.

v) Drainage

8.17 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. There is no objection to the proposals on the grounds of surface water disposal such as could not be controlled through the imposition of appropriate conditions.

8.18 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 would need 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.

8.19 Officers note the concern of Birdham Parish Council with regard to the foul drainage implications arising from the proposed development and those of third parties including the reference to reported pollution incidents local to the application site and 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 network reinforcements carried out under its own statutory regime.

8.20 Following the September Planning Committee, Officers have engaged further with Southern Water and a representative has agreed to attend the Committee meeting. In its additional consultation response at paragraph 6.8, Southern Water acknowledges that there are existing issues at the Pinks Lane pumping station. These have been well documented and reported by local residents. The Pinks Lane pumping station would service the proposed development on the application site. Southern Water recognises that its current practise of tankering sewage from the pumping station during periods of heavy or sustained rainfall in order to prevent pollution incidents locally is not a long term sustainable solution. Going forward the Committee will note that Southern Water has programmed in an electroscan survey of Birdham which it intends to complete by the end of January 2022. This is to enable Southern Water to identify the public sewers which may be letting groundwater in through poor pipe joints, ultimately causing the system to become overwhelmed. Southern Water advise that once the survey work has identified the leaking pipes it will determine a forward plan to seal them. This is normally done by lining through the existing network to make the joints watertight. The statutory undertaker is therefore clearly aware of the issues and operational failings and is to take steps to rectify these. In the context of this planning application therefore, officers are satisfied that the documented issues do not constitute a planning reason for refusing the application.

vi) Employment and Retail Uses

8.21 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).

- 8.22 The appeal 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 appeal 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.
- 8.23 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 appeal 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 key matter the report now turns.

vii) Loss of Horticulture

- 8.24 The presence of small scale horticultural uses has been a characteristic part of the warp and weft of Birdham life for many years. In recent years some of those former nurseries have been re-developed with new housing either in whole or in part. 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 the Council was 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."*

- 8.25 The judgment of the 2014 appeal Inspector on the Tawny Nurseries site was made in the context of the Council not having a 5 year housing land supply and the Inspector was therefore required to consider the applications favourably unless the adverse impacts of doing so significantly and demonstrably outweighed the benefits. Quite plainly the Council is now in a different situation in respect of this application. It has a 5 year housing land supply and so the application must - in accordance with section 38 (6) - be considered in the context of a plan led approach to decision making. There is no requirement to engage the tilted balance.
- 8.26 In the context of the development plan 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 and well supported 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.
- 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.
- 8.28 In light of the Council now being able to demonstrate a 5 year housing land supply and therefore not being required to carry out the tilted balance under paragraph 11 d) of the NPPF, the weight which the loss of the horticultural use attracts must be re-appraised. In terms of now being able to once again follow a plan led approach under section 38 (6) the Council does not have to attach a level of significance or otherwise to retaining the horticultural use. It can follow the plan led approach. The plan led approach in this instance is policy 23 of the made Birdham Neighbourhood Plan. The current application would result in the total loss of horticultural uses which is contrary to that policy. The equation for the Council as it was for the Planning Inspector in 2018 is therefore greatly simplified. Development contrary to the development plan when there is no longer an overriding issue to be addressed such as the absence of a 5 year housing land supply should be refused. Officers particularly note the Planning Inspector's conclusion that this loss would have a *'significant adverse impact'* and consider now that with a 5 year housing supply in place, the planning balance remains in supporting the horticultural use and the objectives of BNP policy 23.

viii) Other Matters

Ecology and Biodiversity

8.29 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

8.30 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. In the event that planning permission were given for the development, a financial contribution towards the Bird Aware Solent Scheme would be 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 secured through a S106 agreement. Natural England has confirmed that this provides acceptable mitigation against the potential recreational impacts of the development on the protected site.

8.31 There is no requirement for the application to address the issue of Nitrates and Nitrate Neutrality given that the development would 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

8.32 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 recently most of the dilapidated glasshouses erected on it were 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

8.33 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 would 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, the residential amenity of that development could be safeguarded. Similarly, the existing amenity of the detached dwelling 'Seldens' adjacent to the south-east corner of the site which is located within a large well screened curtilage could be satisfactorily protected through additional screening and control over the layout and orientation of the proposed dwellings.

Sustainability of Location

8.34 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 roundabout junction with the A286. The CIL contribution realised from the development could contribute to medical and/or education requirements where required and identified through the Infrastructure Business Plan 2021-26 which WSCC partake in.

8.35 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

8.36 The application is recommended for refusal.

Section 106 Agreement

8.37 The application is recommended for refusal. In the event that the application is permitted it would attract the need for a section 106 agreement. The anticipated heads of terms in such circumstances would be:

- 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)
- Marketing requirements for B1 employment building and retail building
- S106 monitoring fee of £5,106

Conclusion

- 8.38 This application is being considered a full 3 years since an application for the same proposal was refused at appeal - albeit it is now with 4 fewer dwellings – and 3 months since the Planning Committee considered the officers recommendation to permit the development. However, since the September 2021 Planning Committee there has been a fundamental shift in the Council's housing land supply situation from a position where the 5 year housing land supply which was at 4.3 years, is now at 5.3 years supply. With the benefit of a positive housing supply the tilted balance in paragraph 11 d) of the NPPF i.e. the presumption in favour of permitting sustainable new development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits is no longer engaged. With the advent of a housing supply the need to permit further housing on unidentified sites ahead of adoption of the Local Plan Review is substantially changed. The planning balance has shifted back to a plan-led determination of new housing applications and the officers recommendation on this application is therefore necessarily changed from permit to refuse.
- 8.39 In pursuing a plan led approach to decision making, 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 remains a significant weakness in the current scheme in that it would result in the permanent loss of horticulture in this part of Birdham, contrary to policy 23 of the BPNP. The appeal Inspector on this important issue found 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."* Despite also acknowledging that the potential benefits arising from the scheme were numerous, the Inspector concluded that, *"...even when these are all added together, they are not compelling."* The appeal scheme failed to accord with the development plan.
- 8.40 At the time of the appeal the Council had a 5 year housing land 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. That situation in respect of the housing supply situation is now replicated for the current application. 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. However, compliance with the IPS which is a development management tool rather than a policy document does not circumvent the overriding positive 5 year housing land supply figure given the additional conflict identified with BPNP policy 23. In setting out his concluding remarks on the appeal the Inspector stated, *"A 5-year supply of housing land has been demonstrated, and none of the relevant policies [2 and 45 of the Local Plan and 13, 15 and 23 of the BPNP] have been shown to be out-of-date or inconsistent with the NPPF. There is therefore no reason for me to give any of these policies less than full weight, or to apply the 'tilted balance' in NPPF paragraph 11."* *"The scheme would therefore cause harm not only to the planning strategy for the area, but also to the principle of plan-led decision-making, which is central to the NPPF and to the whole planning system."*
- 8.41 In re-evaluating this application since it was considered by the Planning Committee in September officers have no reason to reach a different conclusion from the Inspector. The application is therefore recommended for refusal.

Human Rights

8.42 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 refuse is justified and proportionate.

RECOMMENDATION REFUSE

- 1) The site lies outside of the Settlement Boundary for Birdham and in the designated countryside or Rest of Plan Area wherein the policies of the development plan state that development will only be permitted where it requires a countryside location and meets an essential, small scale and local need which cannot be met within or immediately adjacent to the existing settlement. The Council is able to demonstrate that it has a 5 year housing land supply and has made full provision for its parish housing numbers set out in Local Plan policy 5 through the Birdham Neighbourhood Plan on sites within the existing settlement boundary. The proposed housing, business floorspace and retail unit, located outside the settlement boundary, would be in conflict with policies 1, 2, 5 and 45 of the Chichester Local Plan: Key Policies 2014-2029 and policies 12, 13 and 15 of the made Birdham Parish Neighbourhood Plan (March 2016). The proposal should be determined in accordance with the development plan and in accordance with paragraphs 11, 12 and 47 of the NPPF.
- 2) The proposed development would result in the total loss of the existing horticultural use on the site. This is contrary to policy 23 of the made Birdham Parish Neighbourhood Plan for the period 2014 – 2029 which seeks to retain and protect this key aspect of the local rural economy from development proposals for redevelopment or for a change of use.
- 3) The proposal fails to make adequate and proper provision (via a section 106 Agreement) for affordable housing and to mitigate the impact of the proposed development on local infrastructure in respect of providing measures for sustainable transport improvements and the implementation, management and maintenance of the proposed landscaping areas and open space including equipped play space. The proposal would also fail to make provision for meeting the burden which would be placed on Chichester and Langstone Harbours Special Protection Area as a result of an increase in recreational disturbance. The proposal is therefore contrary to national planning policy contained within the NPPF, policies 8, 9, 33, 34, 39, 50 and 54 of the Chichester Local Plan: Key Policies 2014-2029 and the Council's Supplementary Planning Document (SPD) on Planning Obligations and Affordable Housing (January 2016).

Informatives

- 1) This decision refers to the following plans: PI-03 REV 2_2; PI-04 REV 2_2; PI-01 REV 2_7 (25/09/21); 2017-4143-001 REV C; 2017-2449-0016 REV C

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>