

Chichester District Council

Planning Committee

14 June 2023

Planning appeal APP/L3815/W/23/3319434 Land off Main Road, Birdham PO20 7DR (LPA ref. BI/21/01830/OUT)

1. Contacts

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2. Recommendation

2.1 That the Planning Committee:

i) notes the information within the report, and

ii) agrees 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

iii) agrees to dispute the appellant's evidence on housing supply if it differs materially from the Council's position.

3. Introduction

- 3.1 Outline application 21/01830/OUT for a development of up to 150 dwellings (including 30% affordable housing) and community park, public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point (with all matters reserved except for means of access) at Land off Main Road, Birdham was submitted to the Council in July 2021. During the course of the application significant further information on drainage matters was received along with information to satisfy the concerns of the Highway Authority. A Design Code for the site and accompanying illustrative layout was also submitted. 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 10 May 2023. The Planning Inspectorate confirmed the appeal would be heard by way of a Public Inquiry and has scheduled it for 6 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 19 June 2023, followed by the submission of full Proofs of Evidence on 15 August 2023, with the Public Inquiry to start on 12 September 2023.

4. Background

The Appeal Site and Surrounds

- 4.1 The appeal site is located on the eastern side of Main Road and has an area of 8.74 hectares. It comprises one irregularly shaped field in agricultural use and is flat. The north-western boundary is straight and defined by Main Road which also marks the eastern extent of the Chichester Harbour AONB. Along the western site boundary, close to the junction of Main Road and Crooked Lane, are a number of mature oak trees which contribute positively to the street scene and the local landscape. Five individual trees along this frontage are protected by a Tree Preservation Order (TPO) (73/00016/TPO). Whitestone Farm itself lies to the north of the site and there is a public footpath running roughly parallel to (but outside of) the northern site boundary. Most of the eastern boundary is defined by scrub vegetation which, for the most part, lies offsite. The south-eastern boundary is open to the adjacent agricultural field. The south-western boundary demarcated by a dense linear group of predominantly goat willow with occasional sycamore and ash with a hawthorn and bramble understorey adjoins garden curtilages of residential properties on Pinks Lane and The Straight. The wider landscape to the east is largely agricultural and dominated by arable farming whereas the built form to the west and south is residential in nature aside from the busy convenience store with car park sited on the opposite side of Main Road roughly mid-way along this boundary.
- 4.2 The site comprises agricultural land, which was under arable cultivation at the time of the officer's site visit. There is currently no built development on the site. An overhead line on wooden poles crosses the site running in a broadly north-east/south-west direction. The existing access to the site is from Main Road in the north-western corner just off the access track to Whitestone Farm.
- 4.3 Birdham itself has a very small historic core centred around the church and a small green, comprising a few brick and tile cottages. The rest of the settlement comprises more modern development made up of a mixture of terraces, semi-detached and detached dwellings and some small commercial buildings along the A259. The Somerley Conservation Area lies to the south-west of the site but there is no intervisibility between the site and the conservation area.
- 4.4 In planning policy terms the site lies within the countryside, outside of, but adjacent to the settlement boundary for Birdham (as extended in the made Birdham Neighbourhood Plan). The site is 1.2km from Chichester Harbour and therefore falls within the 5.6km zone of influence relating to the Chichester and Langstone Harbours Special Protection Area.

The Proposal

- 4.5 The proposal is to deliver up to 150 residential dwellings (including 30% affordable housing). A development framework submitted in support of the proposal indicates a housing density of 32.5dph and 4.14ha. of green infrastructure.
- 4.6 The appeal scheme is seeking outline permission with all matters reserved apart from access. The proposed access comprises four elements:
- A primary site access onto A286 Main Road for pedestrians, cycles, and vehicles, located a short distance south of the existing access to Whitestone Farm.
 - A pedestrian, cycle access towards the southern end of the site frontage onto A286 Main Road.
 - A pedestrian and cycle access at the northern end of the site frontage onto A286 Main Road.
 - An emergency access, between the primary site access and the southern pedestrian/cycle access.
- 4.7 There are also a number of off-site highway works proposed including the widening of footways along Main Road, relocation and improvement of an existing pedestrian island at the southern end of the site and the provision of a puffin crossing.
- 4.8 The appellant also proposes an internal shared footpath/cycleway within the site that joins with FP48 and identifies the potential to improve GLaM (Green Links across the Manhood) route 8 cycleway between Main Road and Sidlesham, by diverting the existing on-road cycleway to a new off-road route within the site to reduce the interaction and risk between farming vehicles and users. In addition, the appellant has offered a financial contribution (through a Section 106) towards off-site improvements to the Main Road to Sidlesham Road cycleway.
- 4.9 In terms of affordable housing, the applicant has agreed to deliver a policy compliant number and mix of units.
- 4.10 The appeal is in outline form but does contain a broad Framework Plan, an illustrative layout and is also accompanied by a Design Code which is designed to provide comfort for the Planning Authority that the final design will be of high quality and appropriate for its context. Should the Inspector be minded to allow the appeal, officers recommend that a condition requiring that the reserved matters application(s) are required to be in general conformity with the Design Code and Framework Plan is requested.
- 4.11 Sustainable transport infrastructure is proposed to include a shared footway cycleway within a 10m wide landscape buffer to Main Road frontage, enhanced with trees and hedgerow planting and a shared footway cycleway along a green street through the centre of the site, connecting Main Road to the adjacent PRoW. A new shared footway cycleway connection is proposed to be created through northern open space as part of GLaM Route 8. A new Puffin/Toucan crossing on Main Road is proposed to assist movements to/from the existing shop/post office, primary school and bus stop.
- 4.12 In terms of green infrastructure, there are a series of focal spaces through the development. Semi-natural open space is to be located to the east and south to create a landscape transition and green edge buffer with the countryside.. It also specifies a

meeting place with seating, picnic area, cycle parking and recreation provision (such as natural play and outdoor exercise equipment) as a green gateway to the countryside and GLaM Route 8. Both a LEAP and a LAP are also proposed. A number of SuDS features (indicative at this stage) are proposed, including a new swale and lake. There is an existing pump for drainage in the far south-eastern corner of the site which will be updated. See the section of Drainage (at 6.25-6.30 for further details)

Constraints

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

Planning History

- 4.13 There is no planning history for this appeal site.

Representations and Consultations

- 4.14 Refer to **Appendix 1** 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. The Birdham Parish Neighbourhood Plan 2014-2029 was made on 19th July 2016 and forms part of the Development Plan against which applications must be considered.
- 5.2 The principal policies of the Chichester Local Plan relevant to the consideration of this appeal are as follows:

Policy 1: Presumption in Favour of Sustainable Development

Policy 2: Development Strategy and Settlement Hierarchy

Policy 4: Housing Provision

Policy 5: Parish Housing Sites 2012- 2029

Policy 6: Neighbourhood Development Plans

Policy 8: Transport and Accessibility

Policy 9: Development and Infrastructure Provision

Policy 33: New Residential Development

Policy 34: Affordable Housing

Policy 39: Transport, Accessibility and Parking

Policy 40: Sustainable Design and Construction
Policy 42: Flood Risk and Water Management
Policy 45: Development in the Countryside
Policy 47: Heritage and Design
Policy 48: Natural Environment
Policy 49: Biodiversity
Policy 50: Development and Disturbance of Birds in Chichester and Langstone Harbours
Special Protection Areas
Policy 52: Green Infrastructure
Policy 54: Open Space, Sport and Recreation

The Birdham Parish Neighbourhood Plan

5.3 The principal policies of the neighbourhood plan relevant to the consideration of this appeal are as follows:

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

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

Chichester Local Plan 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 now comprises the revised National Planning Policy Framework (NPPF 2021), which took effect from 20 July 2021 and related policy guidance in the NPPG.
- 5.9 Paragraph 11 of the revised Framework states that plans and decisions should apply a presumption in favour of sustainable development, and for decision-taking this means:
- c) approving development proposals that accord with an up-to-date development plan without delay; or*
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
- i. the application of policies in this Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed;*
- or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*
- 5.10 The following sections of the revised NPPF are relevant to this appeal: 2, 4, 5, 8, 9, 11, 12, 14, 15, 16 and Annex 1. The relevant paragraphs of the National Planning Practice Guidance have also been considered.
- 5.11 The Government is currently consulting on amendments to the NPPF but these proposed changes do not yet carry any weight.

Other Local Policy and Guidance

- 5.12 The following documents are also material to the determination of this planning appeal:
- Surface Water and Foul Drainage Supplementary Planning Document (SPD)
 - Planning Obligations and Affordable Housing SPD
 - Interim Position Statement for Housing Development
 - Somerley Conservation Area Character Appraisal and Townscape Analysis Map

Interim Position Statement for Housing Development

- 5.13 Due to delays in the preparation of the Local Plan the Council recognises the need to set out measures to help increase the supply of housing by encouraging appropriate housing schemes. At its meeting on 3 June 2020, the Planning Committee resolved to approve a draft Interim Position Statement for Housing Development for the assessment of relevant planning applications and appeals with immediate effect, and to publish the draft document for a period of consultation. The consultation closed on 10 July and the responses were processed. The IPS, with the proposed revisions, was reported back to

the 4th November 2020 Planning Committee, where it was approved with immediate effect. The Council considers that the Inspector should consider the proposal against the 13 criteria set out in the IPS document. The IPS is a development management tool to assist the Council in delivering appropriate new housing at a time when it cannot demonstrate a 5-year supply of housing land. It is not a document that is formally adopted and neither does it have the status of a supplementary planning document, but it is a material consideration in the determination of relevant planning applications. It is a document that the decision maker should 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) Principle of development and the policy position
- ii) Highway Impact
- iii) Layout
- iv) Landscape Impact
- v) Drainage
- vi) Other Matters (ecology and biodiversity, Habitat Regulations Assessment and sustainability)

i) Principle of development and the policy position

6.2 The primacy of the development plan and the plan-led approach to decision-taking is a central tenet of planning law and is enshrined in section 38(6) of the Planning and

Compulsory Purchase Act 2004 (PCPA 2004) which states that applications (and therefore by default, appeals)

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

- 6.3 For certainty and clarity a plan-led approach to decision making on planning applications and appeals relies on a development plan which is up-to-date, particularly with regard to its housing policies and the proposed delivery of that housing. On initial consideration, when assessed against the policies of the adopted Local Plan, the current proposal appears to be contrary to policies 2 and 45 in that it is proposing new housing outside the settlement boundary for Birdham and in the countryside or Rest of Plan Area and it would not meet an "essential, small scale and local need" (policy 45). Additionally, the proposal would be considerably in excess of the indicative housing numbers for the Parish of Birdham, as set out in Policy 5 of the Local Plan (50 homes plus any small windfalls) particularly when it is considered cumulatively with the completed developments at Rowan Nursery, Bell Lane (25 dwellings), Tawny Nursery, Bell Lane (30 dwellings) and Chichester Marina (Opal Building) (9 dwellings).
- 6.4 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 broadly carried forward into the Submission Local Plan.
- 6.5 There is no housing proposed for Birdham in the Submission Local Plan (SLP) but at this stage of plan preparation, only limited weight can be given to the draft policies of the SLP. The Council is effectively therefore in a state of transition between an adopted Local Plan with out-of-date housing policies and allocations and a new plan which is not sufficiently advanced in the process towards adoption to be afforded any significant weight in decision making.
- 6.6 The development plan also comprises the Birdham Parish Neighbourhood Plan (BPNP) and NPPF paragraph 14 is clear that in situations where the presumption at paragraph 11 d) applies, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:
- a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
 - b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;
 - c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 74); and

d) the local planning authority's housing delivery was at least 45% of that required over the previous three years.

- 6.7 The BPNP was made in July 2016 therefore it does not meet the criteria in point (a). The made BPNP also only contains policies and allocations relevant to meeting the now out of date housing requirements for Birdham in the adopted Local Plan so it does not meet the required criteria in point (b) and it is not possible therefore to maintain that the appeal proposal is in conflict with the housing policies in the BPNP. Thus, the housing supply policies both in the Local Plan and importantly those in the BPNP are no longer up-to-date and cannot be relied on in decision making.
- 6.8 The Parish Council is in the early stages of reviewing the draft requirements for future housing allocations in the parish, but as the Parish housing figures for the emerging Submission Local Plan are yet to be confirmed by the Council, that process is not sufficiently advanced for any significant weight to be attached to it.
- 6.9 In accordance with national planning policy, the Council is required to regularly prepare an assessment of its supply of housing land. The Council's most recent assessment of its housing supply has identified that there is a potential housing supply of 3,174 net dwellings over the period 2021-2026. This compares with an identified housing requirement of 3,350 net dwellings. This results in a deficit of 176 net dwellings which is equivalent to 4.74 years of housing supply.
- 6.10 The Council concedes therefore that it cannot demonstrate a five-year supply in which case the 'tilted balance' in paragraph 11 d) of the NPPF is engaged.
- 6.11 In order to help assess whether the impacts of housing development outside of established settlement boundaries, during the period leading up to adoption of the emerging Local Plan, 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. The fundamental aim of the IPS is to ensure early delivery of housing on sites which are not being brought forward through the local plan process.
- 6.12 When considered against the 13 criteria in the IPS which define what the Council considers good quality development in the Local Plan area, the current proposal scores well and officers have not identified any significant adverse impacts. It is relevant to consider each of the IPS criteria in turn:

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

The north-western boundary of the site adjoins Main Road which delineates the settlement boundary of Birdham as identified within the Birdham Parish Neighbourhood Plan. This criterion is therefore met.

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

Birdham is a Service Village in the existing Local Plan with an indicative allocation of 50 dwellings to be delivered under the Local Plan Review over a 15 year period, although, as noted previously, the Submission Local Plan allocated no housing in the village.

Planning approval has been granted for a further 79 homes at:

- Rowans Nursery, Bell Lane (25 houses – 10 affordable),
- Tawny Nursery, Bell Lane (30 houses – 12 affordable)
- Site off Crooked Lane (15 affordable homes)
- Chichester Marina (conversion of offices into 9 homes)

This means that the indicative housing numbers of about 50 homes, allocated by CDC's Local Plan, will be met. The emerging Submission Local Plan retains Birdham's status as a service village but does not allocate any further housing in the village reflecting a wider strategic decision to steer development away from the manhood Peninsula. No real weight can yet be attached to this approach given the early stage of the emerging plan but nonetheless 150 dwellings (which would represent in excess of a 20% increase in housing stock) is likely to be significantly in excess of any future planned allocations and could be deemed disproportionate.

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.

Whilst the site lies to the east of Main Road, where development is somewhat sporadic, it is still some distance from the closest settlements, Almondington and Sidlesham. There are therefore no issues of settlement coalescence. The submitted Landscape and Visual Impact Assessment, which has been peer reviewed by the Council's own consultant confirms this conclusion. This criterion is therefore met.

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.

The NPPF supports the efficient use of land, but density should also respect the character and appearance of the settlement. Birdham is a village of low density housing and this character is valued by local residents. Policy 6 of the Neighbourhood Plan requires that development "is of a density that reflects Birdham's character as a rural village settlement rather than an urban one giving an impression of space, with uniform houses and plots being avoided". The Chichester Local Plan (in Policy 33) also requires that density should be determined by, amongst other things, "its immediate context". In order to comply with these policies and to ensure a "soft" interface with the countryside,

gross site density is low and there is a considerable semi-natural green space to the east of the built form.

The illustrative material and Design Code indicates a density of 32.5dph (net) and is clear that no development will exceed two storeys. Both the Framework Plan and Design Code will allow the Council close control over the design of the layout and it is considered that the appellant's proposed density could be accommodated in a suitably designed scheme. This criterion is therefore met.

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

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

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

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

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

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 allow for 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, mean however 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 not yet agreed to the payment of this financial contribution which puts the delivery of the

necessary highway improvements in doubt and thus there is no guarantee that this criterion will be met.

Whilst the appellant has agreed in principle to enter into a Section 106 Agreement for other infrastructure (affordable housing, open space, and local off-site highways improvements), in the absence of a signed agreement these improvements cannot be guaranteed.

It is considered therefore that the proposal would not meet the above criterion.

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 appellant has advised, through the submitted Sustainability and Energy Statement that the development will meet this criterion. The appeal is for a proposal in outline and officers will request that the details are secured by condition through the subsequent reserved matters application/s. A maximum 110 litres per person per day water use can be conditioned and electric vehicle charging points will be provided for all units. There is no reason to suggest that this criterion will not be complied with.

9) Development proposals shall be of high quality design that respects and enhances the existing character of settlements and contributes to creating places of high architectural and built quality. Proposals should conserve and enhance the special interest and settings of designated and non-designated heritage assets, as demonstrated through the submission of a Design and Access Statement.

The submitted Development Framework and Design Code has the potential to deliver a high quality scheme. The development framework plan indicates a well thought out development form which includes substantial green infrastructure, including a soft edge to the open countryside and green avenue which are welcomed. The code in particular will ensure that the Council will be able to secure a high quality design and layout using materials appropriate to the context.

10) Development should be sustainably located in accessibility terms, and include vehicular, pedestrian and cycle links to the adjoining settlement and networks and, where appropriate, provide opportunities for new and upgraded linkages.

Birdham is defined in the extant Local Plan and in the Local Plan Proposed Submission as a 'Service village'. In terms of its proximity to existing services and facilities, the site lies opposite the local convenience store/post office. The nearest bus stops to the site are located on Main Road, towards the southern end of the site frontage, to the north of the site and are within a 250m walk of the centre of the site. Service nos. 52 and 53 operate near the site. Both services are circular bus routes operating between Chichester to East Wittering and West Wittering. Service nos. 52 and 53 operate at an hourly frequency in both directions, Monday-Saturday. The site is therefore located very conveniently to bus stops and bus frequencies are good for a rural area.

The proposal includes improved pedestrian/cycle infrastructure provided as part of the site access arrangements including a 3.0m wide shared footway/cycleway within the site running parallel to the A286 Main Road to connect to the existing pedestrian network; a pedestrian island crossing with dropped kerbs and tactile paving on A286 Main Road at the northern end of the site frontage; and a puffin/toucan crossing to the south of the primary site access to assist pedestrian movements to/from an existing bus stop, primary school and shop.

The proposal to improve the footpath/cycleway off site to help deliver a strategic cycleway as part of the "Green Links across Manhood" project is also very welcome. The proposal therefore meets this criterion.

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

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

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

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

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

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

The appellant has provided evidence of historical delivery of housing on earlier schemes. During the period 01.04.2015 - 31.03.2020 Gladman have received approval on 80 sites ranging from 41 to 350 dwellings. In total, 97.5% (78) of schemes have commenced work within three years of receiving outline approval and 67.5% (54) have commenced within 2 years of receiving outline approval.

Officers have questioned whether the existence of electric cables across the site would inhibit delivery but the applicant states that these sorts of cables are prominent on many of the sites brought forward previously. Due to the time left on the wayleaves (12-month termination period and one with 6 months period respectively) the applicants are confident that these can be addressed and will not hinder development timescales. The development ensures that space has been provided to accommodate a termination pole for the overhead lines as they cross over the site boundary.

There is therefore no suggestion that the development cannot be delivered in timely manner. This criterion is therefore met.

- 6.13 In the absence of an up-to-date Local Plan, the Council cannot rely on a plan-led approach to decision making on major housing applications as it ordinarily would and, as a development management tool to assist in decision making, officers attach weight to the conclusions reached on the 13 above criteria. The only criteria within the IPS which is not met therefore are Criterion 2 and Criterion 7 but members should be mindful that the proposal scores well against all of the other criteria. Officers' view is that to resist the proposal on Criterion 2 only is unlikely to be defensible given the significant weight that the Inspector will no doubt attach to the delivery of housing in a situation whereby the Council acknowledges that it cannot demonstrate a five-year housing supply. Aside from the lack agreement on infrastructure contributions (which may yet be resolved), the above conclusions strongly suggest that the principle of housing development on this sustainable site is considered acceptable. However, it is still necessary to establish whether any adverse impact or other material considerations would be sufficient to significantly and demonstrably outweigh the benefits of providing that new housing.

ii) Highway Impact

- 6.14 Vehicular access is provided from Main Road where visibility is good. The appellant proposes an access that includes a ghost right hand turn lane, raised table at the site access to provide cycle priority, pedestrian and cycle islands and widened footways. A stage 1 Road Safety Audit has been undertaken on the proposals and a designers response agreed. Such an arrangement should ensure safe access for users of the site and act as a traffic calming measure which will benefit highway safety in the wider area.
- 6.15 Off road cycle connections are provided to replace the existing southbound on road marked facility and would provide future residents with access to Crooked Lane, dropped kerbs are provided to allow cyclists to re-join the carriageway. These proposals will improve cycle safety in the immediate area of the site and hopefully encourage modal change away from the motor car.

- 6.16 Junction modelling has been undertaken on the A27 – A286 Stockbridge Road/St Georges Drive junction to assess the impact of the proposal. The analysis shows the junction at an End of Local Plan scenario (2029) would operate over capacity in the base on the A286 Stockbridge Road (N) arm with maximum queues of 25 vehicles and delays of 94s. The inclusion of development trips would increase queues to 37 vehicles and delays to 130 seconds. (increases of 12 vehicles, and 36 seconds). The junction is highlighted for improvement within the Chichester CIL infrastructure business plan for funding within the short term (to 2026) and as such it is likely that improvements would be forthcoming within the near future. A signalised improvement scheme has been tested by the applicant within LinSig and shows that a 2029 base and with development scenarios would operate within capacity. Based on recent inspectors' decisions and the improvements to be funded via CIL it is considered that the development's impacts would not constitute a severe impact.
- 6.17 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 in respect of 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. 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. Draft 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.
- 6.18 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 Submission Local Plan. 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. In this instance the appellants have not confirmed that they provide the financial contributions envisaged in the draft Policy T1 of the LPPS and thus officers recommend that the appeal is contested in respect of this issue.

iii) Design and Layout

- 6.19 Design and layout are reserved for future consideration, but the appellant has submitted both a Framework plan and Design Code to prove that the quantum of development can be accommodated on site in an appropriately designed manner. Appropriate conditions could be imposed by the Inspector to ensure compliance with both documents.
- 6.20 It is considered that the Framework Plan represents an appropriate design response to both the opportunities and constraints of the site and can form the basis of an acceptable layout. The Design Code has been developed using the most recent government advice. The coding approach is supported by the NPPF and sets out concise, illustrated design requirements that are visual and numerical wherever possible to provide specific, detailed parameters for the physical development of the site. The content is informed by the 10 characteristics of good places set out in the National Design Guide and the draft National Model Design Code which is currently out for consultation. The Design Code takes account of Building for a Healthy Life considerations and maintains a degree of certainty whilst allowing for design freedom at the reserved matters stage. Together, both documents demonstrate that a high-quality well-designed scheme can be delivered on this site. A condition is recommended to be requested to require the reserved matters design to be broadly in accordance with the code.

iv) Landscape Impact

- 6.21 The 2019 Landscape Capacity Study was produced as part of the evidence base for the Chichester Local Plan Review 2035. The Study includes a high level assessment of landscape capacity to help inform decision making relating to the need to accommodate strategic development over the plan period. The appeal site lies within sub-area 98: Whitestone – Woodhorn Coastal Plain. Sub-area 98 is reported to be of 'medium', visual sensitivity. The sub-area could be able to accommodate areas of new development in some parts, providing it has regard to the setting and form of existing settlement and the character and sensitivity of adjacent landscape character areas.
- 6.22 The proposed Framework Plan seeks to minimise the effects of the new development and to integrate the site into the wider landscape. This will be achieved by the creation of new greenspaces around the edges of the site and significant structural planting. The broad layout suggests a development that will ensure an appropriate transition and permeable boundary between Birdham and the surrounding countryside.
- 6.23 The appellant's submitted LVIA states that the overall effect on the overall character of the site and its immediate surroundings will be moderate adverse, decreasing to minor adverse by Year 15 as proposed planting matures, helping to integrate the development into the wider landscape. The report continues by concluding that the proposed development will have a minor adverse impact on the setting of the AONB when viewed from Public Rights of Way to the east, with a localised minor adverse effect. Overall, the impact on the AONB will be negligible.
- 6.24 The Council has commissioned a landscape architect to undertake a "critical review" of the submitted LVIA and she has concluded that these conclusions are reasonable. She adds that the "development framework is well considered".

- 6.25 Given the concerns raised by some local people that the development of the site will lead to pressure for further incursion into the countryside east of Birdham beyond the site, she suggests that the development proposals preclude this for the following reasons:
- The submitted development framework provides a significant semi-natural buffer on the eastern boundary of the site. This forms a very strong and wide eastern transitional edge between the site the wider agricultural countryside beyond; this totally contains the development area on the site. Incursion through this into the countryside beyond would give rise to considerable biodiversity and green infrastructure loss and would be difficult to justify.
 - The site itself is well contained to north and south by area of woodland, tree belts and development. Development further east would not have the same inherent containment and would give rise to considerably greater adverse effects of landscape character and visual amenity.
 - The site itself is well linked to Birdham village, however development further east would not have the same benefits.
 - Whilst not the line of the settlement the line of the developed area of the site stops short of and does not extend beyond a line running north-south between built form at Whitestone Farm and built form at the eastern end of Pinks Lane, however development further east would not fall within this notional line and would extend well beyond.
- 6.26 The introduction of development of this scale to the south-east of Main Road will fundamentally alter local landscape character. The majority of the village lies on the other side of the road and the site represents an undeveloped gap which encourages views across the countryside to the south-east. The submitted evidence suggests that the potential effects on landscape character would be moderate adverse in the short-term and minor adverse in the long-term. However, the landscape character of the site would be consistent with its surroundings and would not impinge materially on landscape character beyond the site. The proposed Framework Plan allows significant opportunity to incorporate structural planting to reinforce the existing site boundaries and create a semi-natural buffer to the sensitive eastern boundary. Visually the site is relatively self-contained and any impact on the AONB is minimal. It is not considered therefore that the harm is significantly demonstrable to justify defending an appeal on landscape grounds.

v) Flood Risk and Drainage

- 6.27 The site is located in an area of Zone 1 and there are no water bodies in the area which present a source of risk to the development. Mapping identifies sporadic and localised areas of low risk surrounding and within the site and is entirely consistent with the flat topography.
- 6.28 The site is currently drained with the assistance of a pumping system and, whilst SuDS features are proposed, the appellant has not demonstrated that it can be “sustainably” drained (i.e. without pumping). In part this is a result of desk study and some ground investigation work which has identified that ground conditions are unlikely to be suitable for the introduction of infiltration-based drainage. Testing undertaken so far has however been broad based given that a detailed layout for the site has yet to be designed, it may be that following further ground investigations (winter groundwater monitoring / percolation testing) a sustainable solution is possible. The Council’s Senior Engineer has recommended a condition which will ensure no development occurs until all infiltration /

gravity discharge to a watercourse has been satisfactorily explored meaning that a (partial) pumped solution would be the last resort. Clearly a more sustainable solution may be achieved by localised raising of ground levels and this option could be explored during consideration of any reserved matters application/s.

- 6.29 Notwithstanding the above, the lead Local Flood Authority has recommended refusal of the proposal on the basis that the proposed Flood Risk Assessment has not demonstrated categorially that the site can be drained in a sustainable manner. This puts the Local Planning Authority in a somewhat difficult position in that the appeal scheme is in outline form with layout a reserved matter. Detailed drainage strategies are routinely designed alongside the layout and it is usual that the strategy is conditioned as suggested by the Council's Senior Engineer in this case. Clearly, a drainage solution which relies heavily on pumping is not desirable and the LLFA's concerns are understood. It is considered, however, that, as suggested by the Senior Engineer, it is likely that a drainage solution comprising an element of SuDS with limited raising of levles will significantly reduce the need for substantial pumping. In coming to this view, officers are cognisant of the significant area of this site that will remain undeveloped, which will provide opportunities for sensitive re-modelling of ground levels if necessary. Officers' view therefore is that it would be unreasonable to defend the appeal on these grounds given the likelihood of a technical solution with limited environmental impact. Given that the Inspector will be determining the appeal proposal on the basis of the tilted balance being engaged it is considered unlikely that this impact will outweigh the benefits of delivering more housing.
- 6.30 Changes introduced to the NPPF in 2021 clarified that all sources of flooding need to be assessed on any proposed development site, including groundwater. The appellant has therefore submitted groundwater monitoring data and a Groundwater Flood Risk Assessment which concludes that there is negligible risk of groundwater flooding.
- 6.31 Although the appellant has demonstrated that the site can be drained, officers note the concern of Birdham Parish Council with regard to the foul drainage implications arising from the proposed development including the reference to reported pollution incidents elsewhere in the village. Ultimately it is the statutory duty of Southern Water to ensure that the off-site infrastructure leading to the WwTW is fit for purpose, that the development is satisfactorily drained, and that the proposed development does not lead to problems elsewhere in the system. If Southern Water is not performing its statutory function then the recourse is to the industry regulator OFWAT. Any failings on behalf of Southern Water to deliver required improvements to the offsite network are failings under Part 4 of the Water Industry Act 1991 not under the Town and Country Planning Act. Southern Water raised no objection to this planning application, subject to potential network reinforcements carried out under its own statutory regime.
- 6.32 The Council is therefore satisfied that the site can be drained acceptably and that the provisions Policy 42 of the CKP are met.

vi) Other Matters

Green infrastructure

- 6.33 The north and east boundary to the development will provide semi-natural open space to the development edge comprising meadow grassland, native woodland structure

planting and scattered trees to create a landscape transition and green edge buffer to the development. This should enhance wildlife and biodiversity and create a robust edge that softens views from the wider landscape and PRow. The semi-natural open space will include a new ditch/swale as part of sustainable drainage, seeded with a wetland meadow mix and marginal aquatic planting. The remaining area will provide amenity open space with scattered tree planting and a 2m wide footpath connection. The northern open space includes a shared footway cycleway as part of GLaM Route 8.

- 6.34 In total the site will provide 4.14 ha of green infrastructure (nearly half of the site area). This includes a village green style open space near to the centre of Birdham which, in addition to providing a green entrance to the site and buffer to existing residents should prove popular with existing residents. This area will also incorporate a Local Equipped Area for Play (LEAP) whilst a Local Area for Play (LAP) will be provided elsewhere on site. There will also be significant opportunities for informal play in the large green areas to be created alongside the eastern margins of the site (although some of this space will be used to accommodate SUDs infrastructure and so may not always be useable). In overall terms, the provision of green infrastructure considerably exceeds the Council's standards and should be considered a significant benefit of the proposal.

Ecology and Biodiversity

- 6.35 The appeal site is subject to no particular ecological designations. The well-screened tree and hedgerow boundaries are potentially a rich source of biodiversity with the ecological value stemming from their grouping rather than as individual specimens. They also provide potentially important wildlife corridors. The Council's Environment Officer has assessed the proposals and made a number of recommendations to ensure the protection of wildlife and to secure site enhancements to encourage wildlife, all of which can be secured by condition.
- 6.36 The appellants have undertaken preliminary Biodiversity Net Gain calculations, using the Biodiversity Metric 3.1. Baseline habitat calculations have been informed by UK Habitats survey work and a desktop study. Post-development calculations have been made based on the indicative Development Framework Plan. A unit gain of 2.44 habitat units (13.45% net gain) was identified following the completion of baseline and on-site post intervention calculations. This score was achieved through the creation of significant areas of semi-natural habitat. Creation and enhancement of existing hedgerows has resulted in a gain of 1.25 hedgerow units (27.94% net gain). As such the scheme has the potential to exceed the 10% net increase in biodiversity, in line with Chapter 15, paragraph 174 of the NPPF and the Environment Act 2021.

Habitat Regulations Assessment

- 6.37 The site is located within the 5.6km buffer zone of the Chichester and Langstone Harbours Special Protection Area. The proposal would result in an increase in population living on the site, which could result in recreational pressure on the SPA and disturbance to protected bird populations. In the event that planning permission were given for the development, a financial contribution towards the Bird Aware Solent Scheme would be required in order to mitigate recreational disturbance as a result of the proposal. The contribution is based on the number of dwellings proposed and the different size of dwellings in terms of bedrooms. Natural England has confirmed that this provides

acceptable mitigation against the potential recreational impacts of the development on the protected site.

- 6.38 There is no requirement for the application to address the issue of Nitrates and Nitrate Neutrality given that the development would send its foul water flows to the Sidlesham WwTW which discharges thereon away from the protected waters of the Solent Maritime SAC and Chichester Harbour SPA and the site itself is located outside of the Solent Maritime SAC catchment area. Officers have completed an Appropriate Assessment in terms of the recreational pressure issue.

Sustainability

- 6.39 The appellants have prepared a Sustainability Statement to demonstrate that the proposed development meets or exceeds the requirements of policy 40 in the Chichester Local Plan. The document argues that the site lies within a highly sustainable location. It is argued that key local services are situated opposite the proposal and facilities further afield can all be accessed via sustainable public transport which will assist in the reduction of car dependency and the associated impacts with air pollution.
- 6.40 The level of sustainability is perhaps a debatable issue and officers are aware of the Committee's concerns more generally on the Manhood Peninsula in respect of housing proposals which provide little or no additional infrastructure. The site is however adjacent to the settlement boundary of a Service Village which the development strategy of the Local Plan accepts as settlements appropriate for some new housing development. The proposal will also offer transport benefits, particularly in terms of sustainable transport, which is to be welcomed. The CIL contribution realised from the development will contribute to medical and/or education requirements where required and identified through the Infrastructure Business Plan 2021-26 which WSCC partake in.
- 6.41 The document also commits to a series of specific measures including:
- The reduction of water consumption to 110 litres/person/day.
 - A reduction in carbon emissions by 31% beyond the 2013 Approved Document L standards.
 - Provision of at least 10% of the residual energy requirements of the development through renewable technologies. All of the proposed dwellings will be provided with solar photovoltaic arrays to achieve the required performance standards.
 - Provision of a car 7kW 32amp OLEV compliant wall or ground mounted charging point for every dwelling.

These commitments (which can be conditioned) are welcome and will ensure compliance with policy 40 of the CLP.

Recommended Conditions

- 6.42 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 conditions that officers believe are necessary to make this development acceptable are set out in Appendix 2 below.

Infrastructure/Planning Obligations

6.43 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 by the Inspector, 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 (no more, no less) with a tenure split as follows:
 - 25% First Homes
 - 18% Shared Ownership
 - 35% Social Rent
 - 22% Affordable Rent

- 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 £1159,200 (150 x £7,728 per dwelling)

- Off-site highway works proposed including the widening of footways along Main Road, relocation and improvement of an existing pedestrian island at the southern end of the site, the provision of a puffin crossing and diversion of the existing on-road cycleway to a new off-road route within the site

- A financial contribution towards off-site improvements to the Main Road to Sidlesham Road cycleway

- Financial contribution for recreational disturbance mitigation at Chichester and Langstone Harbours SPA in accordance with Local Plan Policy 50 and Planning Obligations and Affordable Housing SPD which is based on dwelling size as follows:
 - £443 for 1 bedroom dwelling
 - £639 for 2 bedroom dwelling
 - £834 for 3 bedroom dwelling
 - £980 for 4 bedroom dwelling
 - £1150 for 5 bedrooms or more

- Public Amenity Open Space including a Local Area of Play (LAP) and Locally Equipped Area of Play, provision, management, and on-going maintenance

- Travel Plan

- S106 monitoring fee of £5,106

7. Conclusion and Planning Balance

7.1 The Council cannot demonstrate a 5-year housing land supply and acknowledges that its housing policies in the development plan are also out of date. In such circumstances the Council by reason of paragraph 11 d) of the NPPF is required to consider favourably planning applications for sustainable new housing unless the adverse impacts of doing

so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole.

- 7.2 This proposal would substantially increase the supply and choice of housing in the district. This would in turn reduce pressure on the 5-year housing supply perhaps making it easier for the Council to resist inappropriate development elsewhere. The provision of substantial numbers of affordable homes will be especially welcome in a settlement in which affordability is a key issue.
- 7.3 The appellants' Socio-economic Sustainability Statement estimates the following key economic benefits arising from the proposal:
- Construction spend - £18.6 million
 - GVA over the build period - £10.9 million
 - Resident annual expenditure - £5,429,000
 - Council tax - £25 million over 10 years
 - New Homes Bonus - £800,000 over a 4-year period
- 7.4 In addition, the proposal will deliver biodiversity gain, significant areas of new open space and improvements to the local sustainable transport network. The principles outlined within the submitted Design Code will ensure that the development is of high quality in design terms.
- 7.5 Given the acknowledged benefits of the scheme which would weigh heavily in favour of supporting the scheme in terms of the "tilted balance" described above, planning permission should be refused only when "the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework" (NPPF Para. 11 d) ii).
- 7.6 Whilst the wider concerns and objections of the Parish Councils and third parties are noted regarding the level and suitability of existing infrastructure on the Manhood peninsula, there is no compelling evidence arising from consideration of this appeal proposal that the existing infrastructure cannot cope with the new development proposed. The development will "wash its own face" in terms of the infrastructure requirements it generates through obligations secured under the S.106 agreement and potential wider benefits could be secured through the development's CIL receipts. Officers regard this as a good sustainable site for new housing and a proposal which responds well to the constraints which the report has identified above.
- 7.7 The supporting material, assessments and reports demonstrate that there are no technical or environmental constraints that would preclude the development of this site, subject to planning conditions and/or obligations. The proposal has been tested against the relevant 13 criteria in the IPS, which is effectively a measure of sustainable development, and meets all the criteria save no.2 relating to scale and the settlement hierarchy and no.7 relating to infrastructure provision. The proposal would have some negative impacts on landscape character but these are moderate in the short term, becoming minor in the long term, and largely confined to the immediate surroundings of the site itself with limited impact upon the AONB. It cannot therefore be reasonably argued that these adverse impacts significantly and demonstrably outweigh the obvious benefits described above.

- 7.8 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.
- 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 be acceptable in respect of delivery of infrastructure and recreational impact upon the Chichester Harbour and Solent Maritime LPA
- 7.4 For the reasons stated within this report it is recommended that the LPA contests appeal APP/L3815/W/23/3319434, 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: [21/012830/FUL](#): Outline planning application for up to 150 dwellings (including 30% affordable housing) with community park, public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point. All matters reserved except for means of access. |

Appendices

Appendix 1: Representations and Consultations

Appendix 2: Recommended Conditions

APPENDIX 1

Representations and Consultations

Birdham Parish Council

Both the Adopted Chichester Local Plan 2014, and the Chichester Local Plan Review 2035 Preferred Approach - December 2018 assessed Birdham as a settlement village, with a capacity for accommodating 50 new homes in the plan periods. Since 2014, many more than at least 70 houses have been built in the village. Birdham's Neighbourhood Plan, made in 2016, has Housing Policy objectives as follows:

- To accommodate sustainable housing development through limited and controlled growth in accordance with the Chichester Local Plan and ensure that the development of sites is appropriate for this rural location,
- To ensure that the design, style and density of new housing are in keeping with the character of the Parish and the rural environment and that it is sustainable, free from flood risk with adequate parking provision and appropriate landscaping.
- To ensure that the mix of housing types and supply of social and affordable housing meets the needs of the Parish

It is clear that the scale that this development does not meet the requirements of the Local Plan, the Local Plan Review or the Neighbourhood Plan, except that it would increase the supply of affordable houses.

The site is not considered suitable for possible allocation. Although the site is reasonably well located to the settlement centre/existing development on the northern side of the A286 and to existing settlement facilities it is a large site that is prominent in views from the A286 (to the north) and from public footpath 48 which abuts its north-eastern boundary and crosses open fields further to the east. There are no significant amounts of built development to the south of the A286. The open character of this part of the settlement would be significantly eroded by such large-scale development. This road also forms the southern boundary of the Chichester Harbour AONB and the Settlement Boundary. Large scale residential development on this large site also has potential to harm the setting of the AONB and the settlement. We are aware that, as the result of an algorithm that sets Chichester's housing requirement at 50% above population growth, as well as CDC's failure to realistically address the housing numbers that can be accommodated in the District, the District does not have a 5-year housing supply, and the NPPF has a presumption in favour of sustainable development in these circumstances.

An Interim Position Statement for Housing Development has been issued by CDC to manage development in the current situation. The policies in this statement that are most relevant to this site are not met, viz those relating to proportionate development and the impact on the AONB.

The major infrastructure problems, not only in Birdham, but on the whole Western Manhood Peninsula are roads, wastewater and flooding. All these issues were raised in the adopted Local Plan, but no progress has been made on any of these items. There are no plans to improve the bottleneck at the Stockbridge roundabout. The A286 has become

increasingly congested and dangerous over the last few years. Various studies have indicated that the road is at, if not above its capacity now. WSCC Highways gives no indication that it has any plans to address the situation, simply stating that it reviews the situation and each planning application on a case-by-case basis. There are many applications, totalling over 800 houses, on the Western Manhood, all of which use the A286, and would use the A286 past this development. Developments of this nature are likely to attract a high proportion of working people, with school age children. As there are no senior school places, very limited junior school places, and limited jobs on the Peninsula, they will need to use the A286. The A286 should be the subject of a study in its own right before any further planning permissions are granted.

There are serious difficulties with wastewater removal from the Pinks Lane pumping station, which would serve this development. A Southern Water road tanker is positioned at this pumping station in anticipation of heavy rainfall occurring. The service from the Tawny Nurseries development and the Rowan Nursery development is inadequate, and correspondence with Southern Water gives no indication that they are doing anything significant to improve their inadequate service. In addition, for at least 10% of operating time, they release partially treated wastewater into Pagham Harbour. They should not be permitted to serve any new developments until this is rectified, particularly as they have just been fined for deliberately doing this in other areas.

After a reasonable amount of rainfall, this field becomes submerged under several inches of water, which lasts for weeks. Any attempt to drain this water away any more quickly will result in flooding of surrounding areas. The map from the Southern Water Drainage Area Plan Sidlesham Summary DAP, June 2017 Figure 7, p24 indicates that the area surrounding the development site will be subject to increased flooding, even without development.

In summary, this development is too large for a village the size of Birdham, does not meet the planning policy requirements, and is served by inadequate infrastructure. It should be refused

East Wittering and Bracklesham Parish Council

Object to this planning application and fully support the detailed reasons that Birdham Parish Council have put forward for their objection. In addition, the recent members briefing updating CDC councillors made it clear that the Southern Link Road would not now be built and that on that basis the district council would not be able to deliver its current housing targets. Until the work to re-assess development capacity has been completed, this application should be refused.

East Wittering & Bracklesham Parish Council have recently objected to a number of planning applications recently including those at Clappers Lane and Church Road and the material planning considerations that underpinned our objections to those applications are all relevant in this case, particularly our concerns regarding sewage, water treatment, impacts upon protected habitats and waters from storm overflows, issues concerning flood risk and issues regarding the local traffic network

West Itchenor Parish Council

West Itchenor Parish Council supports the objection raised by Birdham Parish Council.

Sidlesham Parish Council

Sidlesham Parish Council OBJECTS to this planning application and fully supports the detailed reasons that Birdham Parish Council have put forward for their objection. The proposed development is not sustainable. Further CDC councillors made it clear that the Southern Link Road would not now be built and on that basis the district council would not be able to deliver its current housing targets. Until the work to re-assess development capacity has been completed, this application should be refused.

West Wittering Parish Council

West Wittering Parish Council OBJECTS to the above planning application and supports Birdham Parish Council in its response.

National Highways

As the development impacts the A27 Stockbridge Roundabout in the same way that a development at East Wittering / Bracklesham would. Accordingly, the applicant should make a relevant contribution to the A27 Local Plan mitigations based on Chichester District Council's SPD *Planning Obligations and Affordable Housing*. In view of the likely impacts on the A27 Chichester Bypass. This would equate to a total of £487,200 (150 dwellings x £3,248/dwelling) indexed from 2012 Quarter 3 prices.

We consider that, subject to a proportionate financial contribution towards necessary A27 Chichester Bypass improvements, this proposal would not have an unacceptable impact upon the safety, reliability and operation of the SRN (the tests set out in MHCLG NPPF 2021 paragraphs 110-113 & DfT Circular 02/2013 particularly paragraphs 9 & 10) in this location and its vicinity.

Natural England

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

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

Southern Water

Southern Water has undertaken a desk study of the impact that the additional foul sewerage flows from the proposed development will have on the existing public sewer network. This initial study indicates that there is an increased risk of flooding unless any required network reinforcement is provided by Southern Water. Any such network reinforcement will be part funded through the New Infrastructure Charge with the remainder funded through Southern Water's Capital Works programme. Southern Water and the developer will need to work together in order to review if the delivery of our network reinforcement aligns with the proposed occupation of the development, as it will take time to design and deliver any such reinforcement. It may be possible for some initial dwellings to connect, pending network reinforcement. Southern Water will review and advise on this following consideration of the development program and the extent of network reinforcement required. Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate wastewater network capacity is available to adequately drain the development.

WSCC – Education

No objections – “currently there is sufficient capacity within the local schools to accommodate the anticipated increase in pupil numbers, therefore, for this particular proposed development contributions would be sought through CIL”.

Chichester Harbour Conservancy

Objection in principle to this major form of development which is considered utterly disproportionate to the size of Birdham as a harbourside AONB village: harmful to the setting of the Chichester Harbour AONB and wider countryside; premature to proper consideration of the replacement Development Plan; inadequate infrastructure to serve the development.

WSCC – Highways

Following discussions, the applicant has produced a plan that shows that the access provides a ghost right hand turn lane, raised table at the site access to provide cycle priority, pedestrian and cycle islands and widened footways. A Stage 1 Road Safety Audit has been undertaken on the proposals and a designers response agreed. Whilst included within the access drawing, a separate plan of shared use and cycling facilities has been provided. Off road cycle connections are provided to replace the existing southbound on road marked facility and would provide future residents with access to Crooked Lane, dropped kerbs are provided to allow cyclists to rejoin the carriageway.

Junction modelling for J4 – A286 Stockbridge Road/St Georges Drive (Selsey Tram junction) has been provided utilising amended count data, revised junction geometries and calibrated using queue data and as such provides an appropriate base for assessing the junction. The results show the junction at an End of Local Plan scenario (2029) would operate over capacity on the A286 Stockbridge Road (N) arm with maximum queues of 25

vehicles and delays of 94s. The inclusion of development trips would increase queues to 37 vehicles and delays to 130 seconds. (increases of 12 vehicles, and 36 seconds). The junction is highlighted for improvement within the Chichester CIL infrastructure business plan for funding within the short term (to 2026) and as such it is likely that improvements would be forthcoming within the near future. A signalised improvement scheme has been tested by the applicant within LinSig and shows that a 2029 base and with development scenarios would operate within capacity. Based on recent inspectors' decisions and the improvements to be funded via CIL the developments impacts would not constitute a severe impact.

It is noted that the development is CIL liable, and I would recommend that funding from the site is directed towards the A286 Stockbridge Road/St Georges Drive (Selsey Tram junction) No objection is raised to the application subject to the following S106 and conditions: S106 A27 Contribution in line with SPD Travel Plan (document to be approved) Travel Plan auditing fee of £3,500 Uninterrupted public access to shared use facility/cycle route adjacent to Main Road for pedestrians and cyclists

WSCC - Lead Local Flood Authority

The site investigations which have taken place so far are not clear evidence that infiltration is not possible. The Chichester District Council Drainage Engineer states in his consultation response dated 17th December 2021 'A restricted discharge to a local watercourse will only be considered acceptable once infiltration has first been demonstrated not to be viable in isolation. We would not expect fast rates of infiltration in the locality, but rates have been found locally which have permitted shallow infiltration through permeable sub-bases'. As well as shallow infiltration, it would be expected that all other forms of sustainable drainage techniques be explored before surface water pumping be considered, especially on a large site such as this one. While the proposed land raising has been described as 'modest', we continue share to the District Drainage Engineer's concerns as to the extent of this land raising and the off-site impacts that it may bring, especially as properties near to the site have previously been affected by flooding

WSCC - Fire and Rescue Service

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

CDC - Coastal and Drainage Engineer

Site is wholly within flood zone 1 (low risk) however we are aware of localised flooding in the surrounding area. Therefore, although we have no objection in principle to the proposed use, scale or location based on flood risk, surface water drainage will need to be dealt with carefully to ensure no increase in flood risk on or off site. There are also watercourses abutting all sides of the site. The layout must ensure there is a 3 metre clear buffer from the top of each bank to ensure that the duties and responsibilities, as required under the Land Drainage Act 1991, and amended by the Flood and Water Management Act 2010, can be fulfilled without additional impediment following the development completion. A suitable maintenance plan for this including controls over fencing will also need to be in place, but can be controlled through condition. The surface water drainage

system should be designed to cope with the 1 in 100 year plus 40% climate change event. Drainage conditions recommended regarding - full details of the proposed surface water drainage scheme based on SuDS including management and maintenance; layout shall not be agreed until such time that arrangements for the future access and maintenance of any watercourse or culvert (piped watercourse) crossing or abutting the site has been agreed by the LPA.

CDC - Housing Enabling Officer

National planning policy requires a minimum of 25% of all affordable homes secured through developer contributions to be First Homes. Local authorities should then prioritise securing their policy requirements for rented properties once they have secured the First Homes requirement. Other tenure types should be secured in the relative proportions set out in planning policy and supporting evidence. For Chichester the required proportions are as follows:

First Homes – 25%
Social Rent – 35%
Affordable Rent – 22%
Shared Ownership – 18%

In responding to the application, we have used the updated (April 2022) HEDNA and Planning Policy Guidelines for First Homes. Birdham Neighbourhood Plan refers to local housing needs but does not provide specific data, in this case we have used the latest housing register data available where the highest need is for 1 bedroom units (November 2022).

We note that the applicant has confirmed that 30% of units will be provided as affordable housing which will yield 45 new affordable homes and is policy compliant.

The recommended housing mix for the market units is 6 x 1 bed; 42 x 2 bed; 37 x 3 bed; and 20 x 2 bed.

WSCC – Public Rights of Way

Note that the site is bordered to the north by Public Right of Way Footpath (FP) 48 which the Development Framework Plan shows the retention of it on its current legal line. Protection and possible enhancement of FP48 is important at both a local and wider level. The Birdham Neighbourhood Plan seeks improvements to footpaths and cycle paths through Policy 10 which states:

“Any development must protect the existing cycle and pedestrian network. New development with significant traffic impact will be expected to contribute, via developer contributions, to the enhancement of the footpath and cycle network within the Parish in order to: - provide and maintain a safe and suitable cycle path network for both commuting to work (e.g., Chichester) and recreational use as part of a wider network of cycle routes beyond the Parish.”

In addition, GLaM (Green Links across the Manhood) have an aspiration to upgrade and improve FP48 to a bridleway to enable a proposed cycleway. Chichester District Council list on their Infrastructure Delivery Plan a wish to see a bridleway between Birdham and East Wittering. West Sussex County Council also has a demonstrable historic interest in upgrading FP48 but has stumbled over permission from landowners bordering the site. FP48 is of particular importance within Birdham as it connects to the Salterns Way, a Chichester to West Wittering cycle way (via Crooked Lane) in one direction and to Sidlesham Lane / Batchmere Road in the other which lead to Bracklesham and East Wittering.

It is noted that the developer plans to include an internal shared footpath / cycleway within the site that joins with FP48 and identifies the potential to improve GLaM route 8 cycleway between Main Road and Sidlesham by diverting within the site to reduce the interaction and risk between farming vehicles and users.

West Sussex County Council would welcome every opportunity to work with the developer to explore the option to upgrade FP48 and divert it on land within its control alongside the developer's willingness to contribute via S106 / CIL towards sustainable transport provision within the vicinity of the site as stated on page 34, (5.2.28) of the Planning Statement: "potential improvements to the Main Road to Sidlesham Road cycleway, potentially by way of a proposed financial contribution".

An upgrade to bridleway status would also mitigate somewhat towards the loss of important views. The developer's own Landscape & Visual Assessment document admits on page 41 (8.4) that "Walkers and cyclists using the local PRoWs are judged to be of high susceptibility to change as their attention is likely to be focussed on the landscape views", concluding on page 59, (9.10) "The greatest level of (adverse) visual effects will be experienced by the closest receptors: primarily... users of PRoW FP48-2". It also states that "users of PRoW Birdham FP 48-2 which lies to the direct north and east of the site will experience some of the highest levels of change". Their views will change permanently from agricultural land to a construction site in the short term, a construction site to a high-quality residential development in the long term.

In the interests of the safety of PRoW users, the planned installation of a pedestrian refuge and crossing across Main Road which will help PRoW users travelling along FP48 is supported.

CDC - Archaeology

Accepts the conclusions of the Historic Environment Desk-Based Assessment with regard to the potential for below-ground archaeological remains to be present. This should be evaluated by field investigation in order to enable appropriate preservation of significance. The evaluation should take place prior to construction and be secured by way of a suitable planning condition,

CDC - Environmental Strategy

Recreational Disturbance

Satisfied that the HRA issue of recreational disturbance can be resolved as long as the applicant is willing to provide a contribution to the Bird Aware scheme. Pleased to see a circular walk has been included as part of the proposal to provide onsite dog walking options a condition should be used to ensure this takes place.

Hedgerows

Following submission of the dormice and bat surveys satisfied that the mitigation including hop overs and careful management for the hedgerows would be sufficient and as part of a future reserve matters application further information should be provided on the management of these areas.

Bats

Following submission of the Bat Survey Report (Sept 2022) satisfied that the mitigation proposed to ensure connectivity is retained across the site is suitable.

Comment that the lighting scheme for the site will need to take into consideration the presence of bats in the local area and the scheme should minimise potential impacts to any bats using the trees, hedgerows and buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding. Welcome proposal to incorporate dark corridors into the scheme and as part of a reserve matters application a full lighting plan will be required incorporated this.

Dormice

Following submission of the Dormice Survey results satisfied that this species is not present within the site and no further consideration is required for this species.

Water voles

Following submission of the Water Survey work (Sept 2022) satisfied that this species is not present within the site and no further consideration is required for this species.

Reptiles

Following submission of Ecological Appraisal (June 2021) consider that the mitigation proposed would be suitable. A condition should be used to ensure this takes place.

Birds

Any works to the trees or vegetation clearance on the site should only be undertaken outside of the bird breeding season which takes place between 1st March – 1st October. If works are required within this time an ecologist will need to check the site before any works take place (within 24 hours of any work).

Hedgehogs

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

Badgers

Prior to start on site a badger survey should be undertaken to ensure badgers are not using the site. If a badger sett is found onsite, Natural England should be consulted, and a mitigation strategy produced.

Biodiversity Net Gain and Enhancements

Welcome a variety of enhancements being proposed in the submitted Ecological Appraisal (June 2021).

Energy & Sustainability

Satisfied that the amended Sustainable Design and Construction Strategy demonstrates that the requirements of Policy 40 can be met. Implementation can be secured via condition.

CDC – Landscape Consultant

The development framework is well considered. Whilst these design measures are accepted, it should be noted that the application is outline and much of the submitted information is illustrative; it will be key to the success of the scheme that the principles of the development framework are carried through to the next stages of the application process should the application be given consent.

If permitted, then the development of the site will however understandably raise concerns about applications for further incursion into the countryside east of Birdham beyond the site. It is suggested that the development proposals preclude this for the following reasons:

- The submitted development framework provides a significant semi-natural buffer on the eastern boundary of the site. This forms a very strong and wide eastern transitional edge between the site the wider agricultural countryside beyond; this totally contains the development area on the site. Incursion through this into the countryside beyond would give rise to considerable biodiversity and green infrastructure loss and would be difficult to justify.
- The site itself is well contained to north and south by area of woodland, tree belts and development. Development further east would not have the same inherent containment and would give rise to considerably greater adverse effects of landscape character and visual amenity
- The site itself is well linked to Birdham village, however development further east would not have the same benefits.
- Whilst not the line of the settlement the line of the developed area of the site stops short of and does not extend beyond a line running north-south between built form at Whitestone Farm and built form at the eastern end of Pinks Lane, however development further east would not fall within this notional line and would extend well beyond

Third Party Objections

A total of 224 letters of objection have been received on the following grounds.

- inadequate local infrastructure such as schools and medical services
- inadequate highway capacity on A286 and surrounding roads
- development will create additional traffic which will lead to highway safety issues.
- will exacerbate existing problems with foul sewage system which is not fit for purpose
- loss of agricultural land
- Manhood peninsula is already overdeveloped.
- area is already prone to surface water flooding this will make it worse
- site is in countryside outside settlement boundary
- development is out of scale and will urbanise Birdham and harm its special character.
- loss of valuable landscape
- will result in loss of wildlife
- air pollution from increased traffic levels
- harm to AONB and Chichester Harbour

APPENDIX 2

SUGGESTED CONDITIONS

- 1) (i) Approval of the details of the layout of the site, (including housing mix), the scale and the appearance of the buildings, and the landscaping of the site (hereinafter called "reserved matters") shall be obtained from the Local Planning Authority before any development is commenced. Plans and particulars of the reserved matters referred to in paragraph (i) above, relating to the layout of the site, (including housing mix), the scale and the appearance of the buildings, and the landscaping of the site shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.
- (ii) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of **two years** from the date of this permission.

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

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

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

- 3) The development hereby permitted shall be carried out in accordance with the approved plans in so far as they relate to the matters of detail hereby approved:

1. Location Plan D8610.001 rev D
2. Proposed Access Arrangement Plan 1736/06 rev I
3. Design Code IN 8610.001 rev A

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

- 4) As part of the first reserved matters application the developer shall submit to and have approved by the Local Planning Authority a construction phasing plan (including timescales) for the carrying out of the development. The development shall thereafter be carried out in accordance with the approved timetable unless any variation is first agreed in writing by the Local Planning Authority.

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

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

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

Reason: In the interest of conserving and enhancing biodiversity.

6) **No development shall commence** including any works of demolition, until a Construction and Environmental Management Plan (CEMP) comprising a schedule of works and accompanying plans for that development has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved CEMP shall be implemented and adhered to throughout the entire construction period unless any alternative is agreed in writing by the Local Planning Authority. The CEMP shall provide details of the following:

- (a) the phased programme of construction works;
- (b) the anticipated number, frequency and types of vehicles used during construction,
- (c) the location and specification for vehicular access during construction,
- (d) the provision made for the parking of vehicles by contractors, site operatives and visitors,
- (e) the loading and unloading of plant, materials and waste,
- (f) the storage of plant and materials used in construction of the development,
- (g) the erection and maintenance of security hoarding,
- (h) the location of any site huts/cabins/offices,
- (i) the provision of road sweepers, wheel washing facilities and the type, details of operation and location of other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- (j) details of public engagement both prior to and during construction works, including a named person to be appointed by the applicant to deal with complaints who shall be available on site and contact details made known to all relevant parties,
- (k) measures to control the emission of dust and dirt during construction, to include where relevant sheeting of loads, covering and dampening down stockpiles and restriction of vehicle speeds on haul roads. A dust management plan should form part of the CEMP which includes routine dust monitoring at the site boundary with actions to be taken when conducting dust generating activities if weather conditions are adverse,
- (l) measures to control the emission of noise during construction,
- (m) details of all proposed external lighting to be used during construction and measures used to limit the disturbance of any lighting required. Lighting shall be used only for security and safety,

- (n) appropriate storage of fuel and chemicals, in bunded tanks or suitably paved areas,
- (o) measures to reduce air pollution during construction including turning off vehicle engines when not in use and plant servicing, and
- (p) waste management including prohibiting burning and the disposal of litter,
- (q) provision of temporary domestic waste and recycling bin collection point(s) during construction.
- (r) hours of construction.

Reason: These details are necessary pre-commencement to ensure the development proceeds in the interests of highway safety and in the interests of protecting nearby residents from nuisance during all stages of development and to ensure the use of the site does not have a harmful environmental effect.

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

Reason: To ensure that trees, shrubs and other natural features to be retained are adequately protected from damage to health and stability. It is considered necessary for this to be a pre-commencement condition as these details need to be agreed prior to the construction of the development and thus go to the heart of the planning permission.

8) No development shall commence until a scheme to deal with contamination of land and/or controlled waters has been submitted to and approved in writing by the Local Planning Authority. Unless the Local Planning Authority dispenses with any such requirement specifically in writing the scheme shall include the following, a Phase 1 report carried out by a competent person to include a desk study, site walkover, production of a site conceptual model and human health and environmental risk assessment, undertaken in accordance with national guidance as set out in DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination CLR11.

Reason: In the interests of amenity and to protect the health of future occupiers of the site from any possible effects of land contamination in accordance with local and national planning policy.

9) If the Phase 1 report submitted pursuant to condition 8 above identifies potential contaminant linkages that require further investigation then no development shall commence until a Phase 2 intrusive investigation report has been submitted to and

approved in writing by the Local Planning Authority detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011+A1:2013 - Investigation of Potentially Contaminated Sites - Code of Practice. The findings shall include a risk assessment for any identified contaminants in line with relevant guidance.

Reason: In the interests of amenity and to protect the health of future occupiers of the site from any possible effects of land contamination in accordance with local and national planning policy.

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

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

11) **No development shall commence** until details of the proposed overall site-wide surface water drainage scheme has been submitted to and been approved in writing by the Local Planning Authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal as set out in Approved Document H of the Building Regulations and the SUDS Manual produced by CIRIA. Winter ground water monitoring to establish highest annual ground water levels and Percolation testing to BRE 365, or similar approved, will be required to support the design of any Infiltration drainage. The surface water drainage scheme shall be implemented as approved unless any variation is agreed in writing by the Local Planning Authority. No building shall be occupied until the complete surface water drainage system serving that property has been implemented in accordance with the approved surface water drainage scheme.

Reason: The details are required pre-commencement to ensure that the proposed development is satisfactorily drained with all necessary infrastructure installed during the groundworks phase.

12) **No development shall commence** until details of the arrangements for the future access and maintenance of any watercourse or culvert (piped watercourse) crossing the site have been submitted to and been approved in writing by the Local Planning Authority but such arrangements shall include the provision of a minimum 3 metre buffer for access. The future access and maintenance shall thereafter be

carried out in accordance with the approved details. At no time shall current and future land owners be restricted or prevented as a result of the development from undertaking their riparian maintenance responsibilities of any watercourse on or adjacent to the site.

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

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

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

14) No part of the development shall be first occupied until such time as works including but not limited to the puffin crossing, footway widening, pedestrian and cycle islands, cycleway provision, dropped kerbs and replacement barriers on the PROW serving the development has been constructed in accordance with the details shown on the drawing titled Proposed Access and numbered 173/06 REV F.

Reason: In the interests of road safety and to provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

15) No part of the development shall be first occupied until the vehicular access has been constructed in accordance with drawing no.1736/06 rev I.

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

16) No part of the development shall be first occupied until the car parking serving the respective dwelling has been constructed in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority. Once provided these spaces shall thereafter be retained in perpetuity for their designated purpose

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

17) **No part of the development shall be first occupied** until Electric Vehicle Charging spaces serving the respective dwelling has been constructed in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To provide EVC charging points to support the use of electric vehicles in accordance with national sustainable transport policies.

18) **No dwelling shall be first occupied** until covered and secure cycle parking spaces serving the respective dwelling have been provided in accordance with plans and details to be submitted to and approved by the Local Planning Authority.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

19) **No development shall commence** until full details shall be submitted to and be approved in writing by the Local Planning Authority showing how the development is to achieve the objectives in Policy 40 of the Chichester Local Plan: Key Policies 2014-2029 and criterion 8 in the Interim Position Statement for Housing (November 2020). The development shall thereafter be carried out in accordance with the approved details.

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

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

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

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

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

22) **No development shall commence on the Sustainable Urban Drainage System (SuDS)** until full details of the maintenance and management of the SuDS system, set out in a site-specific maintenance manual, has been submitted to and approved in writing by the Local Planning Authority. The manual shall include details of financial management and arrangements for the replacement of major components at the end of the manufacturers recommended design life. The manual shall also include the arrangements for the future access and maintenance details of any watercourse or culvert (piped watercourse) crossing the site. Upon completed construction of the SUDS system, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual, including the approved access and maintenance details for any watercourse or culvert.

Reason: To ensure the efficient maintenance and ongoing operation for the SUDS system and to ensure best practice in line with guidance set out in the SUDS Manual CIRIA publication ref: C687 Chapter 22.

23) The dwellings hereby permitted shall be designed to ensure the consumption of wholesome water by persons occupying a new dwelling must not exceed 110 litres per person per day, as set out in in G2 paragraphs 36(2) and 36(3) of the Building Regulations 2010 - Approved Document G - Sanitation, hot water safety and water efficiency (2015 edition with 2016 amendments). **No dwelling hereby permitted shall be first occupied** until the requirements of this condition for that dwelling have been fully implemented, including fixtures, fittings and appliances.

Reason: To ensure water efficiency within the dwellings and to comply with the requirements of Policy 40 of the Chichester Local Plan: Key Policies 2014-2029.

24) **Before first occupation of any dwelling** details of any external lighting of the site shall be submitted to and approved in writing by the Local Planning Authority. This information shall include a layout plan with beam orientation and schedule of equipment in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed, maintained and operated in accordance with the approved details, unless the Local Planning Authority gives its written consent to any variation. The lighting scheme shall take into consideration the presence of bats in the local area and shall minimise potential impacts to any bats using trees and hedgerows by avoiding unnecessary artificial light spill through the use of directional lighting sources and shielding.

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

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

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

Reason: To encourage and promote sustainable transport.

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

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

27) Details of the upgrade works to Footpath 48 between the site and Siddlesham Lane, to establish this as a bridleway, shall be submitted to the Council for approval. The exact details of the location and construction of the bridleway shall be set out in the first reserved matters application, but which shall be broadly in accordance with the route identified on drawing Ref: ROWLP 002, or another route subsequently agreed. **No more than 100 dwellings shall be occupied** until that bridleway has been provided in accordance with the approved plans and made available for use in accordance with the approved details.

Reason: To encourage the use of sustainable modes of transport in the local area.