

Chichester District Council

Planning Committee

25 May 2023

**Planning appeal APP/L3815/W/23/3318548 – G & R Harris Ltd, Oaks Yard
Main Road, Nutbourne, Chichester, West Sussex PO18 8RL
(LPA ref. 22/01283/FULEIA)**

1. Contacts

Report Author:

Jane Thatcher Senior Planning Officer (CDC DM Majors & Business)

Tel: 01243 521163 E-mail: jthatcher@chichester.gov.uk

2. Recommendation

2.1 That the Planning Committee:

i) notes the information within the report, and

ii) to contest appeal APP/L3815/W/23/3318548, only in respect of:

- Lack of financial contribution of the scale envisaged in the draft Policy T1 of the Local Plan 2021-2039: Proposed Submission to enable the Council to secure the identified A27 highway improvements
- Lack of infrastructure provision (affordable housing, nitrate mitigation land, recreation disturbance mitigation, public open space, allotments and community orchard, ecological buffer to the Ham Brook, public right of way contribution and travel plan monitoring) until a S106 Legal Agreement is agreed
- Impact upon Chichester Harbour and Solent Maritime SPAs from discharge of nitrates unless the LPA, in consultation with Natural England, is satisfied that the development would be nutrient neutral

3. Introduction

3.1 Application 22/01283/FULEIA for demolition and mixed use development comprising 103 no. dwellings and a Children's Nursery, together with associated access, parking, landscaping (including provision of wildlife corridor) and associated works. at G & R Harris Ltd, Oaks Yard Main Road, Nutbourne, Chichester was submitted to the Council in June 2022. During the course of the application amended plans were received which saw a reduction in the quantum of development from 112 to 103 dwellings (i.e. a reduction of 9 dwellings). Other changes included amendments to the design and layout of the proposal. A full re-consultation was carried out with regard to these amendments. Before officers were in a position to provide a formal recommendation to Planning Committee on the application, the applicant decided to appeal against non-determination. The purpose of this report is to explain the grounds on which officers consider the appeal should be contested and to seek the views of the Planning Committee as to how the committee would have determined the application, had it had the opportunity to do so

- 3.2 The applicant submitted an appeal to the Planning Inspectorate on 14 March 2023. The Planning Inspectorate confirmed the appeal would be heard by way of a Public Inquiry and has scheduled it for 4 days. The start letter from the Planning Inspectorate and subsequent emails has confirmed the Council's Statement of Case is due to be submitted to the Planning Inspectorate (PINS) on 30 May 2023, followed by the submission of full Proofs of Evidence on 13 June 2023, with the Public Inquiry to start on 11 July 2023.

4. Background

The Appeal Site and Surrounds

- 4.1 The 6.01 hectare (ha), triangular site, lies predominately within the Rural Area (i.e. outside any defined Settlement Boundary), within the Parish of Southbourne. The existing access (to the south) falls within the Settlement Boundary of Nutbourne West. The site also lies approximately 115m (taken at its closest point) to the east of the Settlement Boundary of Southbourne and Prinsted.
- 4.2 The site is located approximately 0.7km to the east of Southbourne village, to the north of the A259 (Main Road) and to the south of the main line railway (running in an east-west direction). Southbourne is designated as a 'Settlement Hub' in the Chichester Local Plan (CLP). Settlement Hubs are secondary service centres, providing a reasonable range of employment, retail, social, transport links and community facilities serving the settlement and local catchment areas. The site is located approximately 10km away from Chichester City, linked by the A259, with Southbourne Train Station approximately 0.8 miles to the west. The train line provides access to further facilities in Chichester, Emsworth, Havant, Portsmouth and Brighton including schools, shops and entertainment.
- 4.3 The eastern part of the site comprises the Harris Scrapyard, an operational Breakers Yard (see Planning History below), with the western part comprising the residential curtilages of Oaks Farm and Willow Green (the latter is proposed to be demolished as part of the proposal). The appellant (Metis Homes) also has control of the land directly to the west of the site, as outlined in blue on the Location Plan. The site boundaries are formed by fields, existing development, hedgerows and mature landscaping, which provide a verdant edge to the site. Outside the site boundary, but directly adjoining the north-west corner of the site lies an area of ancient woodland, with the northern part (i.e. the woodland to the north of the railway line) covered by TPO areas (79/00873/TPO and 20/00182/TPO - small woodland area mainly consisting of Oak, Hazel, Hawthorn and Birch). Public footpath (257) follows the eastern boundary of the site, crossing the railway line, to link with Priors Leaze Lane to the north.
- 4.4 To the east of the site is the Ham Brook, a natural watercourse running north-south along the site boundary (partially culverted within the site). Beyond this is the recently constructed residential development of 55 homes at Meadow View (ref. 16/03803/FUL). The eastern edge of the site (current occupied by the existing scrap yard) also lies within Flood Zones 2 and 3. Further east lies agricultural fields and the settlement of Nutbourne.

- 4.5 The larger expanse of land to the north of the railway is inherently rural in character, comprising greenfield land surrounded by a rural road network. An existing electricity substation lies to the northern boundary of the site, just south of the railway line. The western boundary comprises largely of native hedging, beyond which lie agricultural fields with the settlement of Southbourne and Prinsted beyond, including the recently constructed development of 157 homes at Priors Orchard (ref.14/02800/OUT).
- 4.6 To the south, lies existing development including a caravan dealership and the residential properties and curtilage of The Oaks Farm, Amici, Willow Green, The Garden House and Springfield House. Further south lies the A259 and the settlement of Nutbourne West, with agricultural fields beyond. To the south of the A259 lies the northern boundary of the Chichester Harbour Area of Outstanding Natural Beauty (AONB). Also, to the south-east of the site, outside the site boundary lies a small TPO group of trees (02/00921/TPO) and two TPOs (94/00899/TPO and 94/00898/TPO).
- 4.7 Whilst the site is subject to no particular ecological designations, the site does lie within the zone of influence of multiple sensitive ecological sites including the Chichester Harbour SSSI, Chichester and Langstone Harbours SPA and Ramsar and the Solent Maritime SAC, the eastern edge of the site (current occupied by the existing scrap yard) also lies within a proposed Strategic Wildlife Corridor. The Ham Brook, which runs to the east of the site, although is not itself part of a designated site, has been classified as a Chalk Stream by the Environment Agency and meets the criteria for a priority habitat chalk river tributary.

The Proposal

- 4.8 Full planning permission is sought for the erection of 103 dwellings along with associated development including the following:
- A children's nursery for 70 children with a Gross Internal Area (GIA) of 536.22sqm including 153sqm of play area.
 - The provision of an ecological buffer (7,625sqm) to the Ham Brook, located to the eastern boundary of the site.
 - 7,105sqm of informal open space, located adjacent to the western side of the ecological buffer.
 - Extensive SuDS (Sustainable Drainage Systems) infrastructure located within the informal open space to the eastern boundary of the site.
 - 6,309sqm of formal open space including: communal allotments; community orchard; and an equipped play area (LEAP).
 - An Environmental Statement (ES) also accompanied the planning application and forms part of the appeal.
- 4.9 In terms of access, the site as existing benefits from a vehicular access to the A259 via a ghost island right-turn lane. Currently the right-turn lane comprises a right-turn pocket measuring approximately 1.8m wide and 10m in length.
- 4.10 A single permanent vehicular access is proposed from the A259, approximately 10m to the west of the existing access. In order to provide the new access the existing dwelling known as Willow Green (and its associated outbuildings) would be demolished. The existing access would be 'stopped up' as part of the works. The proposed access would comprise a conventional priority access junction

arrangement with a 20m wide bell-mouth running into a 5.5m spine road. A 2m wide footway would also be created either side of the new access, which would tie-in with the existing footways at the site frontage on the northern side of the carriageway, linking the local services and amenities within Southbourne to the site.

- 4.11 The proposed development would seek to upgrade the existing situation. This would involve an improved ghost island right-turn lane. The proposed arrangement would provide a 3m wide right-turn lane, 65m in length, with 3m wide running lanes on the A259, which include the existing 1.5m on-carriageway cycle lanes and would achieve suitable visibility splays (2.4m x 120m in both directions) commensurate with the 40mph speed limit in force at this location.
- 4.12 A pedestrian refuse island is to be provided approximately 30m west of the centre line of the access to facilitate crossing of the A259. This crossing point will be equipped with dropped kerbs and tactile paving. In addition, to the proposed western pedestrian crossing point, a second pedestrian crossing point (with dropped kerbs and tactile paving) has been proposed across the site access junction.
- 4.13 With regard to 'future proofing' the submitted plans detail three connection links within the site to the western boundary, which would facilitate future onward connectivity to the west. In addition, the appellant has indicatively shown that a future signalled staggered crossroads to the west of the ghost-island would be compatible with the upgraded ghost-island junction should a future application for the wider allocation be received.
- 4.14 The proposed housing mix and tenure is as follows:

Market Mix - 72 dwellings (70%)

3 x 1-bed
20 x 2-bed
31 x 3-bed
14 x 4-bed
4 x 5-bed

Affordable Housing - 31 dwellings (30%)

6 Affordable Rent (2 x 1-bed and 4 x 2-bed)
11 Social Rent (4 x 1-bed, 4 x 2-bed and 3 x 3-bed)
6 Shared Ownership (5 x 3-bed and 1 x 4-bed)
8 First time homes (2 x 1-bed and 6 x 2-bed)

- 4.15 The development makes use of perimeter blocks and would comprise predominantly of 2-2.5 storey houses with three 2.5 storey blocks of apartments, and adopts a contemporary design with a palette of materials comprising a mix of brick (buff, brown and engineered), timber weatherboarding and slate roofs. Chimneys, balconies, brick detailing and projecting porch details are all part of the overall design package. Based on the whole site area the overall density of housing equates to approximately 17dph (dwellings per hectare) and for the net developable area equates to approximately 27dph.

- 4.16 The proposal provides for 227 parking spaces through a combination of on and off plot parking, garages, car barns, courtyard and visitor parking (26 spaces). 12 spaces would be allocated for disabled parking. Cycle storage would be provided in line with the recommended standards for each dwelling, within rear gardens or garages for houses or a shared cycle store for the flatted elements. A shared parking court with 17 spaces (including disabled parking) and 2 bicycle stands providing 4 spaces would also be provided for the children's nursery. 20% of the parking spaces would be provided with electric vehicle charging facilities, equating to 45 spaces across the site. Ducting would be provided to all the remaining spaces to provide 'passive' provision for these spaces to be upgraded in the future.
- 4.17 The proposal must mitigate for the additional nitrogen loading that would result from the development to ensure that the development overall is nitrate neutral. The appellant has recently submitted a revised Nutrient Balancing Assessment (dated 11 May 2023) indicated that nutrient mitigation land of 3.42ha is required to offset the proposed development. The appellant has confirmed that a 3.42ha parcel of land has been secured (part of an existing field with a total site area of 39.98ha) at North of Common Road, Chichester formerly used for arable farming. The appellant has confirmed the parcel of land will be planted with woodland planting using native species. Full details of the exact position of the parcel of mitigation land has not yet been confirmed.
- 4.18 As outlined above, during the course of the application amended plans have been received which saw a reduction in the quantum of development from 112 to 103 dwellings (i.e. a reduction of 9 dwellings). Other changes included amendments to the design and layout of the proposal. At the point of receipt of the appeal against non-determination the following issues were outstanding:
- Further information on nitrate neutrality calculations and mitigation land
 - Further information in relation to energy efficiency, renewables and electric vehicular charging facilities awaited (received on 15 May 2023 and currently being considered)
 - Confirmation of agreement to pay the financial contribution for the A27 highway infrastructure improvements at the scale envisaged in draft Policy T1 of the Local Plan 2021-2039: Proposed Submission.

Constraints

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

Planning History

- 4.19 The relevant site history includes:

23/00942/FUL: Demolition and mixed use development comprising 103 no. dwellings and a Children's Nursery, together with associated access, parking, landscaping (including provision of Wildlife Corridor) and associated works. Pending consideration.

00/02442/FUL: Covered workshops and storage buildings. Refused.

92/00178/SB: Continued operation as established Breakers Yard. Permit

80/00050/SB: Demolish store and office. Erect new store and office. Permit

Representations and Consultations

4.20 Refer to **Appendix I** for all received representations and consultations.

5. Planning Policy

The Development Plan

- 5.1 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.
- 5.2 The Southbourne Neighbourhood Plan 2014-2029 was made on the 15 December 2015 and forms part of the Development Plan against which all applications and appeals must be considered.
- 5.3 Southbourne Parish Council is undertaking a modification of its Neighbourhood Plan. All the background supporting work undertaken by the parish can be found on the [Southbourne Parish Council Website](#). The Southbourne Modified Neighbourhood Plan 2014-2029 was published for consultation according to Regulation 16 of the Neighbourhood Planning (General) Regulations 2012 from 2 March to 14 April 2023.
- 5.4 The principal planning policies relevant to the consideration of this appeal proposal are as follows:

Chichester Local Plan: Key Policies 2014-2029

Policy 1: Presumption in Favour of Sustainable Development
Policy 2: Development Strategy and Settlement Hierarchy
Policy 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 20: Southbourne Strategic Development
Policy 26: Existing Employment Sites
Policy 30: Built Tourist and Leisure Development
Policy 33: New Residential Development

Policy 34: Affordable Housing
Policy 39: Transport, Accessibility and Parking
Policy 40: Sustainable Design and Construction
Policy 42: Flood Risk and Water Management
Policy 43: Chichester Harbour Area of Outstanding Natural Beauty
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

Southbourne Neighbourhood Plan 2014-2029

Policy 1: Spatial Strategy
Policy 3: The Green Ring
Policy 4: Housing Design
Policy 5: Employment
Policy 7: Environment
Policy 9: Community Facilities

Chichester Local Plan 2021-2039: Proposed Submission (Regulation 19)

- 5.5 This is a material consideration for the purposes of section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 5.6 Work on the review of the adopted Local Plan to consider the development needs of the Chichester Plan Area through to 2039 is now well advanced. Consultation on a Regulation 19 Local Plan took place from 3 February to 17 March 2023 and responses are currently being processed. Once this is complete, the Local Plan will be submitted to the Secretary of State for independent examination. In accordance with the Local Development Scheme, it is anticipated that the new Plan will be adopted by the Council in 2024.
- 5.7 However, at this stage, the weight that can be attached to the policies contained within the new Local Plan in terms of decision making is limited and commensurate with government policy at paragraph 48 of the NPPF.

National Policy and Guidance

- 5.8 Government planning policy comprises the National Planning Policy Framework (NPPF July 2021) and related policy guidance in the NPPG.
- 5.9 Paragraph 11 of the current Framework states that plans and decisions should apply a presumption in favour of sustainable development, and for decision-taking this means:

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

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

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

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

- 5.10 The following sections of the revised NPPF are relevant to this application: 2, 4, 5, 6, 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

- 5.11 The following documents are material to the determination of this appeal proposal:

- Planning Obligations and Affordable Housing SPD (December 2018)
- Surface Water and Foul Drainage SPD (September 2016)
- Chichester Landscape Capacity Study (March 2019): Southbourne North Eastern Coastal Plan (Sub-area 82: Southbourne Eastern Settlement Edge)
- West Sussex County Council Guidance on Parking at New Developments (September 2020)
- Interim Position Statement for Housing Development (November 2020)
- National Character Areas (2014): South Coast Plain Character Area (Area 126)
- West Sussex Landscape Character Assessment (2003): Southbourne Coastal Plain (Area SC5)
- Chichester Harbour Area of Outstanding Natural Beauty: Joint Supplementary Planning Document (May 2017)
- Chichester Harbour AONB Management Plan (2014-2029)

Interim Position Statement for Housing Development

- 5.12 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 5 December 2022 and provides the updated position as of 1 April 2022. At the time of preparing this report the published assessment identifies a potential housing supply of 3,174 net dwellings over the period 2022-2027. This compares with an identified housing requirement of 3,350 net dwellings (equivalent to a requirement of 670 homes per year). This results in a housing shortfall of 176 net dwellings, equivalent to 4.74 years of housing supply. The Council therefore finds itself in a similar position to that in the Summer of 2020 when it resolved to start using the Interim Position Statement on housing (IPS) to support the delivery of sustainable new housing development outside of settlement boundaries.
- 5.13 To help pro-actively ensure that the Council's housing supply returns to a positive balance prior to the adoption of the new Local Plan, the Council is using the IPS, which sets out measures to help increase the supply of housing in appropriate locations. New housing proposals will 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 and sustainable new housing sites outside of existing settlement boundaries. The IPS is not formally adopted 'policy' and neither does it have the status of a supplementary planning document, but it is a material consideration in the determination of relevant planning proposals when used alongside up to date policies in the Local Plan. It is a document that decision makers need to 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.

Levelling-up and Regeneration Bill: Reforms to National Planning Policy Consultation

- 5.14 On the 6 December 2022 a Written Ministerial Statement (WMS) was published setting out the Government's proposed changes to the planning system. Details of the changes have now been set out in a National Planning Policy Framework prospectus (published 22 December 2022).
- 5.15 On the 8 December 2022 the Planning Inspectorate published PINS Note 14/2022 that provides advice to Planning Inspectors on the action to be taken as a result of the WMS across all areas of PINS casework. Paragraph 3 states that a '*WMS is an expression of government policy and, therefore, capable of being a material consideration (or important and relevant) in all casework and local plan examinations. It should be noted, however, that this WMS states that further details are yet to be published and consulted upon*'. Paragraph 5 of the PINS Note confirms that '*no action is required in any casework areas at present, as the WMS sets out proposals for consultation rather than immediate changes to government policy. Consequently, the starting point for decision making remains extant policy, which we will continue to implement and to work to until such time as it may change.*'
- 5.16 At the time of writing the changes to the NPPF are still in draft form as such, at this stage, the changes outlined in the WMS are not national policy. Until such time that any amendments to the NPPF are published, the application falls to be assessed against the current NPPF and policy as outlined above.

6. Main Issues

6.1 The main issues arising from this proposal are:

- i. The Principle of Development
- ii. Layout, Design and Impact on Visual Amenity and Landscape Character
- iii. Highways, Access and Parking
- iv. Residential Amenity
- v. Surface Water Drainage and Foul Disposal
- vi. Ecology and Biodiversity
- vii. Sustainable Design and Construction
- viii. Other Matters

i. The Principle of Development

6.2 The primacy of the development plan and the plan-led approach to decision-making 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 applies to planning applications and planning appeals, states:

“If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

- 6.3 The Chichester Local Plan: Key Policies (CLP) was adopted by the Council on 14th July 2015 and now forms part of the statutory development plan for the parts of the District outside of the South Downs National Park. The site lies beyond any designated Settlement Boundary and is, therefore, within the Rest of the Plan Area wherein Local Plan policy 45 resists development of the nature and scale proposed.
- 6.4 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. The Council has acknowledged that the Local Plan in terms of its policies for the supply of new housing are out-of-date because the settlement boundaries haven't been reviewed and when the Standard Methodology for calculating local housing need is applied (as required by NPPF paragraph 61) there is a shortfall of allocated sites to meet that identified housing need. Policies 2, 5 and 45 are therefore out of date. Policy 45 as a countryside policy is out of date insofar as it is linked to policy 2 and is therefore reliant on there being up to date settlement boundaries within which to accommodate new housing as part of the Development Strategy. Policy 2 is considered up to date only in the relatively narrow sense that it identifies the settlement hierarchy for future development in the Local Plan area, a hierarchy which is proposed to be carried forward into the emerging Local Plan. Draft policy S2 of the emerging Local Plan continues therefore to identify Southbourne as one of the Settlement Hubs i.e., as a focus outside of Chichester city for new development and facilities within an expanded settlement boundary.
- 6.5 The Council's published position with regard to Southbourne is set out in the emerging Local Plan (emerging Policy A13). Emerging policy A13 states that provision will be made for a mixed use development within the Broad Location for Development (which includes the appeal site) at Southbourne, as shown on the Key Diagram. Land within the Broad Location will be master planned and developed as a whole to provide 1,050 dwellings, local employment opportunities and supporting community uses and facilities.
- 6.6 As it stands, the Emerging Local Plan is exactly that - the Council's proposed direction of travel. Therefore, at this stage in the Local Plan process, A13 is no more than an emerging policy, it has not been tested at examination and does not have enough weight in decision-making consistent with government policy in paragraph 48 of the NPPF. Therefore, following a s.38(6) development plan approach, this appeal proposal is contrary to policy, in particular policy 45 of the adopted Local Plan.
- 6.7 However, there are other factors to consider. The Council has acknowledged that the Local Plan in terms of its policies for the supply of new housing are out-of-date and has accepted that it cannot currently demonstrate 5 years' worth of housing land supply. Without a 5-year housing supply in place the 'tilted balance' in paragraph 11(d) of the NPPF, i.e. the presumption in favour of permitting

sustainable development where there is no housing supply, is engaged. In other words, there is a heightened imperative to deliver more housing to comply with government policy ahead of the adoption of the new local plan with its revised housing strategy and numbers. With the Council currently unable to demonstrate a 5YHLS the Committee will be very aware of the notable increase in speculative housing applications on the edge of existing settlements. When viewed in the context of not having a housing supply, officers consider that to simply adopt a position where all new housing proposals are resisted ahead of adoption of the new Local Plan is not a tenable approach. Housing supply is calculated on a rolling year-on-year basis and in order to ensure that the Council can demonstrate a supply and that this supply is maintained with a suitable buffer ahead of adoption of the new Local Plan, it will be necessary for some new housing development to be permitted.

- 6.8 As part of that context it is notable and relevant that the Council's Housing and Employment Land Availability Assessment (HELAA) in March 2021 identified this site as available, suitable and capable of delivering 80 dwellings individually or as part of a wider masterplan for the expansion of Southbourne to the east. While the HELAA is only a technical background document used to inform the new Local Plan and is not Council policy, it is significant that 'Southbourne' continues to remain one of the Council's preferred strategic housing locations along the East-West corridor which is the area identified as the focus for accommodating the main future housing growth in the next plan period.
- 6.9 With regard to housing supply, the Council's most recent assessment of its Five-Year Housing Land Supply was published on 5 December 2022 and identifies 4.74 years of housing supply. As such the Council's housing policies are deemed out of date and the provisions in paragraph 11(d) of the NPPF (known as the 'tilted balance'; i.e. where there can be a presumption in favour of granting permission for sustainable development where there are out-of-date housing policies) are engaged. It does not necessarily follow that the absence of a 5-year housing supply means that applications or appeals should be allowed on that basis alone; however, for an appeal to be dismissed the Council would have to demonstrate to the Inspector that the adverse impacts would significantly and demonstrably outweigh the benefits.
- 6.10 In acknowledging the current status of the Local Plan in terms of its out-of-date housing policies and the absence of a 5-year housing supply and to effectively bridge the gap up to the point where the new Local Plan is adopted sometime in 2024, and to avoid where possible the submission of inappropriate ad hoc applications for housing development in the countryside, the Council has produced an Interim Position Statement for Housing (IPS) which sets out criteria defining what the Council considers to be good quality development in the Chichester Local Plan Area.
- 6.11 The Council has committed to continue using the IPS to provide a set of criteria against which to measure the potential acceptability of new housing proposals outside of current settlement boundaries. When considered against the 13 criteria of the IPS which define what the Council considers good quality development in the Local Plan area, the current proposal scores well and the Council has not identified any adverse impacts. It is relevant to consider the appeal proposal 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 6.01 hectare (ha), triangular site, lies predominately within the Rural Area (i.e. outside any defined Settlement Boundary), within the Parish of Southbourne. However, a small section of the site to the south (which would provide the access), is situated within the Nutbourne West Settlement Boundary. Furthermore, the site also lies approximately 115m (taken at its closest point) to the east of the Settlement Boundary of Southbourne and Prinsted, In this context, it is considered to satisfy criterion 1 of the IPS.

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

Southbourne is defined as a Settlement Hub in the Local Plan (Policy 2) and is the largest settlement in the west of the Plan area. It lies on the A259 Emsworth to Chichester road and also benefits from a station on the West Coastway rail link linking Chichester with Portsmouth / Southampton. The village acts as a service centre for the surrounding 'Bournes' area providing a variety of community services and facilities, including a library, doctor's surgery and a range of education facilities. The village has been identified as a suitable location for strategic development. In this context the proposed scale of 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.

The submitted LVIA concludes that the *'The site is well constrained, with only a short stretch of the southern site boundary visible from the A259. Proposed development will be set back from the road, and contained by existing and proposed vegetation on the eastern and western boundaries, and embankment and vegetation following the railway line on the northern boundary. This enclosure, along with a lack of public vantagepoints to the site, will limit any possible adverse landscape and visual effects of the development.'*

Officers agree that the proposed development meets this point. The proposal would not be out of character with the surrounding landscape and development along the A259. The site also falls outside of the Southbourne and Hambrook 'gap', identified in the Council's Landscape Gap Assessment. As such, there would be no actual or perceived coalescence likely to arise from permitting this development (refer to section on landscape impact below).

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.

Based on the whole site area including the ecological corridor the proposals achieve a density of 17 dwellings per hectare (dph). The resultant net density of the developable area (which does not include the open space, play area, ecological corridor or SuDS) would be 27dph. There is no artificial sub-division of the site. In the context of the rural edge of settlement location and the pattern of proposed housing set within a landscape led proposal, this level of development (net density) compares favourably with the Council's 'benchmark' density value of 35dph for greenfield sites and is considered acceptable. The proposal meets this criterion.

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

See section on landscape impact below, 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 eastern side of the site, which largely comprises the scrap yard falls within a proposed Strategic Wildlife Corridor. The submitted Site Layout plan details that that land currently comprising the scrap yard would be given over to the ecological corridor and open space (including SuDS). The ecological corridor and open space provision are recommended to be secured through obligations in the S106 Agreement. The Council's Environmental Officer raises no objection to the proposal, and as such it is considered subject to securing the ecological corridor and open space provision, together with the mitigation proposed, the development would not affect the potential or value of the proposed Strategic Wildlife Corridor (refer to section on ecology and biodiversity below). Indeed it could be argued that the proposal would have a positive impact upon the potential strategic wildlife corridor due to the removal of the Breakers Yard use from the site. It is considered that the proposal would comply with the above criterion.

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 would be secured through the statutory undertaker. Affordable housing and open space and WSCC highways improvements would be secured through the Section 106 agreement and/or by planning conditions. WSCC Education and Sussex NHS Commissioners (CCG) have confirmed they have no objection to the proposal. Education and medical infrastructure provision will be secured through CIL.

The ongoing headroom monitoring (April 2023) at Thornham WwTW indicates a remaining capacity of 717 households and as such this development of 103

dwellings (net increase of 102) and a children's nursery could be accommodated within the remaining capacity.

Following submission of the appeal against non-determination officers have had discussions with the appellant with regards to the financial contribution towards the co-ordinated package of improvements to junctions on the A27 Chichester Bypass to all increased road capacity, reduce traffic congestion and improve safety. The Transport Study (2023) identified an indicative package of measures at the Fishbourne Roundabout costing between £9,520,000 and £12,900,000 and the Bognor Roundabout costing between £19,390,000 and £30,420,000. The Chichester Local Plan 2021-2039: Proposed Submission (Regulation 19) sets out that this sum will be met from financial contributions provided by the outstanding housing developments in the Local Plan 2021-2039: Proposed Submission. The formula is set out in draft Policy T1 Transport Infrastructure and at this point in time equates to £7,728 per dwelling. Officers acknowledge that draft Policy T1 of the Local Plan 2021-2039: Proposed Submission (LPPS) is emerging and not adopted policy. The circumstances currently facing the Council, with regard to the A27 scheme of improvements, is however such that unless all housing permitted ahead of the adoption of the LPPS delivers the financial contributions of the scale envisaged in draft Policy T1 of the LPPS, the Council will be unable to secure sufficient funding for the requisite improvements to the A27 necessary to enable the planned housing development set out in the LPPS. The appellant has indicated verbally that they are open to providing the financial contributions envisaged in the draft Policy T1 of the LPPS on the basis of acceptance of viability evidence, reducing the provision of affordable housing. Officers note that the emerging policy H4 – Affordable Housing is seeking 20% on site affordable housing provision on previously developed land in the South of the Plan Area. At the point of writing this report the appellants viability information is still awaited. Until such time as the appellants viability work is provided and independently verified by the Council, this criterion is not met.

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 proposals address Local Plan Policy 40. This development is targeting to exceed Building Regulations 2013 (approx. 29% CO2 saving), which accords with the overall reduction in energy consumption sought in the IPS. The application

original stated that the development would meet this criterion through a combination of fabric first and the installation of solar PV panels on south, east or west facing roofs. A further updated Sustainability Assessment was submitted on 15 May 2023, after the appeal was lodged against non-determination. This latest information states that air source heat pumps will be provided for all the houses (to supply main heating and domestic hot water) and the flats will be provided with compact heat pump cylinders. This latest information is currently being considered by the Environmental Strategy team. A condition would be required to secure final details of the sustainable measures, both in terms of energy efficiency (min 19% improvement in DER over TER) and renewable energy (min 10% of predicted residual energy requirements). Clarification from the appellant on this issue is awaited. Water saving measures (maximum of 110 litres per person per day) would also be required to be secured by way of condition.

The appellant has stated that the scheme would ensure that at least 20% of dwellings would have individual active charging points installed, while the remaining 80% would have electrical layouts designed to ensure straightforward installation of charging points for residents. This level of provision is below that which is required by WSCC guidance on Parking at New Developments and is a reduction in the level of provision required under building regulations. Further information is currently being sought from the appellant with regard to the proposed EV charging provision. As part of any appeal it is recommended that a scheme for active and passive EV charging facilities is secured by condition, to comply with WSCC standards or Building Regulations, whichever is the greater.

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 design and layout of the development are considered to be acceptable in the context of the location (see section on layout and design below). The criterion is met.

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.

Southbourne is defined in the CLP and in the emerging Local Plan as a 'Settlement Hub'. Emerging Policy A13 identifies Southbourne as a settlement suitable for strategic scale development and in so doing makes a judgement about the sustainability of its location. It is considered the site is an accessible location.

At the site frontage, continuous footways are provided on the northern side of the carriageway that link the local services and amenities within Southbourne to the site. National Cycle Route 2 travels immediately past the site along Main Road and provides on road routes to Chichester and Havant. The site has access to regular bus services to Portsmouth and Chichester, the closest bus stop to the site is Farm Lane Bus Stop (approximately 120m to the west of the site). Southbourne Railway Station is located approximately 1.4km north-west of the site and provides direct

trains to many destinations including Portsmouth, London and Brighton. In addition, a fee of £3,500 is proposed to be secured via S106 for the monitoring and auditing of the Travel Plan Statement. It is therefore considered that the site is sustainably located and the criterion is met.

11) Development is to be located in areas at lowest risk of flooding first and 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. Built development can lead to increased surface water run-off; therefore new development is encouraged to incorporate mitigation techniques in its design, such as permeable surfaces and surface water drainage schemes must be based on sustainable drainage principles.

This criterion is satisfied (refer to section on surface water drainage and foul disposal below). Part of the site which currently comprises the scrap yard, would fall within Fluvial Flood Zones 2 and 3. However, the proposed plans detail that no dwellings would be located within this area, instead this area of the site is given over to the ecological corridor and open space. It is also acceptable to the relevant consultees in relation to ground water and surface water 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 appellant has recently submitted a revised Nutrient Balancing Assessment (dated 11 May 2023) indicated that nutrient mitigation land of 3.42ha is required to offset the proposed development. The appellant has confirmed that a 3.42ha parcel of land has been secured (part of an existing field with a total site area of 39.98ha) at North of Common Road, Chichester formerly used for arable farming. The appellant has confirmed the parcel of land will be planted with woodland planting using native species. Full details of the exact position of the parcel of mitigation land has not yet been confirmed.

The updated Nutrient Balancing Assessment is currently being considered by the CDC Environment officer. If the CDC Environment Officer is satisfied that the revised nitrate calculations are acceptable, the change of use of the proposed area of off-site mitigation land to native broadleaf woodland in perpetuity, as well as its long-term management and monitoring will need to be secured under the S106 agreement. The Inspector, as competent authority, will need to undertake a separate HRA with Natural England.

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 proposal is seeking full planning permission. There are no known impediments to the delivery of the development. A condition would be sought amending the standard 3-year period in which to implement the permission to a two year period, to expedite the delivery of the housing and to accord with criterion 13 of the IPS. On this basis this criterion is satisfied.

Sub-Conclusion

6.12 The proposed development is considered to meet all the relevant criteria in the IPS, subject to securing the appropriate financial contribution towards the A27 improvements. The IPS provides an appropriate development management tool for assessing such proposals and in this context and for the reasons outlined above in the subsequent assessment the 'principle' of housing development on this site is considered acceptable. It is recognised that the Council cannot demonstrate a 5-Year Housing Land Supply (5YHLS) and it is important that permissions are granted for developments that score well against the IPS and are considered acceptable in principle to ensure the supply is maintained and bolstered and it is considered that in this context the proposal is acceptable. The full detailed planning assessment is carried out below.

ii. Layout, Design and Impact on Visual Amenity and Landscape Character

Layout and Design

- 6.13 The proposed layout follows established urban design principles. With a network of streets and street-facing dwellings arranged around a series of perimeter blocks. The vehicular access from the A259 tracks directly north-east at 5.5m wide then loops around a central core which incorporates residential dwellings, including two of the three flatted elements and an area of formal open space (approx. 611sqm), which includes the equipped play area (approx. 347sqm). This primary road gives rise to a series of secondary/tertiary roads and private drives. Allotment gardens and community orchard with parking are located to the north-west of the site adjacent to the railway line. A children's nursery with parking is located to the south-west of the site, close to the site access. The eastern side of the site (currently comprising the scrap yard) is given over to the ecological corridor and open space provision, including SuDS.
- 6.14 The proposal includes a broad mix of detached, semi-detached and short terraces of 2 and 2.5-storey houses. Three blocks of 2.5-storey flats are also proposed. All properties benefit from reasonable-sized gardens complying with CDC design guidelines and acceptable levels of privacy. Parking is largely provided within the curtilage of dwellings and therefore large areas of hard surfacing are not a dominant feature of the layout. The distribution of affordable dwellings throughout the development is considered acceptable, as is the mix and tenure of both market and affordable dwellings, which accords with the HEDNA.

- 6.15 The design of individual dwellings has evolved during the course of the application through input from the Council's Design Officer and generally adopts a contemporary approach. A mix of hipped and gabled roof forms is proposed along with the use of various design details to add visual interest such as chimneys, brick detailing, dormer windows, balconies, fenestration detailing and projecting porch features. Key improvements to the original layout secured during the course of the application have included a reduction in quantum of development, together with a reduction from three-storey to 2.5-storey built form, and the repositing of the formal public space and play area to the centre of the site. This in turn has resulted in a series of key benefits including a significant reduction in scale, bulk and mass, a reduction of long unbroken rows of streetside parking and the central green space and play area has also been relocated to be more accessible.
- 6.16 Final details of facing elevation and roof materials would be recommended to be secured by planning condition, but these are likely to predominately comprise a mix of brick and timber weatherboarding to elevations with slate roofs.
- 6.17 It is considered that the approach that has been taken to the layout and detailed design of the development is appropriate to the site's context and consistent with the objectives of the relevant Development Plan policies including Policy 4 of the Southbourne Parish Neighbourhood Plan (Housing Design) and policy 33 of the Local Plan.

Impact on Visual Amenity and Landscape Character

- 6.18 The NPPF confirms that the purpose of planning is to help achieve sustainable development and that there should be a presumption in favour of sustainable development. Planning policy-making and decision-making should take into account the roles and character of different areas and recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services. Paragraph 174 states that the planning system should *inter alia* contribute to and enhance the natural and local environment by:
- *'protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
 - *recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
 - *minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
 - *preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
 - *remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*

6.19 In addition, Paragraph 176 of the NPPF states:

'Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development in their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.'

6.20 Policies 2, 33, 43, 45, 47, 48 and 52 of the CLP, support the above, ensuring development respects and enhances the landscape character of the surrounding area, including the setting of the Chichester Harbour AONB and SDNP.

6.21 In terms of the development's wider landscape impact, the landscape proposals illustrate a substantial corridor together with areas of informal and formal public open space to the eastern side the site measuring approximately 115m wide to the north-east from the railway and tapering down to approximately 35m wide to the south-east where it adjoins the grounds of properties Amici and Stratton House. This multi-functional green corridor will contain SuDS and recreational routes, and would form part of the 'Green Ring' sought through the Southbourne Neighbourhood Plan. Further areas of public open space and planting are provided to the north of the site, where the allotments and community orchard are provided and to the western boundary of the site. An area of formal public space together with equipped play space is also proposed in the centre of the site and an area of informal public open space will line the proposed access road in the southern part of the site. The Landscape Proposals and Indicative Sections, illustrate the landscape treatment within the proposed development and open space, showing the relationship between street-trees, footpaths and buildings, recreational routes, landforms and drainage attenuation basins. Proposed landscape provisions includes retention and strengthening of existing woodland on the eastern site boundary following the Ham Brook; woodland buffer planting on the northern boundary adjoining the railway; additional tree, shrub and hedgerow planting, along with wildflower meadow, marginal and aquatic planting within open space, along with amenity tree and shrub planting within the areas of residential development.

6.22 The site is not subject to any special landscape designation nor has it been identified as a 'valued' landscape warranting protection (NPPF paragraph 174). Emerging policy A13 states that provision will be made for a mixed use development (including 1,050 dwellings, local employment opportunities and supporting community uses and facilities) within the Broad Location for Development (which includes the application site) at Southbourne. This emerging policy was informed by several background studies. The CDC Landscape Capacity Study (March 2019) found the site to have a 'medium' capacity to accommodate development. The report concludes that *'...The sub-area is however influenced by some suburbanising influences including from the train line and the A27, equestrian uses and at the settlement edge of Southbourne where it lacks vegetated boundaries. It is possible that some built development could be accommodated along the eastern edge of Southbourne where it would have a strong relationship*

with the existing settlement edge, provided it is informed by further landscape and visual impact assessment and sensitively integrated into the landscape, respecting the historic settlement pattern and locally distinctiveness. Great care would need to be taken to avoid any landscape or visual harm, ensuring the separate identities of Southbourne, Nutbourne West and Hambrook are protected. Clearly, the development of any site will have an impact on the baseline character and appearance of its surroundings. To develop the site as proposed involves an acceptance that there will be an encroachment beyond Southbourne's settlement boundary. It is nevertheless important that, as far as is possible, any detailed proposals mitigate their impact on the wider landscape.

- 6.23 The Landscape Gap Assessment (May 2019) also produced for the Council to support the Local Plan 2021-2039: Proposed Submission and potential strategic allocations identifies what it defines as a 'strategic gap' between Southbourne and Hambrook. The site falls outside of the Southbourne and Hambrook 'gap', identified in the Council's Landscape Gap Assessment. As such, there would be no actual or perceived coalescence likely to arise from permitting this development. The proposed housing within the site would be set back from the A259, with views from the potential Southbourne and Hambrook Gap as it crosses the A259, approximately 475m to the east of the site, restricted by intervening vegetation. Similarly, views to proposed development within the site from Priors Leaze Lane and Inlands Road across the fields within the potential gap, will be limited by the intervening railway line embankment and vegetation.
- 6.24 The appellant has acknowledged the constraints of sub area 82 by proposing a landscape led approach to the layout of the development. The submitted LVIA concludes there will be long term minor to moderate beneficial effects, with the creation of substantial areas of public open space and associate tree, shrub, wildflower and aquatic planting. There will also be moderate beneficial residual effects associated with hydrology and access and recreation on the site with increased public access though areas of public open space, play areas, allotments and community orchard, along with the creation of a number of SuDS features, and the protection and enhancement of the Ham Brook within the setting of the newly created 'ecological corridor'. The benefits of replacing a car breakers yard with an ecological corridor and open space on the eastern site boundary are also recognised.
- 6.25 Whilst the comments from Chichester Harbour Conservancy and the Parish Council are acknowledged, it is noted that there is limited intervisibility between Chichester Harbour AONB and the site, with views to the proposed development from locations within the AONB largely confined to those on the A259 adjoining the site's southern boundary. Restricted views into the site from the A259, mostly confined to the realigned access road and the removal of the residential property (Willow Green), will have a limited effect on the northern edge of the AONB, along a small stretch of the A259. Buildings within the site will be 2 to 2.5-storey in height, with the 2.5 storey elements, located centrally and on the western and northern boundaries. The proposed development would not differ significantly in size or scale from the existing built form to the south of the A259, and although there may be glimpses of the roofs of the proposed 2.5 storey buildings within the site, it is not considered that these will be prominent in views from open locations within the AONB, to the south of the A259.

- 6.26 The SDNP is located, at its closest 2.3km from the site, and intervisibility with the site is largely confined to elevated vantagepoints, at least 5km to the north-east. The site is well screened by surrounding vegetation, and it is considered that potential effects as a result of development on the site would be neutral.
- 6.27 The residual visual effects of the proposed development are assessed in the submitted LVIA as either neutral or beneficial from surrounding public vantagepoints. A lack of public vantagepoints to the site, existing vegetation on site boundaries, and additional screen planting will limit views to the proposed development. Filtered views to the car breakers yard from selected locations on public footpath 257 will be replaced by an ecological corridor and open space following the Ham Brook on the eastern site boundary, resulting in beneficial visual effects.
- 6.28 All new development will of course involve a change to the character and appearance of that land, but that change in or by itself is not sufficient on its own to warrant refusal. As such and with regard to the above, it is considered the proposal would respect the landscape character of the surrounding area, including the setting of the Chichester Harbour AONB and would not interrupt any open views between the SDNP and the AONB, in accordance with national and local policy.

iii. Highways, Access and Parking

- 6.29 Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Additionally, Policy 39 of the CLP assets that development should be designed to minimise additional traffic generation.
- 6.30 Access to the development from the A259 would be via a conventional priority access junction leading to a 5.5m wide primary road which then gives rise to a series of secondary and tertiary roads and private drives. As noted at paragraphs 3.9-3.12 above, a right-turn lane would also be formed within the centre of the A259 carriageway in order to facilitate safe access to the site by vehicles approaching from the east. The scheme proposes to upgrade the existing site access, so the principle to that extent has already been established.
- 6.31 The site entrance would be flanked by 2m footways, a pedestrian refuse island is to be provided approximately 30m west of the centre line of the access to facilitate crossing of the A259. This crossing point will be equipped with dropped kerbs and tactile paving. In addition, to the proposed western pedestrian crossing point, a second pedestrian crossing point (with dropped kerbs and tactile paving) has been proposed across the site access junction.
- 6.32 Both the junction design and proposed pedestrian crossing facilities (to the west of the site) have been subject to a Highway Safety Audit and are considered appropriate in terms of both safety and capacity by the Local Highway Authority. The internal layout of the development is likewise considered acceptable and will allow all vehicles, including refuse freighters and fire appliances to safely manoeuvre and turn.

- 6.33 With regard to 'future proofing' the submitted plans detail three connection links within the site to the western boundary, which would facilitate future onward connectivity to the west. In addition, the appellant has indicatively shown that a future signalled staggered crossroads to the west of the ghost-island would be compatible with the upgraded ghost-island junction should a future application for the wider allocation be received.
- 6.34 The proposal provides for 227 parking spaces through a combination of on and off plot parking, garages, car barns, courtyard and visitor parking (26 spaces). 12 spaces would be allocated for disabled parking. The number of spaces proposed meets the predicted demand and is considered acceptable. The dimensions of external parking spaces and garages spaces (6m x 3m) meet the required minimum. Cycle storage would be provided in line with the recommended standards for each dwelling, within rear gardens or garages for houses or a shared cycle store for the flatted elements. A shared parking court with 17 spaces (including disabled parking) and 2 bicycle stands providing 4 spaces would also be provided for the children's nursery.
- 6.35 As set out above, this proposal is subject to updates and changes resulting from the passage of time since the application was received by the Council. This is relevant with regard to the scheme of A27 improvements and contributions. The Chichester Local Plan 2014-2029 was adopted on the 14 July 2015 and set out a scheme of A27 improvements and contributions in accordance with Policy 9 of the adopted Local Plan, alongside the Planning Obligations and Affordable Housing SPD.
- 6.36 As part of the evidence base for the Chichester Local Plan 2021-2039: Proposed Submission (Regulation 19), transport studies have been undertaken to understand the impacts of development on the highway network in the plan area and surrounding area. These transport studies have identified that a number of highway improvements will be required to mitigate the impact of the development, particularly in relation to junction improvements on the A27 Chichester Bypass. Policy T1 Transport Infrastructure of the Chichester Local Plan 2021-2039 Proposed Submission (Regulation 19) makes provision for a co-ordinated package of improvements to junctions on the A27 Chichester Bypass that will increase road capacity, reduce traffic congestion and improve safety.
- 6.37 The Transport Study (2023) identified an indicative package of measures at the Fishbourne Roundabout costing between £9,520,000 and £12,900,000 and the Bognor Roundabout costing between £19,390,000 and £30,420,000. The Chichester Local Plan 2021-2039: Proposed Submission (Regulation 19) sets out that this sum will be met from financial contributions provided by the outstanding housing developments in the Local Plan Review. The formula is set out in draft Policy T1 Transport Infrastructure and at this point in time equates to £7,728 per dwelling. Officers acknowledge that draft Policy T1 of the Local Plan 2021-2039: Proposed Submission (LPPS) is emerging and not adopted policy. The circumstances currently facing the Council, with regard to the A27 scheme of improvements, is however such that unless all housing permitted ahead of the adoption of the LPPS deliver the financial contributions of the scale envisaged in draft Policy T1 of the LPPS, the Council will be unable to secure sufficient funding for the requisite improvements to the A27 necessary to enable the planned housing development set out in the LPPS. Given this position, it is officer recommendation that non-compliant schemes are not supported on the basis of the acute nature of

the Council's position and the risk to housing delivery in the district. The appellant has indicated verbally that they are open to providing the financial contributions envisaged in the draft Policy T1 of the LPPS on the basis of acceptance of viability evidence, reducing the provision of affordable housing. Officers have yet to see this information. Until such time as this information is provided and independently verified by the Council, officers recommend that the appeal is contested in respect of this issue.

- 6.38 In terms of the development providing means of access to and from the site other than via the private car, at the site frontage, continuous footways are provided on the northern side of the carriageway that link the local services and amenities within Southbourne to the site. National Cycle Route 2 travels immediately past the site along Main Road and provides on road routes to Chichester and Havant. The site also provides access to the eastbound and westbound bus stops on the A259 both located within approximately 120m of the existing site access. The bus stops are served by 2 services (56 and 700) with the 700 service providing connections between Bognor-Chichester-Havant-Portsmouth every 20 minutes. The site is therefore considered to be sustainably located in transport terms with the availability of accessible alternatives in addition to use of the private car. In addition, the WSCC PRow officer requires a contribution of £15,000 to be secured, which would go towards upgrades and maintenance of footpath 257 to the east of the site.
- 6.39 In summary, it has been demonstrated to the satisfaction of the Local Highway Authority (LHA) and to Officers that the proposal would not generate traffic to the extent that the function of the local highway network would be impaired. Similarly, the proposed access into and out of the site, as proposed would be both safe and suitable in highway terms. The LHA is satisfied that in terms of the relevant policy test in the NPPF (paragraph 111), the development would not have an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe.

iv. Residential Amenity

- 6.40 The NPPF states at Paragraph 130 that planning should ensure a good quality of amenity for existing and future users of places. In addition, Policy 33 of the CLP requires that new residential development provides a high-quality living environment for future occupants, in keeping with the character of the surrounding area and includes requirements to protect the amenities of neighbouring properties.
- 6.41 A consequence of developing out a site is that it will potentially have some bearing on the established amenities of existing adjacent residential properties. However, loss of or change of 'outlook' is not necessarily a reason for refusing new development. Given the distances to the nearest existing neighbours it is not considered the proposed development would result in any significant issues of overlooking, loss of light or overshadowing. Conditions could be attached to the recommendation to secure appropriate boundary treatments buffered through landscaping and as such the above issue is not considered to weigh adversely against the proposal in terms of the final planning balance. Furthermore, a condition could also be imposed to secure a Construction and Environmental Management Plan (CEMP) to protect residential amenity

6.42 In terms of the new dwellings on the site itself, it is considered that the layout is successful in that it respects the standard required separation distances between dwellings so as to avoid direct overlooking and to ensure a satisfactory level of residential amenity.

v. Surface Water Drainage and Foul Disposal

Surface Water Drainage

6.43 With regard to flood risk, the majority of the site is in flood zone 1 and at the lowest risk of surface water flooding. Although parts of the site fall within fluvial flood zone 2/3 (significant flood risk) and some areas are shown to be at significant surface water flood risk (greater than 1 in 100 year event), these are associated with the existing watercourses and are contained within open space area. The housing and access road are located in the lowest areas of flooding. The proposal is acceptable to the Environment Agency, the Local Lead Flood Authority and CDC drainage officers with regard to flood risk.

6.44 With regard to the surface water drainage strategy, the Council's Drainage Engineer has reviewed the comprehensive drainage strategy which includes groundwater monitoring, percolation tests and calculations for the 1 in 100 year event plus climate change. The proposal is a restricted discharge to the adjacent watercourse (Ham Brook) controlled at greenfield runoff rates (8l/s). The Council's Drainage Engineer is satisfied that the potential for infiltration has been ruled out (due to existing very high groundwater levels and poor infiltration rates) and therefore the approach of a controlled discharge into an adjacent watercourse is acceptable in principle.

6.45 Surface water up to the 1 in 100 year event plus climate change will be attenuated in a series of structures including basins, tanks and permeable sub-base. The proposed connection point is designated as a "main river" and therefore a permit for the discharge will be required from the Environment Agency in this instance. It is noted that Southbourne Parish Council consultation response states that "the operation watershed report is paramount to this application and our continued objection to the application ... this report proves that everything just cannot be sent into the Ham Brook. A far more robust mitigation, attenuation of surface water is absolutely imperative". As outlined above the Council's drainage officer and WSCC LLFA are satisfied that the drainage strategy is acceptable and can ensure that run off rates are no greater than existing (controlled at greenfield runoff rates). Conditions will be sought to secure final details of the drainage details.

Foul Drainage

6.46 It is proposed that foul sewage would be discharged to the public sewer in Main Road. All sewers will flow on a gravity basis (no pumps required) and follow the sloping topography of the land to the proposed connection point at the existing Southern Water foul sewer.

6.47 Whilst there is sufficient capacity at the receiving wastewater treatment works at Thornham to process new flows, the consultation response from Southern Water regarding the need to upgrade the existing network of pipes in order to convey those flows is noted. The carrying out of these reinforcement works is the

responsibility of Southern Water using the Infrastructure Charge which, since April 2018, is levied on all new residential development.

- 6.48 Whilst the provision and timing of any necessary on and off-site foul infrastructure works is now the sole responsibility of Southern Water, given the known network capacity issues in the Parish it is important to ensure that any network reinforcement that is required is completed prior to occupation of any dwellings. Accordingly, conditions will be sought requiring the submission of evidence demonstrating that all necessary works will be carried out prior to occupation of any dwelling.
- 6.49 Local concerns regarding drainage and sewage disposal and the current state of the off-site network are noted but improvements where necessary of that infrastructure is the specific statutory function of Southern Water under the Water Industry Act against whom the industry regulator OFWAT has the power to enforce against if the required statutory function is not being satisfactorily discharged. Furthermore, the ongoing headroom monitoring at Thornham WwTW indicates a remaining capacity of 717 households and as such this development of 103 dwellings (net increase of 102) and children's nursery could be accommodated within the remaining capacity. On the basis of the consultation response received from Southern Water no formal objection to the application is raised and it would be both unreasonable and untenable for officers to recommend a reason for refusing the application on this basis.

vi. Ecology and Biodiversity

Protected Species

- 6.50 The eastern side of the site, which largely comprises the scrap yard falls within a proposed Strategic Wildlife Corridor. The submitted Site Layout plan details that that land currently comprising the scrap yard (brownfield land) would be given over to the ecological corridor and open space (including SuDS). As originally submitted the children's play area was in this location. Amended plans have been received which removes all development out of this area. The ecological corridor and open space provision are recommended to be secured through obligations in the S106 Agreement.
- 6.51 With regard to bats, though this site is not within the buffer zone of the Singleton and Cocking Tunnels Special Area of Conservation (SAC) it is in close proximity to the buffer edge and there are records of Barbastelle bats along the Ham Brook above and below the site. Given the lack of survey work onsite officers have assumed, on a precautionary basis, the presence of bats, including Barbastelle bats (SAC bat species), and the use of the site for foraging and commuting. For these reasons officers were required to undertake a HRA for the site, including the Appropriate Assessment (AA). For the AA without survey data the LPA must adopt a precautionary approach that there is extensive foraging and commuting use by all bat species across the site, and a mitigation strategy needs to be produced to reflect this. The proposed mitigation strategy is in the form of a full lighting plan ensuring a buffer zone (attenuation ponds) and dark corridor (the stream) and full details of the planting scheme on site including any planting used to reduce light spill. The appellant has also confirmed that there will be no street lighting to the east of the site along the wildlife corridor creating a dark corridor. The planting scheme, including the line of

trees to the east of the proposed development will help to help maintain the dark corridor and will also be designed to benefit other protected species in the area such as dormice.

- 6.52 The Council's Environmental Officer raises no objection to the proposal, and as such it is considered subject to securing the ecological corridor and open space provision, together with the mitigation proposed for bats and reptiles and the necessary ecological enhancements, the development would not affect the potential or value of the proposed Strategic Wildlife Corridor or any protected species.

Recreational Disturbance

- 6.53 It has been identified that any development within 5.6km of Chichester and Langstone Harbour, which is residential in nature, will result in a significant effect on the SPA/Ramsar, due to increased recreational pressure causing disturbance to birds. A Bird Aware Strategy came into effect on 1 April 2018. This sets out how development schemes can provide mitigation to remove this effect and enable development to go forward in compliance with the Habitats Regulations. The mitigation can be provided in the form of a financial contribution towards a Solent wide mitigation strategy, which is recommended to be secured via the S106 Agreement.

Nitrates

- 6.54 An area of land of 3.42ha, currently used for arable farming, is being proposed to mitigate this appeal proposal and make the scheme nitrate neutral, as set out in the revised Nutrient Balancing Assessment (dated 11 May 2023). The land to be off-set is located at Land North of Common Road, Chichester, and it falls within the fluvial catchment area of the Solent Maritime SAC. It is proposed that the mitigation land will be taken out of agricultural use and planted with native broadleaf woodland. The updated Nutrient Balancing Assessment is currently being considered by the CDC Environment officer. If the CDC Environment Officer is satisfied that the revised nitrate calculations are acceptable, the change of use of the proposed area of off-site mitigation land to native broadleaf woodland in perpetuity (85-125 years), as well as its long-term management and monitoring will need to be secured under the S106 agreement. Until such time that the LPA can be satisfied that the proposal would be nutrient neutral, it is recommended that the appeal is contested in this respect.

vii. Sustainable Design and Construction

- 6.55 The applicant submitted a Sustainability Appraisal & Statement (April 2022), which proposes a combination of fabric first and renewable technologies to reduce energy demand and deliver carbon savings through thermally efficient, well designed and suitably orientated buildings. This proposed to deliver a 29% CO2 saving and exceed Building Regulations 2013, by a combination of fabric first and solar PV panels, located on the south, east and west facing roof slopes. A further updated Sustainability Assessment was submitted on 15 May 2023, after the appeal was lodged against non-determination. This latest information states that air source heat pumps will be provided for all the houses (to supply main heating and domestic hot water) and the flats will be provided with compact heat pump cylinders. This latest information is currently being considered by the Environmental Strategy team.

Subject to the Environmental Strategy team being satisfied, it is suggested that a condition is sought to secure final details of the sustainable measures. A maximum 110 litre per person per day water use would also be conditioned.

- 6.56 In addition, the scheme would ensure that at least 20% of dwellings would have individual active charging points installed, while the remaining 80% would have electrical layouts designed to ensure straightforward installation of charging points for residents. This level of provision is below that which is required by WSCC guidance on Parking at New Developments and is a reduction in the level of provision required under building regulations. Further information is currently being sought from the appellant with regard to the proposed EV charging provision. As part of any appeal it is recommended that a scheme for active and passive EV charging facilities is secured by condition, to comply with WSCC standards or Building Regulations, whichever is the greater.

viii. Other Matters

Loss of Existing Business

- 6.57 At present part of the site (to the eastern side) is being used for the breaking of motor vehicles. It is understood that this is a family business, which has been in operation since 1948. The business wishes to close due to the increased levels of regulation and intensification on the site that would be required should the business continue as a viable operation. There are currently five employees on the site and a family member who is not interested in carrying on with the business. The business owners are also the owners of the wider site.
- 6.58 The applicant advises that other commercial uses would be unviable due to the location of the site being set back from the main road, nearby residential estates and the significant cost of decontamination.
- 6.59 Whilst it is recognised that demand for workshop, warehousing and storage facilities appears to be high with nearby industrial sites and storage facilities at capacity, the specific circumstances and constraints of the site are duly noted. It is also acknowledged that the proposed Children's nursery would provide an employment generating use and that the Council's Economic Development Service remain neutral with regard to the loss of the existing business. Also weighing in favour are the significant environmental benefits of losing a harmful industrial activity and instead introducing a 'green corridor' adjacent to the Ham Brook. In the absence of a 5-year housing land supply, and where 31 of the 103 units proposed (30%) would be affordable, this position is accepted, and the benefits are therefore considered to outweigh the harm.

Children's Nursery

- 6.60 The scheme also proposes a children's nursery for 70 children with a Gross Internal Area (GIA) of 536.22sqm including 153sqm of play area. A shared parking court with 17 spaces (including disabled parking) and 2 bicycle stands providing 4 spaces would also be provided for the children's nursery. Although there is not a specific policy requirement for a children's nursery on site, officers accept that it is an appropriate use within a housing development and will add to the community provision within Southbourne. The scale and design of the children's nursery is

acceptable in the location proposed. A condition will be required to ensure that it remains as a children's nursery.

Allotments and Community Orchard

- 6.61 In addition to the proposed children's nursery, the scheme proposes a further community benefit in the form of approximately 1030sqm of allotment space and a community orchard measuring approximately 1500sqm. The proposed allotment plots and community orchard are located to the north-west of the site, adjacent to the boundary with the railway line. Parking is also provided although the allotments are located well within the recommended 600m walking distance of all proposed properties on the site. The inclusion of a significant provision of allotment space responds to an identified need. As a supporting background document to the Local Plan 2021-2039: Proposed Submission, the Chichester Open Space Study 2014 - 2036 (September 2018) identified a shortfall of 6.21 ha in the overall supply of and access to allotment space in the east-west growth corridor. The proposed development would help address that identified need and is therefore considered a benefit of the scheme.

Archaeology

- 6.62 As shown in the consultation responses section of this report, the site is located within an area of potential archaeological interest and as such a condition is recommended requiring an investigation of the site to identify any archaeological deposits that might be present and to implement appropriate measures for their preservation prior to development.

Contaminated Land

- 6.63 Full details of contaminated land investigations and any remediation measures are recommended to be provided for review. Conditions are recommended to ensure a Phase 1 Desk Study is submitted if necessary, site investigation and remediation are carried out.

Noise, Lighting and Air Quality

- 6.64 The Council's Environmental Protection Officer recommends that conditions are applied to require the conclusions of the EIA and the Stage 2 Acoustic Design Statement (produced by Clarke Saunders Acoustics) are implemented. A condition is also recommended to secure details of a Construction and Environmental Management Plan (CEMP), which would include such details as working hours, construction compounds and dust and noise management, in order to minimise disturbance. Furthermore, a condition is recommended to secure the proposed lighting strategy is implemented. With regard to air quality, it is noted that a draft Travel Plan has been included which is recommended to be secured by S106 agreement.

Recommended Conditions

- 6.65 With any appeal, there is a requirement for the Council and appellant to provide the Inspector with a list of suggested conditions. This is provided without prejudice to the LPAs case in the event the Inspector allows the appeal. The key conditions that

officers believe are necessary to make this development acceptable have been discussed in the relevant sections of this report. These conditions would include:

- the standard 3-year period in which to implement the permission is reduced to two years to expedite the delivery of the housing and to accord with criterion 13 of the IPS
- approved plans list
- construction management plan
- site levels
- recommendations in ground investigation report (Feb 2018) secured and submission of verification report
- recommendations in noise report (Stage 2 Acoustic Design Statement) secured
- emissions mitigation statement in place with regard to air quality
- surface water drainage scheme and its long-term management and maintenance
- arrangements for future access and maintenance of any water course crossing or abutting the site and 3m buffer for access
- maintenance and management of SuDS system
- foul sewerage drainage details (on and off-site)
- archaeological investigation details
- samples of materials and finishes and design details for dwellings and children's nursery
- details of vehicular, pedestrian and cycle access (including future proofed access points) and visibility splays
- details of car parking and cycle parking arrangements
- secure off-site highways works
- travel plan
- sustainability components, including final details for energy reduction, heat pumps, water usage (max 110/l/p/d), EV charging
- external lighting details
- soft landscaping details including planting plan, management and maintenance plan and tree and vegetation protection measures
- ecological mitigation and enhancements
- details of position of new fire hydrants
- children's nursery permitted only to be used as a nursery.

Infrastructure / Planning Obligations

6.66 This development is liable to pay the Council's CIL indexed at £120 sqm which will address most of the infrastructure matters. If planning permission is granted, it will be subject to the completion of an Agreement under Section 106 of the relevant legislation. This section of the report is important in that it sets out the Heads of Terms that it is currently envisaged would need to be included in any such Agreement.

- 30% Affordable Housing (31 units) (no more and no less) in accordance with the required HEDNA mix, with a rent/shared ownership/first homes tenure as follows:
 - 6 Affordable Rented mix comprising: 2x1-bed and 4x2-bed
 - 11 Social Rented mix comprising: 4x1-bed, 4x2-bed and 3x3-bed
 - 6 Shared Ownership mix comprising: 5x3-bed and 1x4-bed
 - 8 First Homes mix comprising: 2x1-bed and 6x2-bed

First Homes would be delivered in compliance with the model template planning obligations set out in the National Planning Practice Guidance, which include freehold tenure at a minimum discount of 30% against market value; the first sale cannot be for more than £250,000 after the discount has been applied and the First Home to be sold to a household which meets the basic eligibility criteria. First Homes will also need to comply with the requirement of Chichester District Council (as set out in the Cabinet report 7 September 2021) for a local connection test, applicable for the first 3 months of sale and will apply on all future sales of the First Homes properties.

- An area of land of 3.42ha, currently used for arable farming will be required to mitigate this proposal and make the scheme nitrate neutral. The land to be off-set is located at Land North of Common Road, Chichester and falls within the fluvial catchment area of the Solent Maritime SAC. The S106 agreement will ensure that the land is taken out of agricultural use in perpetuity (85-125 years) and therefore off-setting can be secured for the lifetime of the development. Mitigation is required in the form of native broadleaved tree planting at a density of 100 trees per hectare. A programme of management and monitoring is also required.
- Financial contribution towards the coordinated package of highway works on the A27 Chichester bypass, in accordance with the formula set out in the Chichester Local Plan 2021-2039: Proposed Submission (Regulation 19) calculated at the time of granting any permission. The current estimate is £788,256 (102 (net increase) x £7,728 per dwelling).
- Financial contribution of £78,426 towards the Bird Aware Solent mitigation scheme to mitigate the impact of recreational disturbance to wildlife in Chichester and Langstone Harbours SPA/Ramsar.
- Provision, management and on-going maintenance of the allotments and community orchard.
- Provision, management and on-going maintenance of the ecological buffer to the Ham Brook (eastern site boundary).
- Provision, management and on-going maintenance of informal and formal Public Open Space (POS) including equipped play space (LEAP), in accordance with Planning Obligations and Affordable Housing SPD requirements.
- PRoW contribution of £15,000
- Financial contribution of £3,500 for the monitoring and auditing of the Travel Plan by WSCC Highways.
- Section 106 Monitoring Fee of £5,106

7. Conclusion and Planning Balance

- 7.1 The appeal proposal has been tested against the 13 criteria in the IPS and in considering the tilted balance it is recommended that the adverse impacts of the

proposal would not significant or demonstrably outweigh the benefits. Whilst the wider concerns and objections of the Parish Councils and third parties are noted, the development is considered to be sustainable development. The proposal responds to the constraints of the site and takes the opportunities available to improve the quality of the overall area whilst delivering housing required to meet the local need.

- 7.2 Without receipt of the further information from the appellant with regard to the A27 contributions (as set out above), there is however significant concern that the existing infrastructure cannot cope with the new development proposed. In addition, at the time of writing the LPA cannot be satisfied that the recently proposed nitrates mitigation scheme would render the development nutrient neutral.
- 7.3 In conclusion, it is considered that in applying the tilted balance the principle of the proposed development is acceptable, however the LPA cannot be satisfied at this time that the scheme would acceptable in respect of delivery of infrastructure and impact upon impacts upon the Chichester Harbour and Solent Maritime SPA's from the discharge of nitrates into Chichester Harbour.
- 7.4 For the reasons stated within this report it is recommended that the LPA contests appeal APP/L3815/W/23/3318548, only in respect of the matters as set out in paragraph 2.1 of this report.

Background Papers

The application, and all submitted appeal documents, can be viewed online at: [22/01283/FULEIA: Demolition and mixed use development comprising 103 no. dwellings and a Children's Nursery, together with associated access, parking, landscaping \(including provision of wildlife corridor\) and associated works.](#)

Appendices

Appendix I: Representations and Consultations