



Parish: East Wittering And Bracklesham	Ward: The Witterings
---	-------------------------

**EWB/22/02235/OUTEIA**

<b>Proposal</b>	Outline application (with all matters reserved except for Access) for the construction of sheltered living accommodation.		
<b>Site</b>	Land At Stubcroft Farm, Stubcroft Lane, East Wittering, Chichester, West Sussex, PO20 8PJ		
<b>Map Ref</b>	(E) 480574 (N) 97796		
<b>Applicant</b>	Barratt David Wilson Homes	<b>Agent</b>	Mr Peter Cleveland

**RECOMMENDATION TO REFUSE**



	<p><b>NOT TO SCALE</b></p>	<p>Note: Do not scale from map. For information only. Reproduced from the Ordnance Survey Mapping with the permission of the controller of Her Majesty's Stationery Office, Crown Copyright. License No. 100018803</p>
---	----------------------------	--

**1.0 Reason for Committee Referral**

1.1 Significant major application where officers consider decision needs to be made by the Committee

## **2.0 The Site and Surroundings**

- 2.1 The application site comprises 0.94 hectares (ha) of arable land and is located wholly within the Parish of East Wittering and Bracklesham, directly adjacent to the Parish Boundary line with West Wittering. The application site forms a small parcel of the wider application site, ref. 22/02214/FULEIA. For clarity the combined site is approximately 16.9 ha, where this outline application site area = 0.94ha and the full application site area = 16.013ha. The application site lies within the Rural Area, outside any defined Settlement Boundary and does not adjoin the Settlement Boundary of East Wittering. Only parts of the south-western edges of the wider application site (ref. 22/02214/FULEIA) directly adjoin the Settlement Boundary of East Wittering. The site comprises arable land and the submitted report concludes the site is grade 2 ('very good' quality) agricultural land.
- 2.2 East Wittering is defined as a Settlement Hub in the adopted Chichester Local Plan (CLP), which offers a range of employment, retail, social and community facilities including a primary school, post office, pharmacy and churches. There is a paved footpath on the eastern side of Church Road leading from the application site to the centre of the settlement. There is also a regular bus service to Chichester, with bus stops located to the north-west of the site on Piggery Hall Lane and to the south of the site on Stocks Lane. Dedicated off-road cycle facilities provide a link to West Wittering (from Cakeham Road / B2179) and then onwards towards Chichester using the Salterns Way, where it connects to National Cycle Routes 2 and 88. Public Footpath (route 3) also runs along Church Farm Lane, to the north of the application site.
- 2.3 The application site itself comprises an irregularly shaped section towards the north-western end of an agricultural field. This irregularly shaped site is located within the wider application site (ref. 22/02214/FULEIA) which comprises two parcels of agricultural land separated by a hedgerow running east-west. The southern parcel of the wider site in part, bounds the existing built-up area of East Wittering, where it abuts the residential roads known as Barn Road, Field Road, Meadows Road and Wessex Avenue, as well as the rear of properties fronting onto Church Road to the south-west corner. To the south-east of the wider site lies a recreation ground with football pitch, bowling green and play area. To the south-west the wider site abuts school playing fields of East Wittering Community Primary School.
- 2.4 On the other side of Church Road to the west of the application site, lies residential development, including a relatively recent development (13/03286/FUL refers) known as 'Sandpiper Way', which is solely accessed via Church Road. Directly to the north of 'Sandpiper Way', an outline permission for 70 dwellings was recently allowed at appeal (PINS ref. 3286315).
- 2.5 The application site is bounded by Church Road to the west, with the agricultural field surrounding all other boundaries of the application site. Commercial development at Hilton Park business centre is located beyond the northern boundary of the agricultural field, with a small cluster of residential development beyond that, including the grade II\* Church of the Assumption of St Mary the Virgin. Further north, along Piggery Hall Lane, is a cluster of post-war development known as 'Furzefield' including a grade II listed Public House known as the 'Thatched Tavern', caravan park and public footpath links.

- 2.6 There are hedgerows and trees on the boundaries of the agricultural field, a watercourse on the north-east and eastern boundary and a TPO group of trees (ref.85/00436/TPO), comprising Elm, Poplar, Willow, Hawthorn and Cupressus to the north-east boundary, which separates the agricultural field from the Hilton Park business centre. The north-west boundary of the field adjoins Church Farm Lane where the existing agricultural vehicle access is sited. Further to the east and north/west the site is bounded by agricultural fields.
- 2.7 The application site is relatively flat. Levels at the site gradually fall from west to east, sloping towards the watercourse / agricultural drainage ditch (referenced in the Strategic Flood Risk Assessment (SFRA) as the 'Hale Farm Ditch') to the north-east and eastern boundary of the agricultural field. The OS Open Rivers dataset identifies the route of the drain to be southwards through East Wittering where it joins the sea via a controlled outfall approximately 640m to the south of the site. The Environment Agency (EA) has confirmed that the majority of the site falls within Flood Zone 1 (low risk), with the drainage ditch to the north-east and eastern boundary falling within Flood Zone 3 (high risk).
- 2.8 The Arun to East Head and Chichester harbour coastal models have been updated as part of the Interim Level 1 Strategic Flood Risk Assessment (SFRA) (December 2022) to understand the tidal and coastal flood risk along the Local Plan area. The tidal mapping provides information for present day Flood Zone 3b, 3a and 2 (Appendix D) and for the climate change event for the years 2091 and 2121 (Appendix E). The Interim Level 1 SFRA shows the majority of the site to be at a high-risk of future flood risk as a result of tidal flooding taking into account the current climate change allowances.
- 2.9 The wider site (inclusive of 22/02214/FULEIA) lies 0.6km to the north of the Solent and Dorset Coast Special Protection Area (SPA), 1.9km north-east of the Solent Maritime Special Area of Conservation (SAC), 0.6km north of the Bracklesham Bay Site of Special Scientific Interest (SSSI), 1.4km south-east of the Local Wildlife Site (LWS) Redlands and Meadows. Additionally, the wider site lies 2.5km east of the Chichester and Langstone Harbours SSS, SPA and Ramsar Site. Furthermore, the northern parcel of the wider application site, incorporating the actual application site itself, has been re-classified by the Solent Wader and Brent Geese Strategy Steering Group on 30.11.2022 as a Secondary Support Area for the overwintering birds of the Chichester and Langstone Harbours SPA and Ramsar site.

### **3.0 The Proposal**

- 3.1 The application description reads 'Outline application (with all matters reserved except for Access) for the construction of sheltered living accommodation'.
- 3.2 The outline application seeks approval for the principle of development for a 45-bedroom sheltered living scheme (falling within C3 Use Class), with access to the site considered at this outline stage. The remaining matters pertaining to appearance, scale, landscaping and layout are reserved for future consideration. Notwithstanding those matters reserved, this outline application has been considered in a high level of detail following consultee responses and comments from third parties, with a Land Use Plan showing the developable area, open space and infrastructure provision.
- 3.3 This outline application comprises a 45-bedroom sheltered living scheme located adjacent

to Church Road. The outline application comprises a parcel within the wider development (22/02214/FULEIA refers). Access to the sheltered living scheme is proposed off Church Road, which is the same access proposed to serve the wider development. This access is the same as that proposed for the wider residential led scheme (22/02214/FULEIA refers). This site access would form a bellmouth arrangement measuring 7.5m wide with 12m radii. The width of the access road would then reduce to 6.5m c.20m into the site to the east. The sheltered living apartments are proposed to be accessed off the proposed main spine road serving the wider scheme.

- 3.4 The illustrative layout plan indicates 17 car parking spaces immediately to the south of the proposed apartment building with access road proposed to the south, east and north. Open space/garden area is illustratively indicated immediately to the north, west and south (in part) of the apartment building, ranging in depth of between 7.7m – 11.2m. The sheltered living development is proposed to be located to the south of the retail / community element associated with application 22/02214/FULEIA and to the west and north of proposed residential development associated with application 22/02214/FULEIA.
- 3.5 The proposal would likely include a mix of 1 and 2-bedroom apartments. The apartments would be sold by the applicant with a lease containing an age restriction which ensures that only people of 60 years or over, or those of 60 years or over with a spouse or partner of at least 55, can live in the development.
- 3.6 The submitted Planning Statement confirms ‘*The proposed sheltered living is distinctly different to a C2 use given that communal facilities are available (as set out in the separate Sheltered Housing Statement), but do not provide full time caring services, that would be expected from a C2 offering.*’
- 3.7 Layout, scale, appearance and landscaping are all reserved matters, but the applicant has provided a Land Use Plan, showing how the development would be delivered. Key features to note in the plan, which will be carried forward into any reserved matters submission are:
- 0.282ha of sheltered living accommodation including car parking area which is indicatively shown to the south of the development.
  - 0.142ha of open space surrounding the development to the north, west and part of the southern boundary.
  - 0.520ha of infrastructure which includes roads and parking bays (17 spaces indicated on the application form).

#### **4.0 Relevant History**

22/02214/FULEIA	Pending	Erection of 280 no. residential dwellings (including affordable housing), associated highway and landscape works, open space and flexible retail and community floorspace (Use Classes E and F).
21/01090/EIA	EIA Required	EIA Screening Opinion in response to development of up to 320 no. residential dwellings along with public open space and new means of vehicular access onto Church Road.

## 5.0 Constraints

Listed Building	NO
Conservation Area	NO
Rural Area	YES
AONB	NO
Strategic Gap	NO
Tree Preservation Order	YES
EA Flood Zone	See paragraphs 2.7 and 2.8 above
- Flood Zone 2	YES
- Flood Zone 3	YES
Historic Parks and Gardens	NO

## 6.0 Representations and Consultations

### 6.1 East Wittering and Bracklesham Parish Council

#### Object

The Parish Council have serious concerns regarding flood risk and drainage capacity for the development following the comments from WSCC as Lead Local Flood Authority and regarding A27 network capacity following the comments from National Highways. We request the opportunity to reconsider the application should the opinion of the statutory consultees change following the provision of additional reports and information from the developer.

### 6.2 Earnley Parish Council

At its meeting on 24<sup>th</sup> October 2022, Earnley Parish Council discussed this application and resolved to express concerns at the lack of easy access to public transport, the nearest bus stop being approximately 680m walk, and the disproportionate effect on local health services which are already under strain.

### 6.3 Natural England

*Comment received 17<sup>th</sup> November 2022*

No objection subject to securing appropriate mitigation for recreational pressure impacts on habitat sites (European sites).

Natural England considers that this advice may be used for all applications that fall within the parameters detailed below.

This advice relates to proposed developments that falls within the 'zone of influence' (ZOI) for one or more European designated sites, such as Chichester and Langstone Harbour Special Protection Area (SPA). It is anticipated that new residential development within this zone is 'likely to have a significant effect', when considered either alone or in combination, upon the qualifying features of the European Site due to the risk of increased

recreational pressure that could be caused by that development and therefore such development will require an appropriate assessment.

Your authority has measures in place to manage these potential impacts through a strategic solution which we have advised will in our view be reliable and effective in preventing adverse effects on the integrity of the relevant European Site(s) from such impacts associated with such development. The strategic solution may or may not have been adopted within the local plan but must be agreed to by Natural England.

Natural England is of the view that if these measures, including contributions to them, are implemented, they will be effective and reliable in preventing adverse effects on the integrity of the relevant European Site(s) from recreational impacts for the duration of the development proposed within the relevant ZOI.

However, the application of these measures to avoid adverse effects on site integrity from recreational impacts associated with development proposed within the relevant ZOI should be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017 (as amended). In this regard, Natural England notes the People Over Wind Ruling by the Court of Justice of the European Union that mitigation may not be taken into account at screening stage when considering 'likely significant effects', but can be considered at appropriate assessment.

Providing that the appropriate assessment concludes that the measures are secured as planning conditions or obligations by your authority to ensure their strict implementation for the full duration of the development, and providing that there are no other likely significant effects identified (on this or other protected sites) as requiring to be considered by your authority's appropriate assessment, Natural England indicates that it is likely to be satisfied that your appropriate assessments will be able to ascertain that there will be no adverse effect on the integrity of the European Site (from recreational pressure in view of its conservation objectives). Natural England will likely have no further comment regarding the Appropriate Assessment, in relation to recreational disturbance.

Natural England should continue to be consulted on all proposals where provision of site specific SANGS (Suitable Alternative Natural Green Space) or other bespoke mitigation for recreational impacts that falls outside of the strategic solution is included as part of the proposal. We would also strongly recommend that applicants proposing site specific infrastructure including SANGs seek pre application advice from Natural England through its Discretionary Advice Service. If your consultation is regarding bespoke site-specific mitigation, please reconsult Natural England putting 'Bespoke Mitigation' in the email header.

Reserved Matters applications where the outline permission was granted prior to the introduction of the Strategic Solution, should also be subject to the requirements of the Habitats Regulations and our advice above applies.

#### 6.4 National Highways

No objection. National Highways are satisfied that the proposals would not have an unacceptable impact upon the safety, reliability and operation of the Strategic Road Network (the tests set out in DfT Circular 02/2013, particularly paragraphs 9 & 10 and MHCLG NPPF 2021 paragraphs 110-113) in this location and its vicinity.

#### 6.5 Scottish and Southern Electricity Networks

*Comment received 19<sup>th</sup> October 2022*

SSEN have no objection to the planning application, however, please obtain approximate plans of out cables from [www.isbud.co.uk](http://www.isbud.co.uk) to check for any assets.

*Comment received 28<sup>th</sup> September 2022*

SEEN have no objection to the works however there are live cables that cross the proposed entrance to the site. If the ground levels are to be altered the cables will need to be dropped to allow for the driveway. Please contact our connections team to raise a job to have the cables lowered. [Connections@sse.co.uk](mailto:Connections@sse.co.uk)

#### 6.6 Environment Agency

No objection.

#### 6.7 Active Travel England

No comment to make as its Statutory Consultee remit applies only to qualifying consultations that were made valid by the LPA on or after 1<sup>st</sup> June 2023. Standing advice note provided.

#### 6.8 Southern Water

Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.

The supporting documents make reference to drainage using Sustainable Drainage Systems (SuDS). Under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer. Where SuDS form part of a continuous sewer system, and are not an isolated end of pipe SuDS component, adoption will be considered if such systems comply with the latest Sewers for Adoption and CIRIA guidance.

Where SuDS rely upon facilities which are not adoptable by sewage undertakers the applicant will need to ensure that arrangements exist for the long-term maintenance of the SuDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewage system.

Thus, where a SuDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SuDS scheme.
- Specify a timetable for implementation.
- Provide a management and maintenance plan for the lifetime of the development.

This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The Council's technical staff and the relevant authority for land drainage consent should comment on the adequacy of the proposals to discharge surface water to the local watercourse.

It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

#### 6.9 Portsmouth Water

No concerns regarding impacts to groundwater quality.

#### 6.10 Sussex Police

Given that this outline application is to determine the means of access and to see approval in principle, Sussex Police have no detailed comments to make at this stage. Standing advice in relation to the 'Secure by Design' scheme provided.

#### 6.11 West Sussex Fire and Rescue Service

No objection, subject to the requirement of additional fire hydrant(s) for the proposed development. This is to ensure that all dwellings on the proposed site are within 150m of a fire hydrant for the supply of water for firefighting. Evidence will also be required that Fire Service vehicle access meets with the requirements identified in Approved Document B Volume 1 2019 Edition: B5 Section 13, including Table 13.1 and diagram 13.1.

#### 6.12 WSCC Lead Local Flood Authority

*Comment received 22<sup>nd</sup> August 2023*

WSCC LLFA object to this planning application in the absence of an acceptable Flood Risk Assessment (FRA) and Drainage Strategy relating to:

- The application is not in accordance with NPPF paragraph 167 or 169, PPG Flood Risk and Coastal Change of Policy 42 in the Chichester Local Plan: Key Policies 2014-2029.



- We would suggest the LPA advises the applicant to complete the Sequential/Exception test with particular consideration to future flood risk, based on information in the Chichester Strategic Flood Risk Assessment.

The LLFA will consider reviewing this objection if the issues as highlighted on the Technical Response document are adequately addressed. No further information was submitted following the LLFA's previous response in 2022.

## Reason

To prevent flooding in accordance with NPPF 167, 169 and 174 by ensuring the satisfactory management of local flood risk, surface water paths, storage and disposal of surface water from the site in a range of rainfall events and ensuring the SuDS proposed operates as designed for the lifetime of the development. Refer to West Sussex LLFA Policy for the Management of Surface Water for further advice.

Erection of flow control structures or any culverting of an ordinary watercourse requires consent from the appropriate authority, which in this instance is Chichester District Council on behalf of WSCC. It is advised to discuss proposals for any work at an early stage of proposals.

*Comment received 31<sup>st</sup> October 2022*

West Sussex LLFA has two principal concerns in relation to the proposed site:

- The ability to accommodate the 5,511 m<sup>3</sup> attenuation storage on site, given the high groundwater levels known to exist in the area;
- The ability to effectively discharge from this site throughout the lifetime of development without further knowledge of the possible effects of tide-locking both related to the discharge to Hale Farm Ditch and, in turn, the extent to which Hale Farm Ditch may be tide-locked (dependent upon the invert level of its outfall to the sea) that in turn will create tide-locking within the ditch.

The LLFA's groundwater mapping, for all bar the most northern part of the site, shows 1% annual exceedance probability (AEP) groundwater levels to be between 0.025m and 0.5m from the surface. This evidence of high groundwater levels is also further underpinned by the groundwater monitoring data provided: *...in Winter 2019/2020 and 2020/2021, groundwater was consistently recorded less than 1m bgl, reaching 0.43m bgl in BH2 at its height* (paragraph 3.1.8 of Reference B).

Reference B acknowledges: *At detailed design stage, any basin that is designed with a base level below the maximum winter groundwater level in that location will need to ensure the design has suitable lining to prevent the ingress of groundwater into the SuDS feature, reducing its overall capacity to store runoff. Furthermore, any lining will require suitable anchoring and calculations to demonstrate stability to avoid floatation from the hydrostatic uplift caused by the groundwater table.* Based upon review of LiDAR data, ground levels range between about 4.7m and 5.4m above Ordnance Datum in the areas where the detention basins are proposed. Given the proximity to the coast, there is a strong possibility that these groundwater levels may be tidally influenced and, therefore, will increase in elevation with sea-level-rise throughout the lifetime of the development. At

the very least, further evidence of the design of structures envisaged to provide the requisite attenuation storage, taking into consideration predicted groundwater levels over the lifetime of the development is appropriate. Furthermore, the applicant should assess whether the proposed structures could displace (and therefore elevate) existing groundwater levels.

In addition, to robustly demonstrate that this site can be effectively drained over the lifetime of the development, the applicant needs to establish the extent to which the Hale Farm Ditch is predicted to be tide locked over the lifetime of the development and therefore the extent to which the discharge from the site is likely to be tide-locked. Modelled simulation for the drainage should reflect the predicted duration and implications of a surcharged outfall for the lifetime of the development.

### **Recommendation**

For the reasons given in above, the LLFA recommends approval be withheld for this application, given the inadequacy of evidence to demonstrate that the site can be effectively drained for the lifetime of the development and that flood risk has been adequately assessed and minimised.

## **6.13 WSCC Highways**

*Comment received 18<sup>th</sup> October 2022*

### **Background**

WSCC as Local Highway Authority (LHA) has been consulted on highway safety, capacity and accessibility considerations at the site. The site proposes to provide 45no. units with access taken from Church Road. The response should be read in conjunction with the wider detailed application site also being brought forward concurrently by Barratt David Wilson Homes under application number 22/02214 which the LHA has requested further information from the applicant on. Therefore this response is a summary of the information submitted for this application alone and where things currently stand.

The highway aspects are supported by a Transport Assessment (TA) which includes a Stage 1 Road Safety Audit (RSA) and capacity testing data. The LHA undertook a site visit on the 18<sup>th</sup> October 2022.

### **Comments**

As with the residential application under 22/02214 the access to the site will be the same. A single means of access onto Church Road is proposed. The site access would form a bellmouth arrangement measuring 7.5m wide with 12m radii. In accordance with MfS guidance, the site access is of sufficient width to allow two large vehicles to pass. The width of the access road would then reduce to 6.5m c.20m into the site to the east. As outlined in our response to 22/02214 the LHA has requested some further information from the applicant on the speed surveys undertaken from 2016. It has been advised that

these surveys are undertaken again to confirm that the data obtained is still comparable to 2016 data. Therefore as with 22/02214 we are awaiting further information on this.

Traffic flow information has been provided with the current application within the TS, this has been provided by the applicant on what vehicular activity currently exists at the site. This information considers the permitted and proposed uses. The traffic flow generation is based upon the use of TRICS. TRICS is a database containing surveys of other completed and occupied developments. The database can be refined to use comparably located site uses to forecast potential traffic generation. TRICS is an accepted means of determining traffic generation. Using this data, it is likely that the proposed sheltered living development is anticipated to generate 5 vehicle trips in the AM, 6 vehicle trips in the PM and 76 vehicle trips over a 12 hour period. The LHA would not raise any concerns with the stand alone number of vehicle trips associated with this development.

Much of the internal matters have already been discussed and accessed in the larger 22/02214 application. The LHA has requested some additional pedestrian improvements along Church Road to support the larger application. A Gateway Feature with speed mitigation measures has been shown within the TA. Based on the 2016 speed survey results these mitigation measures would not be required. It has been advised as part of the 22/02214 response that these would not be required subject to assessment of the required speed survey.

## **Conclusion**

As outlined above elements of additional information are required as part of the larger scheme to allow the LHA to make a formal recommendation on this application. However the capacity impact of this development on its own would not be considered a 'Severe' impact in line with National Planning Policy Framework (NPPF) guidance. Once this becomes available we will provide further comments on the access strategy and accessibility measures.

### **6.14 WSCC Minerals and Waste**

The application site in question does not meet the criteria for consulting WSCC as set out in the Minerals and Waste Guidance therefore, the minerals and waste authority offer a no comment to the proposed development.

### **6.15 WSCC PRoW Officer**

No comment.

The location lies outside and beyond the AONB designated national landscape boundary. No comment is offered due to the physical distance and visual separation of the site from the AONB taking into account intervening structures, natural landscaping and the land contours, all which result in the proposal having a lack of visual impact on the character and appearance of the AONB.

#### 6.16 WSSC Education

No comment.

#### 6.17 Chichester Harbour Conservancy

No objection.

#### 6.18 CDC Archaeology Officer

The Council's Archaeology Officer agrees with the results and conclusions of the desk based assessment supplied with the application (i.e. that the sites archaeological potential is unlikely to be such that development should be precluded but that this should be confirmed by field evaluation prior to development in order that the significance of anything of interest that it might contain can be properly preserved). A condition is recommended to secure a written scheme of archaeological investigation of the site.

#### 6.19 CDC Drainage Engineer

##### **Flood Risk**

The proposed site of the sheltered living accommodation is within Flood Zone 1 (low risk) and we have no additional knowledge of it being at increased flood risk. So subject to satisfactory surface water drainage we have no objection to the proposed use, scale or location based on flood risk grounds.

##### **Surface Water Drainage**

The proposal for the wider site is to drain surface water to the adjacent watercourse(s) at a restricted rate, with excess storm water attenuated in open basins. This approach is acceptable in principle, as the high groundwater is unlikely to permit infiltration based drainage.

However, wherever possible, driveways, parking spaces, paths and patios should be of permeable construction.

There are existing watercourses which cross and abut the wider site. The flow within these watercourses will need to be protected during, and post construction, and sufficient clear and level buffers must be provided for future maintenance (minimum 3m).

Ordinary Watercourse Consent will be required for all new discharge points into the watercourse, and any proposed alteration, both permanent and temporary to the watercourses.

##### **Recommended conditions:**

- Full details of the proposed surface water drainage scheme
- Surface Water Drainage Proposal Checklist (informative)

## 6.20 CDC Economic Development Service

For the following reasons the Economic Development Service does not support the two applications.

- The site is currently in use as arable farmland which is a fully commercial use.
- The north of the site is adjacent to the industrial estate known as the East Wittering Business Centre, Hilton Park (the "Industrial Estate"). The Noise Impact Assessment (the "Assessment") states that the north of the site is subject to noise from the Industrial Estate. The Assessment therefore makes recommendations as to the window and ventilation requirements in the residential dwellings for their habitable rooms to be provided with an, "appropriate acoustic environment." However, we note that the Assessment states that the noise survey was carried out during the third national lockdown due to the Covid-19 pandemic. Although many businesses were able to operate during the third lockdown there were some restrictions on movement. There is therefore a risk that, now lockdown restrictions have ended, noise from the industrial estate may be louder than at the time of the Assessment and this could lead to inhabitants of the proposed new residential dwellings complaining about noise from the industrial estate which could potentially result in restrictions being placed on the companies operating at the estate which could adversely impact their business.

Regarding the above bullet point, should the use of the land be permitted to change to residential, we would draw attention to NPPF, 2021 paragraph 187. The applicant should ensure that the residential, "development can be integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed".

A nearby campsite have informed us that on several occasions this summer the water pressure on the campsite was extremely low. There is a risk that the erection of the 280 residential dwellings and sheltered living accommodation on the site proposed under these two planning applications could further reduce the water pressure at the campsite and this could negatively impact this business. We view the campsite as a high-quality tourism facility which provides a positive contribution to the tourist offering in the Chichester District.

## 6.21 CDC Environmental Protection Officer

*Comment received 13<sup>th</sup> September 2023*

Comments were made on this application dated 18 October 2022. Additional information was requested with respect to noise assessment and air quality assessment. Having reviewed the documents submitted with the application – I cannot see any additional information. Furthermore the comments for application 22/02214/FULEIA regarding air quality should be incorporated into the updated air quality assessment. Further

information is requested. See extract paragraphs from the previous response as below:

## **Noise**

With respect to the application for the sheltered living accommodation, the report states the following:

5.19 A sheltered living scheme is proposed towards the north of the site. Currently there are no drawings available for the scheme. It is recommended that this is assessed fully once drawings have been produced.

A noise impact assessment should therefore be submitted covering the area that this application applies to. The noise sources to be considered should include the future noise generated by the adjacent site (22/02214/FULEIA) as well as existing noise sources (industrial estate and road traffic). The details in the submitted noise assessment are pertinent to this site so the additional assessment should focus on the specification of glazing and ventilation requirements for the proposed sheltered living accommodation.

## **Air quality**

It is noted that the air quality assessment has not included an assessment of the adjacent application, which if given permission would result in significant vehicle movements close to the sheltered living accommodation. Further assessment is recommended of the potential air quality impacts of the adjacent development.

*Comment received 18<sup>th</sup> October 2022*

It is noted that the above application is linked to another application being made (a detailed application for the erection of residential dwellings (including affordable housing), associated highway and landscape works, open space and flexible retail and community floorspace (Use Classes E and F).

## **Land Contamination**

A desk study report and contaminated land assessment has been submitted produced by Wilson Bailey dated September 2022 (ref.J22034). The report has followed appropriate guidance and used relevant information sources to assess the potential land quality at the site. The report concludes as follows:

- The desk study indicated that there is a low risk of the identified potentially sensitive receptors being impacted by any residual contamination that could conceivably be present beneath the site. It would also be appropriate to maintain a geo-environmental watching brief during the initial phases of the ground works at this site in order that should any suspicious or contaminated soils be encountered they may be appropriately investigated, assessed and remediated as necessary.

Based on the outcome of the report it is recommended that condition DC13 is applied in order that a watching brief is undertaken during construction works.

## **Noise**

A noise impact assessment has been submitted produced by 24 Acoustics dated 20 June 2022 (ref.R9004-1 Rev 3). The noise impact assessment covers this development site area and the related site adjacent being submitted for 280 residential dwellings and Class E/F uses (22/02214/FULEIA). The assessment has been undertaken in line with appropriate guidance and used relevant criteria to assess noise levels at the site for the wider development. With respect to the application for the sheltered living accommodation, the report states the following:

5.19 A sheltered living scheme is proposed towards the north of the site. Currently there are no drawings available for the scheme. It is recommended that this is assessed fully once drawings have been produced.

A noise impact assessment should therefore be submitted covering the area that this application applies to. The noise sources to be considered should include the future noise generated by the adjacent site (app 22/02214/FULEIA) as well as existing noise sources (industrial estate and road traffic). The details in the submitted noise assessment are pertinent to this site so the additional assessment should focus on the specification of glazing and ventilation requirements for the proposed sheltered living accommodation.

## **Air Quality**

An air quality assessment has been submitted produced by Tetra Tech dated 25 May 2022 (ref.784-A099004). The report covers the above application i.e. the sheltered living accommodation. The report has followed appropriate guidance and used acceptable criteria to assess the impact of the development. The report concludes the following:

For the construction phase:

- Prior to the implementation of appropriate mitigation measures, the potential impact description of dust emissions associated with the construction phase of the proposed development is 'medium risk' at the worst affected receptors without mitigation. However, appropriate site-specific mitigation measures have been proposed based on Section 8.2 of the IAQM Guidance on the Assessment of Dust from Demolition, Earthworks, Construction and Trackout. It is anticipated that with these appropriate mitigation measures in place, the risk of adverse effects due to dust emissions from the construction phase will not be significant.

A condition should be applied to require the measures listed in section 8.1 of the above report to be put in place during construction works in order to mitigate construction impacts.

For the operation phase:

- The impact description of the effects of changes in traffic flow as a result of the proposed development, with respect to NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> exposure, is determined to be 'negligible' at all existing receptors. At any proposed sensitive receptors, there is not predicted to be any exceedances of the NO<sub>2</sub>, PM<sub>10</sub> or PM<sub>2.5</sub> pollutant concentrations and therefore, mitigation is not required at the proposed development.

A damage costs assessment has been included within section 7 and a range of mitigation measures have been proposed (covering this application and the adjacent wider site). A condition should be applied to this application to require the following:

- Electric vehicle charging points should be provided in compliance with Building Regulations Part S requirements.
- Cycle parking should be provided to encourage staff and visitors to use is sustainable mode of transport to access the site where possible.

It is noted that the air quality assessment has not included an assessment of the adjacent application, which if given permission would result in significant vehicle movements close to the sheltered living accommodation. Further assessment is recommended of the potential air quality impacts of the adjacent development.

### **Lighting**

A lighting assessment should be submitted showing how the development will comply with the Institute of Lighting Professionals Guidance. A condition is recommended to secure a detailed lighting scheme.

### **Construction**

Given the scale of construction, a Construction Environmental Management Plan should be put in place and conditioned.

## **6.22 CDC Environmental Strategy Unit**

*Comment received 4<sup>th</sup> September 2023*

Please find below our updated comments following the submission of the updated layout plan (submitted in relation to 22/02214/FULEIA) and the re-categorisation of the site as secondary habitat within the Solent Waders and Brent Geese Strategy.

Please also note these comments relate only to the area in the red boundary for the sheltered living accommodation and does not relate to the wider site.

### **Brent Geese**

Due to the site being identified as functionary linked secondary habitat within Solent Waders and Brent Geese Strategy (30/11/2022) we require that a mitigation strategy is created based on this. Currently without mitigation the HRA will determine there would be likely significant effect from the proposal.

### **Recreational Disturbance**

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



## **Bats**

Due to the clearance of boundary habitat along the western boundary of the site it has been recommended to compensate for the loss the retained boundary habitats are enhanced through infill planting of native species. We require that this is incorporated into the landscaping plans and a management plan is put in place to ensure these areas are maintained and protected.

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.

## **Water voles**

Due to the presence of water voles within the ditch to the north and east of the site no works can take place within this ditch or area and a 5m buffer should be set up from the ditch bank and fencing used during the construction period to ensure this area remains undisturbed. If any works need to take place in this area, then a full mitigation strategy for water voles will be required.

## **Reptiles**

Due to the presence of reptiles within the field margins we require that a mitigation strategy is produced for the clearance of the boundary habitat. The mitigation strategy will need to include details of reptile fencing, translocation methods, the translocation site / enhancements and the timings of the works. Both the reptile activity survey and the mitigation strategy (if required) will need to be submitted with this application prior to determination.

## **Breeding Birds**

Due to the loss of the foraging habitats for breeding birds, mitigation has been proposed with a new species rich grassland proposed to the east of the site between the development area and watercourse, and additional hedgerow planting to provide a net increase in hedgerow habitats. We require that this is incorporated into the landscaping plans and a management plan is put in place to ensure these areas are maintained and protected.

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 1<sup>st</sup> March – 1<sup>st</sup> 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).

## **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.

## **Hedgehogs**

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

## **Enhancements**

Biodiversity Net Gain needs to be considered as part of the application prior to determination. The applicant will need to provide details of how biodiversity net gain will be achieved including submission of the biodiversity matrix. Example of enhancements we would be expecting to see include.

- Any trees removed should be replaced at a ratio of 2:1.
- Wildflower meadow planting used.
- Filling any gaps in tree lines or hedgerows with native species.
- Bat bricks / tiles are integrated into the buildings onsite facing south/south westerly positioned 3-5m above ground.
- Bird box to be installed on the buildings / and or tree within the garden of the property.
- Grassland areas managed to benefit reptiles.
- Log piles onsite.
- Gaps included at the bottom of the fences to allow movement of small mammals across the site.
- Hedgehog nesting boxes included on the site.

## **Sustainable Design and Construction**

Due to the requirements within Local Plan Policy 40: Sustainable Construction and Design, we require that a sustainability statement is submitted for this proposal. The statement will need to demonstrate how the requirements of policy 40 will be met. This includes how the site will;

- Protect and enhance the environment.
- Achieve a maximum consumption of 110l of water per day per person.
- Complies with building for life standards or equivalent replacement.
- Sustainable design including the use of re-used or recycled materials.
- Minimise energy consumption through renewable resources.
- Adapt to climate change.
- Historic and built environment protected and enhanced.
- Improvements to biodiversity and green infrastructure.
- Maintain tranquillity and local character.
- Provision of electric vehicle charging points.

*Comment received 26<sup>th</sup> September 2022*

Please note these comments relate only to the area in the red boundary for the sheltered living accommodation and do not relate to the wider site.

## **Recreational Disturbance**

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

## **Bats**

Due to the clearance of boundary habitat along the western boundary of the site it has been recommended to compensate for the loss the retained boundary habitats are enhanced through infill planting of native species. We require that this is incorporated into the landscaping plans and a management plan is put in place to ensure these areas are maintained and protected.

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.

## **Water voles**

Due to the presence of water voles within the ditch to the north and east of the site no works can take place within this ditch or area and a 5m buffer should be set up from the ditch bank and fencing used during the construction period to ensure this area remains undisturbed.

If any works need to take place in this area, then a full mitigation strategy for water voles will be required.

## **Reptiles**

Due to the presence of reptiles within the field margins we require that a mitigation strategy is produced for the clearance of the boundary habitat. The mitigation strategy will need to include details of reptile fencing, translocation methods, the translocation site / enhancements and the timings of the works. Both the reptile activity survey and the mitigation strategy (if required) will need to be submitted with this application prior to determination.

## **Breeding Birds**

Due to the loss of the foraging habitats for breeding birds, mitigation has been proposed with a new species rich grassland proposed to the east of the site between the development area and watercourse, and additional hedgerow planting to provide a net increase in hedgerow habitats. We require that this is incorporated into the landscaping plans and a management plan is put in place to ensure these areas are maintained and protected.

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).

### **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.

### **Hedgehogs**

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

### **Enhancements**

Biodiversity Net Gain needs to be considered as part of the application prior to determination. The applicant will need to provide details of how biodiversity net gain will be achieved including submission of the biodiversity matrix. Example of enhancements we would be expecting to see include.

- Any trees removed should be replaced at a ratio of 2:1.
- Wildflower meadow planting used.
- Filling any gaps in tree lines or hedgerows with native species.
- Bat bricks / tiles are integrated into the buildings onsite facing south/south westerly positioned 3-5m above ground.
- Bird box to be installed on the buildings / and or tree within the garden of the property.
- Grassland areas managed to benefit reptiles.
- Log piles onsite.
- Gaps included at the bottom of the fences to allow movement of small mammals across the site .
- Hedgehog nesting boxes included on the site.

### **Sustainable Design and Construction**

Due to the requirements within Local Plan Policy 40: Sustainable Construction and Design, we require that a sustainability statement is submitted for this proposal. The statement will need to demonstrate how the requirements of policy 40 will be met. This includes how the site will;

- Protect and enhance the environment.
- Achieve a maximum consumption of 110l of water per day per person.
- Complies with building for life standards or equivalent replacement.
- Sustainable design including the use of re-used or recycled materials.
- Minimise energy consumption through renewable resources.
- Adapt to climate change.

- Historic and built environment protected and enhanced.
- Improvements to biodiversity and green infrastructure.
- Maintain tranquillity and local character.
- Provision of electric vehicle charging points.

## 6.23 CDC Housing Enabling Officer

*Comment received 19<sup>th</sup> September 2023*

Further to our previous response we can confirm that without an independent viability assessment on the above application we are unable to ascertain if the scheme should deviate from being policy compliant with a 30% contribution towards affordable housing, either onsite in the form of 13 units with 0.5 of a unit as a commuted sum or wholly as a commuted sum. The commuted sum formula will be calculated at £350 per square metre of the total Gross Internal Floor Area of all net additional dwellings.

In the absence of on site provision of the 13 units we would consider a commuted sum payment for the equivalent of 13.5 units based on the GIA calculation set out in the Planning Obligations and affordable Housing SPD.

*Comment received 4<sup>th</sup> September 2023*

The application has not provided any new or additional information on the provision of or contribution to affordable housing since our request of 4<sup>th</sup> October 2022. Without the further evidence of a viability assessment, we are unable to support the application as it currently stands (without any provision towards affordable housing).

*Comment received 4<sup>th</sup> October 2022*

We note that the applicant has not and does not intend to make any provision for affordable housing within the application (Sheltered Housing Benefits and Affordable Housing Statement 7.8). The Applicant has stated that such provision is unviable and should this prove to not be common ground with the Council will produce appropriate evidence to demonstrate this position.

We acknowledge that to provide onsite provision of affordable housing within this type of development can be challenging due to the high level of service charges and ground rents. However, this does not negate the requirement of Policy 34 of the Local Plan which requires 30% of residential development to be affordable or where this is not possible for a commuted sum to be sought.

In further support of the unviability of the scheme to provide affordable housing is the statement at 8.4 which refers to a reduced eligible market. The applicant has demonstrated throughout the application the increasingly ageing population in the district and in particular in the Manhood Peninsula and we do not accept that this is a viable argument.

The applicant has chosen not to include a viability assessment with the application but has offered to provide appropriate evidence to demonstrate the unviability of the scheme. We would welcome the provision of a viability assessment.

#### 6.24 CDC Planning Policy

*Comment received 27<sup>th</sup> January 2023*

On 24<sup>th</sup> January Council agreed the Pre-Submission Local Plan for Regulation 19 consultation, beginning 3<sup>rd</sup> February 2023. From this point (Regulation 19) the Plan will be at an advanced stage of preparation and its weight as a material consideration in the determination of planning applications will increase. The emerging plan will require all new housing in the southern part of the Plan Area to contribute to a scheme of infrastructure improvements to the Strategic Road Network (A27). Any further permissions from 3<sup>rd</sup> February that do not make provision toward this infrastructure potentially put at risk delivery of the identified infrastructure improvements. Officers are currently taking advice on this issue and hope to be able to provide a more detailed response over the next few weeks. It is therefore the recommendation of Planning Policy that, for the time being, any applications for new housing (representing a net increase) on or after 3<sup>rd</sup> February 2023 should not be determined for approval until further advice can be provided on this, and other policy related issues.

#### 6.25 CDC Waste Officer

##### **Provision of Bins**

Individual properties would require one waste and one recycling bin. These come in two different sizes 140 litre or 240 litre, the general rule is for up to two persons in a household we would recommend 140 litre bins for up to four persons 240 litre bins.

In the instances of communal apartments there are two options available, either individual bins as above or bulk communal bins. If bulk communal bins are preferred then the number of bins required depends on how many apartments they serve. Generally bulk bins have a capacity of 1100 litres, the number of bins required can be calculated by taking the numbers of apartments in the block and multiplying it by 240 (litres), then divide is by 1100 (litres).

Other bin sizes are available (refer to CDC Waste Storage and Collection Service guidance) and the above calculation can be adjusted to reflect this.

##### **Site Layout**

Firstly please refer to our refuse freighter dimensions detailed in the waste storage and collection service guide, Appendix A, page 14.

I would ask that attention is paid to the size, weight and turning circle of our freighters. Our freighter should not have to reverse over excessive distances and all turning areas should be sufficient in size to cater for our large refuse freighters.

This is especially important in areas where the refuse freighter is required to service a small mews/dead end road. If there is insufficient room for a turning area to be incorporated into a mews/dead end road we would require a communal collection point for bins at the entrance to the road.

All road surfaces should be constructed in a material suitably strong enough to take the weight of a 26 tonne vehicle. I would discourage the use of concrete block paving unless it is of a highway standard, as these tend to move under the weight of our vehicles.

To prevent access issues please may I insist that either parking restrictions are put in place, or adequate visitor parking is provided to prevent visitors from parking at the side of the road. Failure to address this issue at this stage may result in our refuse crew not being able to carry out their collections.

### **Bin Collection Points**

Generally the collection point should be outside the front of the property just inside the property boundary, at the closest point to the public highway. However in the instances of shared driveways the bins would be required to be presented at the entrance of the driveway.

All communal bin storage areas should be sufficient in size to enable our collection crews to manoeuvre the bins out for emptying without the need to move other bins first. Further guidance is available in our standard waste requirements.

#### **6.26 Sussex NHS Commissioners (CCG)**

CIL planning response covers this as part of existing funds assigned.

#### **6.27 Third Party Representations**

174 Third Party letter of objection have been received from local residents including the Sussex Area Ramblers and the Manhood Wildlife and Heritage Group concerning the following:

- (a) Loss of fields and increasing urbanisation and ribbon development
- (b) Existing infrastructure cannot cope
- (c) Climate change and sea level rise leading to flooding of low lying areas
- (d) Further pressure on existing services such as roads, transport, schools, health care
- (e) The peninsula sewage system is already at capacity
- (f) Sewage overflows enter streets, homes, waterways and the sea
- (g) Increase in traffic leading to further congestion
- (h) Site has a watercourse running through and is prone to flooding
- (i) There is only one main road in and out of the peninsula.
- (j) Influx of tourists in the Summer months puts further pressure on the area
- (k) Negative effect on habitats and wildlife
- (l) Negative impact on quality of life
- (m) Loss of good agricultural land
- (n) Will negatively affect tourism which is important to local economy

- (o) Air, noise, light pollution
- (p) The homes won't be affordable to the local young families
- (q) Houses will become second homes and holiday rentals
- (r) Increase in crime rate
- (s) No dentist and no police station
- (t) No local jobs already, further housing will compound the issue
- (u) There are too many developments already
- (v) Increase in road traffic accidents
- (w) Cycling, walking and horse riding is already dangerous
- (x) The existing walking environment would be impacted by the proposals
- (w) Loss of village 'feel' and rurality
- (z) The benefits of the proposal do not outweigh the harms

## **7.0 Planning Policy**

- 7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029, the CDC Site Allocation Development Plan Document and all made neighbourhood plans. There is currently no made neighbourhood plan for East Wittering and Bracklesham.
- 7.2 The principal planning policies relevant to the consideration of this application are as follows:

### Chichester Local Plan: Key Policies 2014-2029

- Policy 1 Presumption in Favour of Sustainable Development
- Policy 2 Development Strategy and Settlement Hierarchy
- Policy 3 The Economy and Employment Provision
- Policy 4 Housing Provision
- Policy 8 Transport and Accessibility
- Policy 9 Development and Infrastructure Provision
- Policy 22 Integrated Coastal Zone Management for the Manhood Peninsula
- Policy 24 East Wittering and Bracklesham Strategic Development
- Policy 33 New Residential Development
- Policy 34 Affordable Housing
- Policy 39 Transport, Accessibility and Parking
- Policy 40 Sustainable Design and Construction
- Policy 42 Flood Risk and Water Management
- Policy 45 Development in the Countryside
- Policy 47 Heritage and Design
- Policy 48 Natural Environment
- Policy 49 Biodiversity
- Policy 50 Development and Distribution of Birds in Chichester and Langstone Harbours Special Protection Areas
- Policy 52 Green Infrastructure



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

7.3 The Chichester Local Plan 2021-2039: Proposed Submission has now completed its 'Regulation 19' consultation (17 March 2023) and it is anticipated that the plan will be submitted for examination in Autumn this year. Accordingly the plan could now be considered to be at an 'Advanced Stage of Preparation' for the purposes of para 48(a) of the National Planning Policy Framework (NPPF) and consequently could be afforded moderate weight in the decision making process. Once it is submitted for examination it will be at an 'Advanced Stage' for the purposes of assessment of development proposals against para 49(b) of the NPPF. Policies relevant to this application are:

Policy S1 Spatial Development Strategy  
Policy S2 Settlement Hierarchy  
Policy NE2 Natural Landscape  
Policy NE5 Biodiversity and Biodiversity Net Gain  
Policy NE6 Chichester's Internationally and Nationally Designated Habitats  
Policy NE7 Development and Disturbance of Birds in Chichester and Langstone Harbours, Pagham Harbour, Solent and Dorset Coast Special Protection Areas and Medmerry Compensatory Habitat  
Policy NE8 Trees, Hedgerows and Woodlands  
Policy NE10 Development in the Countryside  
Policy NE12 Development around the Coast  
Policy NE14 Integrated Coastal Zone Management for the Manhood Peninsula  
Policy NE15 Flood Risk and Water Management  
Policy NE16 Water Management and Water Quality  
Policy NE20 Pollution  
Policy NE21 Lighting  
Policy NE22 Air Quality  
Policy NE23 Noise  
Policy NE24 Contaminated Land  
Policy H1 Meeting Housing Needs  
Policy H3 Non-Strategic Parish Housing Requirements 2021 - 2039  
Policy H4 Affordable Housing  
Policy H8 Specialist accommodation for older people and those with specialised needs  
Policy H5 Housing Mix  
Policy P1 Design Principles  
Policy P2 Local Character and Distinctiveness  
Policy P3 Density  
Policy P4 Layout and Access  
Policy P5 Spaces and Landscaping  
Policy P6 Amenity  
Policy P7 Alterations and Extensions  
Policy P8 Materials and Detailing  
Policy P14 Green Infrastructure  
Policy P15 Open Space, Sport and Recreation  
Policy P16 Health and Well-being  
Policy T1: Transport Infrastructure  
Policy T2 Transport and Development  
Policy T3 Active Travel - Walking and Cycling Provision  
Policy T4 Parking Provision  
Policy I1 Infrastructure Provision

## National Policy and Guidance

- 7.4 Government planning policy comprises the National Planning Policy Framework (NPPF July 2021) and related policy guidance in the Planning Practice Guidance (PPG).
- 7.5 Paragraph 11 of the current Framework states that plans and decisions should apply a presumption in favour of sustainable development, and for decision-taking this means:
- 'c) approving development proposals that accord with an up-to-date development plan without delay; or*
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
- i) the application of policies in this Framework that protects areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*
- 7.6 Footnote 7 for Paragraph 11 d)i) clarifies that the policies referred to are those in the Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change.
- 7.7 The following sections of the NPPF are relevant to this application: 2, 3, 4, 5, 6, 8, 9, 11, 12, 14, 15, 16 and Annex 1. The relevant paragraphs of the PPG have also been taken into account.

## Other Local Policy Guidance

- 7.8 The following documents are also material to the determination of this planning application:
- CDC Planning Obligations and Affordable Housing SPD (July 2016)
  - CDC Surface Water and Foul Drainage SPD (September 2016)
  - CDC Waste and Storage Collection Guidance
  - Chichester Landscape Capacity Study (March 2019): Section C, Sub-area 146
  - West Sussex County Council Guidance on Parking at New Developments (September 2020)
  - Interim Position Statement for Housing Development (November 2020)
  - National Character Areas (2014): South Coast Plain Character Area (Area 126)
  - West Sussex Landscape Character Assessment (2003): South Coast Plain, Chichester Harbour and Pagham Harbour (SC3)
  - CDC Flood Risk Sequential & Exceptions Test (January 2023)
  - CDC Level 1 Interim Strategic Flood Risk Assessment (SFRA) (December 2022)
  - CDC Level 2 Interim Strategic Flood Risk Assessment (SFRA) (December 2022)

- CDC Level 1 SFRA - Interim Methodology in support of Performing the Sequential Test (December 2022)
- WSCC Transport Plan (2011-2026)

### Interim Position Statement for Housing Development

- 7.9 In accordance with national planning policy, the Council is required to regularly prepare an assessment of its supply of housing land. The Council's most recent assessment of its Five Year Housing Land Supply was published on 5th December 2022 and provides the updated position as of 1 April 2022. At the time of preparing this report the published assessment identifies a potential housing supply of 3,174 net dwellings over the period 2022-2027. This compares with an identified housing requirement of 3,350 net dwellings (equivalent to a requirement of 670 homes per year). This results in a housing deficit of 176 net dwellings, equivalent to 4.74 years of housing supply. Through recent appeals and associated statements of common ground this figure has been refined and the Council's current agreed position is a supply equivalent to 4.72 years.
- 7.10 The Council therefore does not benefit from a Five-Year Housing Land Supply. To help proactively ensure that the Council's housing supply returns to a positive balance prior to the adoption of the new Local Plan, the Council resolved in June 2020 to use the Interim Position Statement for Housing Development (IPS) to help increase the supply of housing by encouraging appropriate housing schemes. Following minor modifications, the IPS was approved by the Council's Planning Committee for immediate use for development management purposes in November 2020. New housing proposals considered under the IPS, such as this application, will therefore need to be assessed against the 13 criteria set out in the IPS document. The IPS is a development management (DM) 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 and appeals. It does not override the implications of the Framework in terms of housing supply issues but it is a document that the decision maker shall have regard to in the context of why it was introduced and in the context of what the alternatives might be if it wasn't available for use i.e. speculative, sporadic un-planned for housing in inappropriate locations outside of settlement boundaries.
- 7.11 The aims and objectives of the Chichester in Partnership Community Strategy 2016-2029 which are relevant and material to the determination of this planning application are:
- Maintain low levels of unemployment in the district.
  - Support local businesses to grow and become engaged with local communities.
  - Encourage and support people who live and work in the district and to adopt healthy and active lifestyles.
  - Promoting and developing a dementia friendly district.
  - Protect and support the most vulnerable in society including the elderly, young, carers, families in crisis and the socially isolated.
  - Maintain the low levels of crime in the district in the light of reducing resources.
  - Support and empower communities and people to help themselves and develop resilience.

- Support communities to meet their own housing needs.
- Support and promote initiatives that encourage alternative forms of transport and encourage the use of online services.
- Promote and increase sustainable, environmentally friendly initiatives in the district.
- Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area.

## **8.0 Planning Comments**

8.1 The main issues arising from this proposal are:

- i. The principle of development
- ii. Impact on visual amenity and landscape character
- iii. Highways and access
- iv. Residential amenity
- v. Flooding, surface water drainage and foul disposal
- vi. Ecology and biodiversity
- vii. Sustainable design and construction
- viii. Other matters

### i. The principle of development

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

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

8.3 The Chichester Local Plan: Key Policies (CLP) was adopted by the Council on 14<sup>th</sup> July 2015 and now forms part of the statutory development plan for the parts of the District outside the South Downs National Park. The site lies beyond any designated Settlement Boundary and is, therefore, within the Rest of the Plan Area wherein Local Plan policy 45 resists development of the nature and scale proposed.

8.4 For certainty and clarity, a plan-led approach to decision making on planning applications relies on a development plan which is up-to-date, particularly with regard to its housing policies and the proposed delivery of that housing. The Council has acknowledged that the Local Plan in terms of its policies for the supply of new housing are out-of-date because the settlement boundaries haven't been reviewed and when the Standard Methodology for calculating local housing need is applied (as required by NPPF paragraph 61) there is a shortfall of allocated sites to meet that identified housing need. Policies 2, 4, 5, 24 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 in the relatively narrow sense that it identifies the settlement hierarchy for future development in the Local Plan area, a

hierarchy which is proposed to be carried forward into the emerging Local Plan. Draft policy S2 of the emerging Local Plan continues therefore to identify East Wittering / Bracklesham as one of the Settlements Hubs, although it is noted that East Wittering (along with Selsey) have more constraints than other settlements and as a consequence the largest levels of growth are expected in the sub-regional centre, settlement hubs outside the Manhood Peninsula and service villages and more limited development coming forward in rural settlements and on the Manhood Peninsula.

- 8.5 The Council's published position with regard to East Wittering is set out in the emerging Local Plan (emerging policy H3). Emerging policy H3 (Non-Strategic Parish Housing Requirements 2021-2039) states a housing figure of 0 indicative housing numbers are planned for East Wittering. As set out in the Sustainability Appraisal (January 2023), the reasoning for this current allocation of zero and the shift away from the previous proposal to assign East Wittering a parish allocation for 350 (as set out in the Preferred Approach) is that
- the committed growth in East Wittering and on the Manhood Peninsula more generally is close to and may exceed the level of growth directed to East Wittering at the Preferred Approach stage,
  - there is now an understanding that the Stockbridge and Whyke junctions are unlikely to be upgraded in the plan period and there has generally been an evidenced shift towards an increased focus on the east-west corridor, and
  - there are now generally higher concerns regarding flood risk, with a need to be mindful of expanded flood risk zones under climate change scenarios. The most recent Strategic Flood Risk Assessment (SFRA) shows extensive tidal flood risk across East Wittering under climate change scenarios.
- 8.6 As it stands, the emerging Local Plan is exactly that – the Council's proposed direction of travel. Therefore, at this stage in the Local Plan process, H3 is no more than an emerging policy, it has not been tested at examination and does not have enough weight in decision-making consistent with government policy in paragraph 48 of the NPPF. Therefore, following a s.38(6) development plan approach, this proposal is contrary to policy, in particular policy 45 of the adopted Local Plan.
- 8.7 However, there are other factors to consider. The Council has acknowledged that the Local Plan in terms of its policies for the supply of new housing are out-of-date and has accepted that it cannot currently demonstrate 5 years' worth of housing land supply. Without a 5-year housing supply in place the 'tilted balance' in paragraph 11(d) of the NPPF, i.e. the presumption in favour of permitting sustainable development where there is no housing supply, is engaged (In this instance there are policies in the Framework relating to Habitats sites and flooding that are engaged. It is only if these are not offended that the 'tilted balance' is engaged). In other words, there is a heightened imperative to deliver more housing to comply with government policy ahead of the adoption of the new Local Plan with its revised housing strategy and numbers. With the Council currently unable to demonstrate a 5YHLS the Committee will be very aware of the notable increase in speculative housing applications on the edge of existing settlements. When viewed in the context of not having a housing supply, officers consider that to simply adopt a position where all new housing proposals are resisted ahead of adoption of the new Local Plan is not a tenable approach. Housing supply is calculated on a rolling year-on-year basis and

in order to ensure that the Council can demonstrate a supply and that this supply is maintained with a suitable buffer ahead of adoption of the new Local Plan, it will be necessary for some new housing development to be permitted.

- 8.8 The application site is considered to be developable in the Council's Housing and Economic Land Availability Assessment (HELAA, March 2021). The HELAA has identified that the site is capable of delivering an indicative capacity of 300 dwellings and states under suitability '*the site is potentially suitable for development subject to detailed consideration of access, landscape impact and ecology – including the current designation as a Brent Goose candidate site*'. Although the HELAA is a technical background study to assist the Council in its consideration of potential housing sites under the new Local Plan, it is not a policy document to rely on in decision making with regard to planning applications. Nevertheless its significance as a material consideration is that it has identified the site as being suitable, available and deliverable to provide new housing and this is relevant at a time when the Council is not able to show it is demonstrably producing enough dwellings to satisfy the government's housing requirement.
- 8.9 In acknowledging the current status of the Local Plan in terms of its out-of-date housing policies and the absence of a 5-year housing supply to effectively bridge the gap up to the point where the new Local Plan is adopted sometime in 2024, and to avoid where possible the submission of inappropriate ad hoc applications for housing development in the countryside, the Council has produced an Interim Position Statement for Housing (IPS) which sets out criteria defining what the Council considers to be good quality development in the Chichester Local Plan Area.
- 8.10 The Council has committed to continue using the IPS to provide a set of criteria against which to measure the potential acceptability of new housing proposals outside of current settlement boundaries. When considered against the 13 criteria of the IPS which define what the Council considers good quality development in the Local Plan area, the current proposal scored poorly and the Council has identified adverse impacts. It is relevant to consider the proposal against each of the IPS criteria in turn:

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

Scenario 1: Impact if wider development comes forward:

The south-west corner and part of the southern boundary of the wider site directly adjoin the Settlement Boundary of East Wittering. In this scenario it is considered this criterion would be met.

Scenario 2: Impact if the application proposals come forward in isolation:

In isolation the outline application would fail to meet this criterion as the proposal does not adjoin an identified Settlement Boundary. In this scenario it is considered this criterion would not be met.

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

Scenario 1: Impact if wider development comes forward:

The wider application site is located adjacent to parts of the northern edge of East Wittering, a settlement which is identified as a Settlement Hub in the Local Plan. A Settlement Hub is the second tier of settlement in the Local Plan Area behind Chichester City. Settlement Hubs such as East Wittering are therefore one of the most sustainable settlements in the Local Plan Area. The scale of development is considered appropriate adjacent to a Settlement Hub. In this context the proposed scale of development is considered appropriate and criterion 2 of the IPS is therefore satisfied.

Scenario 2: Impact if the application proposals come forward in isolation:

Although removed from the settlement boundary of East Wittering, the scale of the development is considered acceptable with regard to the nearest settlement's location in the settlement hierarchy. In this context the proposed scale of development is considered appropriate and criterion 2 of the IPS is therefore satisfied.

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

The site lays outside the location for any potential landscape gaps as identified in the CDC Landscape Gap Assessment (May 2019). The proposal, individually or cumulative would not result in the actual or perceived coalescence of settlements. This criterion is considered to be met (for both scenarios).

**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.**

Scenario 1: Impact if wider development comes forward:

Based on the net developable area (i.e. just the residential area) the proposed scheme would have a net density of approximately 38dph (and approximately 19dph for the site as a whole). In the context, of its edge of settlement location and the pattern of existing housing to the south and west, the level of development proposed in this case is considered to make efficient use of the land, whilst still respecting the character and appearance of the local context. This criterion is considered to be met.

Scenario 2: Impact if the application proposals come forward in isolation:

In isolation, the proposal would not be read as an extension to East Wittering thereby

undermining the integrity of predominantly open and undeveloped land between settlements. It is considered that alone, the proposal would result in the artificial sub-division of a larger land parcel. It is considered this criterion is not 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 inter-visibility between the South Downs National Park and the Chichester Harbour AONB.**

Scenario 1: Impact if wider development comes forward:

Refer to Section ii Impact on visual amenity and landscape character below. It is considered that the proposal would comply with the above criterion.

Scenario 2: Impact if the application proposals come forward in isolation:

Refer to Section ii Impact on visual amenity and landscape character below. It is considered that the proposal would not comply with the above criterion.

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

The application site is outside the proposed Strategic Wildlife Corridors set out in the Regulation 19 Submission Local Plan. The criterion is therefore not applicable in this instance (for both scenarios).

**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.**

The Transport Study (2003) 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 applicant 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 this criterion will be met.

Furthermore, the applicant has not provided any information on the provision of or contribution to affordable housing. Without the further evidence or a viability assessment, the Council's Housing Team (see paragraph 6.22 above) are unable to support the application as it currently stands (i.e. without any provision towards affordable housing).

Wastewater disposal would be through the statutory undertaker. Southern Water state that their investigations indicate that they can facilitate foul sewage disposal to service the proposed development (see paragraph 6.8 above).

Whilst the applicant has agreed in principle to enter into a Section 106 agreement (or accept conditions) for other infrastructure (i.e. open space), in the absence of a signed S106 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.**

This criterion is met (refer to the assessment below at Section vii. Sustainable design and construction).

**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.**

Scenario 1: Impact if wider development comes forward:

Design and layout are matters which have been reserved for consideration as part of a future reserved matters application. The Land Use Parameter Plan details a good use of green space throughout the wider application site and although the provision of green

space is limited for the application parcel itself, the illustrative Site Layout Plan shows green space located towards the edges of the parcel, which would help soften the layout. The Site Layout Plan, whilst in indicative form at this stage (with further detail to follow at Reserved Matters stage), is appropriate on a parcel within the wider residential led development, which is located in an edge of settlement location. Criterion 9 is therefore met as far as it can be at outline stage.

#### Scenario 2: Impact if the application proposals come forward in isolation:

The application is submitted for outline permission with appearance being a reserved matter so architectural and build quality are not matters for consideration at this stage. However, it is considered that the development in isolation would have a detrimental impact on the rural character. It is not considered that the development meets this point, and this is expanded upon later in the report (see Section ii. Impact on Visual Amenity and Landscape Character). The criterion is not considered to be satisfied.

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

The development is sustainably located, with the application being within walking distance to the centre of East Wittering, with access to facilities and services including a primary school, two churches, a pharmacy, a Tesco Express, a number of Public Houses, restaurants and shops. There is also a paved footpath on the eastern side of Church Road leading from outside the application site to the centre of East Wittering.

Furthermore, the application site has good access to bus stops, which provide connections to Chichester railway station and other key facilities within the City. In this respect, the closest bus stops are located on Piggery Hall Lane and Stocks Lane, these bus stops are well served by a number of bus services, thereby facilitating alternative, sustainable modes of transportation, other than the private car.

In dismissing an appeal (PINS ref.3286315). for an outline permission for 70 dwellings directly opposite the application site, the Inspector opined:

*'The Council considers the development would not represent sustainable development as it would not be in accessible location, with a lack of accessible key local services and employment provision. I noted during my site visits that the site lies less than 10 minutes easy walk from the village centre, along a flat paved footpath. The village has an impressively varied range of local facilities for a settlement of its size, owing to the local tourist trade. I note that future residents would have to travel into Chichester to visit a private dentist, or to access a larger supermarket. Nevertheless, I am of the view that the available facilities in East Wittering would meet the day to day needs of most residents.'*

In light of the above, for this application this criterion is met.

**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 not met (refer to the assessment below at Section v. Flooding, surface water drainage and foul disposal).

**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.**

Not applicable in this instance. The site ultimately discharges to the waters at Pagham Harbour and is not within the Solent Maritime SAC catchment.

**13) Development proposals are required to demonstrate that they are deliverable from the time of the submission of the planning application through the submission of a deliverability statement justifying how development will ensure quicker delivery. The Council will seek to impose time restricted conditions on planning applications to ensure early delivery of housing.**

The proposal is seeking outline planning permission. Notwithstanding, there are detailed concerns raised with regard to the impact of the development a reduced time frame condition of 2 years in which to submit the reserved matters in respect of the outline component and a 2 year period thereafter in which to begin implementation of the approved details is accepted by the applicant. As such, this criterion is satisfied.

### **Sub-Conclusion**

- 8.11 The intention of the IPS is for the Council to be able to guide development to appropriate and sustainable locations. It will help to ensure that housing proposals that may be submitted in advance of the Local Plan Review are assessed in a consistent manner against national and local planning policies, with the aim of ensuring that the most appropriate development comes forward in the most suitable locations.
- 8.12 The acceptability of planning proposals will ultimately need to be assessed by the decision-maker on a case by case basis, in relation to the economic, social and environmental dimensions of sustainable development, leading to a conclusion about the overall sustainability of the proposals, whilst having regard to all elements of the proposal, up to date development plan policies including those within made Neighbourhood Plans, the NPPF, and other material considerations. This Interim Statement will seek to secure additional opportunities for housing development in locations which are sustainable and where it can be demonstrated that there would be early delivery of new homes, subject to meeting all of the criteria in this Statement.

8.13 Following assessment against the IPS, the proposal (in isolation and taken together with the wider scheme under 22/02214/FULEIA) fails to comply with a number of criteria and as such the application site (in isolation or together) is not considered appropriate or sustainable, subsequently the principle is not supported. The full detailed planning assessment is carried out below.

ii. Impact on visual amenity and landscape character

8.14 It is important to consider the context of the site within its landscape when assessing the potential landscape impact of the proposals.

8.15 The application site is proposed to be located on a parcel within the wider site comprising largely of housing development, with a flexible retail and community use offering to the north, as proposed by the associated application on the wider site at Stubcroft Farm (22/02214/FULEIA refers). The landscape character of the area is flat, rural landscape on the edge of an established settlement.

8.16 The site is not within a designated landscape such as an AONB or a National Park, nor is it within the setting of a designated landscape. The Chichester Harbour AONB is approximately 1.4km (0.9 miles) north and 1.9km (1.2 miles) west of the application site as the crow flies. Given the separation distance the Chichester Harbour Conservancy make no comment on the proposals.

8.17 The site is located adjacent to Church Road on the western boundary and is therefore visible from this location. The site would otherwise be bound by the proposed residential development on the wider application site (22/02214/FULEIA refers) if that application was to be approved and implemented. The alternative scenario is that the wider development does not come forward, in which case the application site would be bound by surrounding fields to the north, east and south. Each scenario would have a different landscape impact, and so both need to be assessed.

**Scenario 1: Impact if wider development comes forward**

8.18 Should the application site come forward in combination with the wider development proposed on the land south of Stubcroft Farm, the site would be almost entirely contained within the surrounding development thereby limiting any impact of its own, particularly given the scale and nature of the surrounding development that would be implemented in this case. The application proposals would simply be read as part of the same development.

8.19 The key view would be from Church Road to the west. However, given the scale of the surrounding development under this scenario, it is considered that the impact from this view point would be one of visual appearance and amenity rather than impact on the wider landscape.

8.20 Therefore, in this scenario it is considered that, whilst there would inevitably be a change to the landscape as a result of any new development in the countryside, the impact of the proposed scheme under this application would have negligible impact on the landscape character of the area if delivered together with the wider Stubcroft development being

proposed. Under scenario 1, it is considered that the landscape impact of the proposals would be acceptable.

## **Scenario 2: Impact if the application proposals come forward in isolation**

- 8.21 In the scenario that, for some reason, the wider Stubcroft development does not gain planning permission or is not implemented, but that this application for sheltered living accommodation does gain planning permission and is implemented, the landscape impact would be very different from scenario 1 above.
- 8.22 Should the proposals come forward in isolation, the site would be open to the wider countryside on all sides and would not adjoin an existing settlement boundary or any other form of built development. Instead, it would be read as a standalone development in the countryside, removed from any responding context, and would appear out of keeping with its rural and undeveloped surroundings.
- 8.23 In weighing up the impact of the proposed development on the landscape character of the area, it is important to consider national and local planning policy as well as recent appeal decisions within the district.
- 8.24 Paragraph 130 of the NPPF states that decisions should ensure that developments are sympathetic to local character including the surrounding and landscape setting, while not preventing or discouraging appropriate innovation of change. Paragraph 174 of the NPPF goes on to state that decisions should contribute to and enhance the natural and local environment by *inter alia* protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.
- 8.25 Policy 33 of the CLP states that new residential development must provide a high quality living environment in keeping within the character of the surrounding area and its setting in the landscape.
- 8.26 Policy 48 of the CLP states that *inter alia* planning permission will be granted there is no adverse impact on the tranquil and rural character of the area and must demonstrate that the individual identities of settlements, actual or perceived, is maintained and the integrity of predominantly open and undeveloped land between settlements is not undermined. Furthermore, it must be demonstrated that there is no adverse impact on the openness of views in and around the coast and that development recognises distinctive local landscape character and sensitively contributes to its setting and quality and also where proposals respect and enhance the landscape character of the surrounding area and site, and public amenity through detailed design.
- 8.27 Criterion 3 of the IPS states that the impact of development on the edge of settlements or potential landscape gaps, either individually or cumulatively must does not result in the actual or perceived coalescence of settlements. In addition, Criterion 5 of the IPS states that proposals should demonstrate consideration of the impact of development on the surrounding townscape and landscape character.
- 8.28 Due to the distance from the AONB, it is considered that the proposals would not impact upon any designated landscape and therefore the landscape impact is limited to the local

area of countryside. However, it is clear that both national and local planning policy require that proposed developments are in-keeping with their surroundings and the landscape setting. It is considered that this application in isolation fails to achieve this due to its isolation from the existing settlement and its position within an open and visible area of the countryside.

8.29 In terms of coalescence, the site is removed from any nearby settlement meaning that the solitary nature of the proposals would not result in actual or perceived coalescence. However, it would also not read as an extension to East Wittering thereby undermining the integrity of predominantly open and undeveloped land between settlements.

8.30 In addition, landscape impact needs to be considered within the wider policy context, particularly with regards to of the Council's current housing land supply position, the subsequent implications within paragraph 11 of the NPPF and application of the 'titled balance' in favour of development applies (however, in this instance there are policies in the Framework relating to Habitats sites and flooding that are engaged. It is only if these are not offended that the 'tilted balance' is engaged). In circumstances, where the 'tilted balance' is engaged any adverse impacts of the proposed development needs to significantly and demonstrably outweigh the benefits of the scheme, before any refusal can be considered justified. This has been the subject of many appeal decisions in the district, which form material planning considerations for this application.

8.31 Examples of recent cases where an Inspector identified landscape harm but where this was found to not 'significantly and demonstrably outweigh the benefits of the scheme' are listed below:

- Land South of Clappers Lane (PINS ref.3291160) – August 2022
- Land to the West of Church Road (PINS ref.3291160) – April 2022
- Land East of Broad Road, Nutbourne (PINS ref.3295000) and Land to West of Drift Lane (PINS ref.32950004) – August 2023
- Chas Wood Nurseries, Main Road, Bosham (PINS ref.3299268) – October 2022

8.32 The important difference between these appeal cases and the application to which this report relates is that the above listed appeal sites were located either adjacent to an existing settlement or otherwise connected to existing areas of built development. Under scenario 2, this would not be the case and the site would be open and visible within the wider landscape. It is therefore considered that, whilst the titled balance applies in this case (however, in this instance there are policies in the Framework relating to Habitats sites and flooding that are engaged. It is only if these are not offended that the 'tilted balance' is engaged), the circumstances on this application fundamental differ from those within the allowed appeals.

8.33 As such, it is considered that under scenario 2, the application proposals would fail to respect, respond to and enhance the landscape character of the area, which would form an incongruous form of development within the countryside thereby undermining the integrity of predominantly open and undeveloped land between settlements. It would therefore be contrary to policies 33, 45 and 48 of the CLP, paragraphs 130 and 174 of the NPPF and criteria 3 of the IPS.

8.34 To summarise, there are two potential scenarios with the proposed development, the first being that it would come forward together with a wider area of development (22/02214/FULEIA refers) and therefore have negligible landscape impact. The second scenario is that the development would come forward in isolation, having an unacceptable impact on the wider landscape character of the area. It is therefore concluded that the application can only be supported in terms of landscape impact if the wider development is to come forward together with these proposals. Should the wider development gain planning permission, it would be necessary to attach a condition to this application to ensure that the sheltered living accommodation must be implemented with or after the wider development.

### iii. Highways, access and parking

8.35 WSCC Local Highway Authority (LHA) has been consulted on the proposals for highway safety, capacity and accessibility considerations for the proposals. In addition, National Highways (NH) was also consulted with regard to the impact from the proposals on the Strategic Road Network (SRN).

8.36 As with the wider application (22/02214/FULEIA refers), a single means of access onto Church Road is proposed. The site access would form a bellmouth arrangement measuring 7.5m wide with 12m radii. The site access is of sufficient width to allow two large vehicles to pass. The width of the access road would then reduce to 6.5m c.20m into the site to the east. 17 car parking spaces are proposed on site for the sheltered housing development.

8.37 Traffic flow information, using TRICS data, has been provided with the current application. This shows that the proposed sheltered living development is anticipated to generate 5 vehicle trips in the AM, 6 vehicle trips in the PM and 76 vehicle trips over a 12 hour period. The LHA does not raise any concerns with the stand alone number of vehicle trips associated with this development.

8.38 As outlined above and in the agenda report for 22/02214/FULEIA elements of additional information are required as part of the wider application to allow the LHA to make a formal recommendation on that application. The LHA has, however, requested some further information from the applicant with regard to this application, relating to the speed surveys undertaken from 2016, in particular advising that these surveys are undertaken again to confirm that the data obtained is still comparable to 2016 data. To date this additional information has not been received.

8.39 The LHA has, however, confirmed that when considered on its own, the capacity impact of this development would not be considered a 'Severe' impact.

8.40 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<sup>th</sup> 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.

8.41 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 equated 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, 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 applicant has not confirmed that they are willing to provide the financial contributions envisaged in the draft Policy T1 of the LPPS and thus officers recommend that the application is refused in respect of this issue.

#### iv. Residential amenity

8.42 To the north of the application site, comprising part of the wider application proposals is the retail/community element associated with application 22/02214/FULEIA. Beyond this, outside of the wider site boundary, is an existing industrial estate known as the East Wittering Business Centre, Hilton Park.

#### **Noise**

8.43 In respect of noise, as this is an outline application, there are currently no drawings available for the sheltered living accommodation. The Environmental Protection officer therefore recommends that a Noise Impact Assessment should be submitted for the sheltered living accommodation. The noise sources to be considered should include the future noise generated by the wider application site (22/02214/FULEIA refers) as well as existing noise sources (industrial estate and road traffic). The details in the submitted noise assessment are pertinent to this site so the additional assessment should focus on the specification of glazing and ventilation requirements for the proposed sheltered living accommodation.

#### **Air Quality**

8.44 As set out in the consultation response above, the Environmental Protection Officer has noted that the air quality assessment has not included an assessment of the adjacent



application which, if given permission, would result in significant vehicle movements close to the sheltered living accommodation. Further assessment is therefore recommended in relation to the potential air quality impacts of the adjacent development. This could be secured by planning condition.

#### v. Flooding, surface water drainage and foul disposal

### **Flooding**

- 8.45 The NPPF requires decision makers, when considering planning applications, to undertake a sequential, risk-based approach to development to avoid, where possible, flood risk to people and property. This fundamental principle is set out in paragraph 159 of the NPPF. “Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.”
- 8.46 Consequently, as per the NPPF a sequential approach to development should be undertaken, informed by a Strategic Flood Risk Assessment. The NPPF sets out the essential requirements of the sequential test in paragraph 162, “The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.”
- 8.47 More specific guidance is contained in the Planning Practice Guidance (PPG). Paragraph 7-001-20220825 of the PPG states areas at risk of flooding can be from any source, now or in the future, including rising groundwater and drainage. Paragraph 7-023-20220825 of the PPG states the Sequential Test is designed to avoid, so far as possible, development in current and future medium and high flood risk areas). This is because avoiding flood risk through the Sequential Test is the most effective way of addressing it.
- 8.48 When determining any planning applications paragraph 167 of the NPPF states, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:
- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location,
  - b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment,
  - c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate,
  - d) any residual risk can be safely managed, and
  - e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

8.49 A site-specific flood-risk assessment has been submitted with the application (covering the wider application site) however the submitted site-specific flood risk assessment does not reflect the flood risk evidence in the Council's latest SFRA – Level 1 Interim Strategic Flood Risk Assessment Report December 2022, which is an update of the previous Level 1 SFRA (2018) and covers the Chichester District Council area, excluding the South Downs National Park. The Council's Level 1 SFRA considers all sources of flooding in the plan area and the impacts of climate change. The applicant's site-specific flood-risk assessment does not take account of the tidal mapping which provides information regarding the climate change scenarios for the year 2121 (Appendix E), when considering the sequential approach for development.

8.50 As set out in the site screening information which forms part of the Interim Level 1 SFRA 2022, the HELAA site (ref HEWB0002a - Land at Braklesham Lane (north)), which is very similar to the wider application site, has the following results:

HEWB0002a (Land at Braklesham Lane (north))

- Present day flood zone: 13% FZ2, 11% FZ3a, 2% FZ3B – high risk
- Fluvial climate change (central allowance): 1% affected – low risk
- Tidal climate change (upper end): 92% affected – high risk
- Surface water including climate change: 1% affected – low risk
- Ground water: between 0.025m and 0.5m below ground surface level

8.51 In essence this information establishes that the application site and the wider site has a high-risk of future flood risk as a result of tidal flooding with climate change allowances, as identified in the Council's Strategic Flood Risk Assessment (SFRA). The Sequential Test requires that development such as proposed by the proposal should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The Council's own evidence indicates that were the Sequential Test to be applied it is likely that within the Local Plan area, there are likely to be a wide range of potential development sites which are at lower risk of flooding in the search area, having regard to the SFRA. The sequential test is predicated on the whole Local Plan area as the area of search. It would need to be demonstrated by the applicant why a different area of search would be appropriate, if a smaller area of search was to be proposed. Such information has not been provided by the applicant. Therefore in the absence of an acceptable Flood Risk Assessment (FRA) and Drainage Strategy, the application fails the sequential test, as insufficient adequate information has been submitted to show there are no reasonably available sites appropriate for this type of development, in areas at lower risk of flooding, as required in NPPF paragraphs 161 and 162.

8.52 The Council has not considered the Exception Test on the basis that the proposal has not passed a Sequential Test. Notwithstanding this position of the Council (i.e that insufficient adequate information has been submitted to show there are no reasonably available sites appropriate for this type of development, in areas at lower risk of flooding), in the event that the Sequential Test was passed, the Exception Test would also need to be satisfied. The need for the Exception Test will depend on the potential vulnerability of the site and the development proposed (NPPF paragraph 163). This application proposal would include sheltered living apartments which are classified as 'more vulnerable' and amenity open space classed as 'water-compatible'. To pass the Exception Test it must be

demonstrated a development would provide wider sustainability benefits to the community that outweigh the flood risk; and, the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall (NPPF paragraphs 164 – 165). In the absence of evidence to undertake the Sequential Test, it has not demonstrated the development would provide wider sustainability benefits to the community that outweigh the level flood risk. Neither has it demonstrated the development would be safe for its lifetime taking account of the vulnerability of its users, or that flood risk will not be increased elsewhere. Therefore, the Exception Test is not passed.

8.53 The application site and the wider site is at high-risk of future flood risk as a result of tidal flooding taking into account the current climate change allowances, based on information in the Level 1 Interim Strategic Flood Risk Assessment Report December 2022. As insufficient information has been submitted to demonstrate the sequential test has been passed, it is not in accordance with NPPF paragraphs 161 and 162. The Flood Risk Assessment should only be submitted once evidence has been received to demonstrate that the sequential test has been passed. The application is therefore unacceptable on flood risk grounds and is not in accordance with policy 42 of the Chichester Local Plan: Key Policies 2014-2029, paragraphs 159, 161, 162, 163, 167 and 169 of the NPPF and guidance in the PPG 'Flood Risk and Coastal Change'.

### **Surface water drainage**

8.54 As set out in the applicant's FRA, the proposed surface water drainage strategy for the wider site is to drain surface water to the adjacent watercourse (Main River) at a restricted rate, with surface water up to a 1 in 100year event plus climate change attenuated in open basins. The applicant has undertaken groundwater monitoring which has shown groundwater to come very close to the surface (<0.15m BGL). The LLFA's groundwater mapping, for all bar the most northern part of the site, shows 1% annual exceedance probability (AEP) groundwater levels to be between 0.025m and 0.5m from the surface. This evidence of high groundwater levels is also further underpinned by the groundwater monitoring data provided: . . .in Winter 2019/2020 and 2020/2021, groundwater was consistently recorded less than 1m bgl, reaching 0.43m bgl in BH2 at its height (paragraph 3.1.8 of Reference B). These results mean that infiltration to ground is not going to be viable.

8.55 In its consultation response, the LLFA has raised concern in relation to the ability for the development to accommodate the 5,511m<sup>3</sup> attenuation storage on site (based on the full application for the whole site 22/02214/FULEIA), given these high groundwater levels. In addition the LLFA also raises concern with regard to the detailed design of the attenuation basins and whether they have been designed to be fit for purpose for the lifetime of the development.

8.56 Reference B acknowledges: "At detailed design stage, any basin that is designed with a base level below the maximum winter groundwater level in that location will need to ensure the design has suitable lining to prevent the ingress of groundwater into the SuDS feature, reducing its overall capacity to store runoff. Furthermore, any lining will require suitable anchoring and calculations to demonstrate stability to avoid floatation from the hydrostatic uplift caused by the groundwater table."

- 8.57 The LLFA raises concern about the long term sustainability of the development as out of date climate change allowances and rainfall data have been used in calculations. This means that it has not been demonstrated that the sustainable drainage system is fit for purpose for the lifetime of the development, as the volume of surface water has been underestimated. The applicant has not provided any updated documents to address LLFA concerns. In their consultation response the LLFA require “At the very least, further evidence of the design of structures envisaged to provide the requisite attenuation storage (for the wider site including the application site), taking into consideration predicted groundwater levels over the lifetime of the development is appropriate. Furthermore, the applicant should assess whether the proposed structures could displace (and therefore elevate) existing groundwater levels”. To date this information has not been provided.
- 8.58 In addition to the further information required with regard to the attenuation storage, as outlined above, the LLFA also requires the applicant to robustly demonstrate that this site can be effectively drained over the lifetime of the development. As part of this, the LLFA requiring the applicant to establish the extent to which the Hale Farm Ditch is predicted to be tide-locked (i.e. where the lower reaches of the flowing watercourse, such as Hale Farm Ditch in this instance, are affected by tide levels) over the lifetime of the development and therefore the extent to which the discharge from the site is also likely to be tide-locked. The LLFA states that “modelled simulation for the drainage should reflect the predicted duration and implications of a surcharged outfall for the lifetime of the development”. To date this information has not been provided. The LLFA remains concerned with the detailed calculations of the drainage strategy in relation to the long term sustainability of the development, how the site would drain without effecting flooding elsewhere and how the drainage and watercourse features would be maintained.
- 8.59 For the reasons set out above, insufficient information has been provided to demonstrate the site will be adequately drained by the proposed drainage strategy and flood risk assessment, which could increase flood risk elsewhere, therefore the application is not in accordance with the NPPF paragraphs 167 and 169. Furthermore, it has not been satisfactorily demonstrated that the development would be safe for its lifetime without increasing flood risk elsewhere and would therefore contravene NPPF paragraph 159 and Policy 42 in the Chichester Local Plan: Key Policies 2014-2029.

### **Foul disposal**

- 8.60 There are foul sewers located to the west of the site along Church Road, which may provide a point of connection for foul water from the proposed development.
- 8.61 Southern Water as the statutory undertaker has not raised any objections to the proposal, stating that should the application receive planning approval, a condition should be attached to ensure that construction of the development should not commence until details of the proposed means of foul and surface water disposal have been submitted to, and approved in writing by the Local Planning Authority, in consultation with Southern Water.
- 8.62 With the imposition of appropriate conditions, it is considered that the foul drainage component of the application can be successfully addressed in terms of ensuring that details of the proposed means of foul sewage disposal are submitted to, and approved in writing by the Local Planning Authority.

## vi. Ecology and biodiversity

- 8.63 Policy 49 of the CLP requires that the biodiversity value of the site is safeguarded and demonstrable harm to habitats or species which are protected, or which are of importance to biodiversity, is avoided or mitigated. Policy 49 further requires that developments should incorporate features that enhance biodiversity as part of good design and sustainable development. Paragraph 174 of the NPPF requires planning decisions to minimise impacts on and provide net gains for biodiversity.
- 8.64 The wider site (inclusive of 22/02214/FULEIA) lies 0.6km to the north of the Solent and Dorset Coast Special Protection Area (SPA), 1.9km north-east of the Solent Maritime Special Area of Conservation (SAC), 0.6km north of the Bracklesham Bay Site of Special Scientific Interest (SSSI), 1.4km south-east of the Local Wildlife Site (LWS) Redlands and Meadows and 2.5km east of the Chichester and Langstone Harbours SSS, SPA and Ramsar Site. Furthermore, the northern parcel of the wider application site, incorporating the actual application site itself, site has been re-classified by the Solent Wader and Brent Geese Strategy Steering Group on 30.11.2022 as a Secondary Support Area (SSA) of functionally linked habitat for overwintering SPA bird species under the Solent Waders and Brent Goose Strategy.
- 8.65 The wider application is supported by a range of ecology-related information which is brought together in the submitted Environmental Statement. These assessments have found that the site currently supports a moderate population of reptiles within field margins, and that a number of bat species also use the site's hedgerows for foraging and commuting. Water voles have previously been recorded as using the drainage ditch that runs along the eastern boundary of the wider application site. Notwithstanding the recent classification of the northern parcel of the site as a SSA for the SPA/Ramsar, the applicant's own surveys of overwintering birds (which pre-date the site's classification) found no evidence of the site's use by qualifying species.
- 8.66 As noted from the responses set out at paragraph 6.21 above, the Council's Ecologist has set out a number of concerns about the impact of the development on ecology and biodiversity.
- 8.67 Turning first to bats, it is considered that any potential impacts are capable of being sufficiently mitigated via a number of measures including the use of buffer strips to hedgerows, infill planting and other compensatory planting of native species to improve connectivity and enhance bat-friendly habitats, an appropriate lighting scheme and appropriate controls and protections during the construction phase. These measures are capable of being satisfactorily controlled via appropriately worded planning conditions.
- 8.68 Due to the presence of water voles within the ditch to the north and east of the wider application site, the Council's ecologist has confirmed that no works can take place within this ditch or area and a 5m buffer should be set up from the ditch bank and fencing used during the construction period to ensure this area remains undisturbed. If any works need to take place in this area, then a full mitigation strategy for water voles will be required. These measures are capable of being satisfactorily controlled via appropriately worded planning conditions.

- 8.69 In terms of reptiles, due to their presence within the field margins, a mitigation strategy is required for the clearance of the boundary habitat. This will need to include details of reptile fencing, translocation methods, the translocation site / enhancements and the timings of the works. Despite the Council's ecologist's concerns being made clear early in the application process there has been no attempt by the applicant to address this matter through the submission of further information. Consequently, whilst it is accepted that it is likely that this matter is capable of being addressed, the proposals and supporting information are insufficient to enable officers to conclude that, before granting detailed planning permission, harm to these protected species can be avoided or sufficiently mitigated.
- 8.70 In respect of the Chichester and Langstone Harbours SPA/Ramsar the applicant is proposing a financial contribution towards the Bird Aware Solent Strategy in order to mitigate recreational disturbance impacts arising from the development.
- 8.71 As noted above, the proposals will result in the loss of approximately 0.94ha of functionally linked habitat for overwintering SPA bird species. The application contains no measures to mitigate or compensate for the loss of this significant resource. Furthermore, during the construction phase temporary disturbance will adversely impact the remaining part of the SSA. Issues relating to the SPA/Ramsar have been addressed in an Appropriate Assessment (AA) carried out by officers. In view of the above conclusions in respect of the impact on the Habitats site the AA concludes that the development would result in the unmitigated loss of functionally linked Habitats site and that, accordingly it cannot be established that the proposal would not have a likely significant effect on a European protected site and accordingly, the application cannot be permitted.
- 8.72 With regard to Biodiversity Net Gain (BNG) the applicant has confirmed that its approach in this regard is to 'seek to achieve' net gains in biodiversity over the wider application site. However, the detailed plans and supporting information contain very little evidence as to how such gains will be achieved. For example, there is no firm commitment to the use of a comprehensive package of measures such as those identified by the Council's ecologist, and nor has the opportunity been taken to quantify gains. Therefore the suggested BNG is not considered to be a significant benefit to weigh in the planning balance.
- 8.73 In summary on this issue, the application is subject to a number of serious shortcomings in respect of impacts upon both the qualifying species of the Chichester and Langstone Harbours SPA/Ramsar and protected species that inhabit or frequent the site. Further the application has failed to demonstrate that opportunities to enhance biodiversity will be maximised. Accordingly, these shortcomings are reflected in reasons 3 and 4 of the recommendation below.

#### vii. Sustainable design and construction

- 8.74 Policy 40 of the CLP requires the developer to demonstrate that all new dwellings comply with the 10 criteria set out in the policy. These include: how the proposal aims to protect and enhance the environment; that the proposal is water efficient (provision of 110 litres per person per day); how the new development complies with Building for Life Standards; how the new development applies sound sustainable design building techniques and

technologies and the use of renewable and recycled materials; how the energy consumption of the development is minimised and that the amount of energy supplied from renewable resources is maximised; how the proposal includes measures to adapt to climate change; how the historic and built environment, open space and landscape character will be protected; how the natural environment and biodiversity will be protected; development of appropriate scale, height, appearance, form, siting and layout to maintain tranquillity; and, local character and reduction of impacts associated with traffic and pollution. There are also provisions for sustainability in the IPS.

- 8.75 As noted from the responses set out at paragraph 6.21 above, the applicant has not submitted a detailed sustainability statement with the application, to demonstrate how the requirements of policy 40 will be met.
- 8.76 However, the submitted Planning Statement does have a brief section in relation to 'Sustainable Construction', relating to the wider site. This states that the applicant would follow a fabric first approach to building design, including insulation, high-performance windows and doors, increased air tightness and maximising passive solar gains. The Planning Statement confirms the use of energy efficient boilers and that homes will be built 'well above' current Building Regulations for insulation. With regard to renewable energies the applicant has not indicated the specific technology which will be proposed for the sheltered living accommodation.
- 8.77 For the wider scheme the applicant states that Electric Vehicle (EV) charging points will be installed within at least 40% of the properties, with the remaining spaces 'future proofed' with the necessary ducting for ease of installation at a later date. This requirement has, however, been superseded by Part S Building Regulations which sets a requirement for each dwelling or parking space to have access to an electric vehicle charge point.
- 8.78 With regard to water usage, a maximum of 110 litres per person per day water use could be conditioned to secure this requirement.
- 8.79 In conclusion, although it is disappointing the applicant has not submitted a sustainability statement with the application as required, it is accepted that a detailed sustainability statement to demonstrate how the requirements of policy 40 and criterion 8 of the IPS will be met could be secured by way of a pre-commencement condition. Secured in this way the development would meet the requirements of criterion 8 of the IPS and therein the objectives of Local Plan policy 40.

#### viii. Other matters

##### **Loss of agricultural land**

- 8.80 An Agricultural Land Classification Report has been submitted (produced by Henry Adams, 9<sup>th</sup> March 2022), for the wider site (22/02214/FULEIA) which concludes the entirety of the 16.9ha site is Grade 2 or 'very good quality' Best and Most Versatile (BMV) agricultural land. The applicant states the site is unsuitable for large scale horticultural development due to access and traffic flow limitations. It is further concluded that the loss of a small area of land as a natural resource is minimal.

- 8.81 Policy 48(4) of the CLP states *inter alia* that planning permission will be granted where development of poorer quality agricultural land has been fully considered in preference to BMV land. This approach is underpinned in the NPPF which states at para 174(b) that planning policies and decisions should contribute to and enhance the natural and local environment by *inter alia* 'recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland'. Footnote 58 of the NPPF clarifies that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.
- 8.82 The application has failed to clearly demonstrate that the development of poorer quality agricultural land has been considered in preference to BMV agricultural land in accordance with criterion 4 of Policy 48 of the CLP. In the event the 'tilted balance' is 'engaged' this harm would need to be weighed against the benefits of the provision of housing.
- 8.83 Whilst the application has failed to clearly demonstrate that the development of poorer quality agricultural land has been considered in preference to the best and most versatile land in accordance with the NPPF and criterion 4 of Policy 48 of the CLP, this harm would need to be weighed against the benefits of the provision of housing. In considering this harm, it is accepted that this application in isolation would result in the loss of 0.94ha of BMV land. Notwithstanding, the 'tilted balance' may not be engaged in this case, the provision of 45 units of residential accommodation in the absence of a 5-year housing land supply, weighs in favour, and the benefits are therefore considered to outweigh the harm (i.e. the loss of 0.94ha of BMV agricultural land).

### **Archaeology**

- 8.84 The Council's Archaeology Officer agrees with the results and conclusions of the desk-based assessment supplied with the application (i.e. that the site's archaeological potential is unlikely to be such that development should be precluded but that this should be confirmed by field evaluation prior to development in order that the significance of anything of interest that it might contain can be properly preserved). A condition would be applied to secure a written scheme of archaeological investigation of the site, if planning permission were granted.

### **Contaminated land**

- 8.85 As part of the wider site proposals (under 22/00214/FULEIA), consideration has been given to Wilson Bailey Geotechnical and Environmental Desk Study Report and Contaminated Land Assessment (Ref: J22034, September 2022). The desk study indicates that there is a low risk of the identified potentially sensitive receptors being impacted by any residual contamination that could conceivably be present beneath the site. Given the scale of the proposed development, it would be considered that the standard contaminated land conditions would be applied, if planning permission were granted.



## Infrastructure / Planning Obligations

8.86 This development is liable to pay the Council's CIL indexed at £120sqm which will address most of the infrastructure matters. The S106 Agreement has not been progressed due to the fundamental issues discussed above. If the development was otherwise acceptable, obligations would be required to secure the following:

- a 30% contribution towards affordable housing, either
  - i. on-site in the form of 13 units with 0.5 of a unit as a commuted sum payment based on the GIA calculation set out in the Planning Obligations and affordable Housing SPD, or
  - ii. wholly as a commuted sum payment for the equivalent of 13.5 units based on the GIA calculation set out in the Planning Obligations and affordable Housing SPD.

The commuted sum formula will be calculated at £350 per square metre of the total Gross Internal Floor Area of all net additional dwellings.

- Financial contribution towards the coordinated package of highway works on the A27 Chichester by-pass, 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 £347,760 (45 x £7,728 per dwelling).
- Financial contribution towards the Bird Aware Solent mitigation scheme to mitigate the impact of recreational disturbance to wildlife in Chichester and Langstone Harbours SPA/Ramsar. As the exact mix of unit sizes is not known at this stage, the calculation in the S106 Agreement for the 45 apartments, will be £443 for each 1 bed apartment and £639 for each 2 bed apartment.
- Suitable mitigation to compensate for the loss of approximately 0.94ha of existing Secondary Support Area of functionally linked habitat for overwintering SPA bird species under the Solent Waders and Brent Geese Strategy.
- S106 monitoring fee of £2,200.

### **Conclusion and planning balance**

8.87 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is a material consideration.

8.88 The Council currently does not have a demonstrable 5-year housing land supply. Therefore the Council's housing policies are deemed out of date. Paragraph 11 of the Framework states that in such circumstances, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development, having regard to footnote 7. This includes Habitat sites and areas at risk of flooding. Therefore, the tilted balance does not apply.

8.89 The harm identified in respect of the risk of future flooding, impact upon wildlife and protected species (including those that are special features of European Designated sites), adverse impact on existing open landscape if the proposal delivered in isolation, plus a lack of S106 legal agreement to secure a range of infrastructure requirements including affordable housing provision, contribution towards transport improvement works and mitigation for designated sites outweigh the benefits of the development. The proposed development conflicts with both national and local planning policies and therefore the application is recommended for refusal.

### Human Rights

8.90 The Human Rights of all affected parties have been taken into account and the recommendation to refuse is considered justified and proportionate.

### **RECOMMENDATION**

REFUSE for the following reasons:-

1) The application site is at high-risk of future flood risk as a result of tidal flooding taking into account the current climate change allowances, based on information in the Level 1 Interim Strategic Flood Risk Assessment Report December 2022. In the absence of an acceptable Flood Risk Assessment (FRA) and Drainage Strategy, the application fails the sequential test as insufficient adequate information has been submitted to show there are no reasonably available sites appropriate for this type of development, in areas at lower risk of flooding, as required in NPPF paragraphs 161 and 162. The application is therefore unacceptable on flood risk grounds and is not in accordance with policy 42 of the Chichester Local Plan: Key Policies 2014-2029, paragraphs 159, 161, 162, 163, 167 and 169 of the NPPF and guidance in the PPG 'Flood Risk and Coastal Change'.

2) Insufficient information has been provided to demonstrate the site will be adequately drained by the proposed Drainage Strategy and Flood Risk Assessment, particularly in respect of the detailed calculations of the drainage strategy in relation to the long term sustainability of the development, how the site would drain without effecting flooding elsewhere and how the drainage and watercourse features would be maintained. Therefore the application is not in accordance with the NPPF paragraphs 167 and 169. Furthermore, it has not been satisfactorily demonstrated that the development would be safe for its lifetime without increasing flood risk elsewhere and would therefore contrary to NPPF paragraph 159 and Policy 42 in the Chichester Local Plan: Key Policies 2014-2029.

3) The proposed development would result in the permanent loss of approximately 0.94ha of existing Secondary Support Area (SSA) of functionally linked habitat for overwintering SPA bird species under the Solent Waders and Brent Geese Strategy and temporary disturbance to the remaining part of the SSA during the construction phase. The application contains no measures to mitigate or compensate for the loss of this significant resource. Without any measures to mitigate or compensate for the loss of the SSA, it cannot be established that the proposal would not have a likely significant effect on a European protected site. Accordingly, the proposal would conflict with policy 49 of the Chichester Local Plan: Key Policies 2014-2029,

paragraph 180 of the NPPF (September 2023) and the Conservation of Habitats and Species Regulations 2017.

4) In respect of reptiles, insufficient information has been provided to demonstrate that harm to protected species can be avoided or significantly mitigated. The proposed development would therefore be contrary to paragraph 180 of the NPPF (September 2023) and Policy 49 of the Chichester Local Plan: Key Policies 2014-2029.

5) Insufficient information, in the form of updated speed surveys, have been provided for the Local Highway Authority (LHA) to ascertain if the data from the submitted speed surveys undertaken in 2016 is still comparable. The proposed development would therefore be contrary to paragraph 111 of the NPPF (September 2023) and Policy 39 of the Chichester Local Plan: Key Policies 2014-2029.

6) On the basis of the information provided, the proposals, in combination with other development, would further impact upon the Strategic Road Network (SRN). This cumulative effect would likely have an unacceptable impact on the safety and function of both the SRN and the Local Highway Network (LHN). The Chichester Local Plan 2021-2039: Proposed Submission sets out a strategy to provide long term mitigation of these impacts, up to 2039, which requires all new housing development (net increase) to contribute towards identified improvements. 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 Chichester Local Plan 2021-2039: Proposed Submission delivers the financial contributions of the scale envisaged in draft Policy T1 of the Chichester Local Plan 2021-2039: Proposed Submission, 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 Chichester Local Plan 2021-2039: Proposed Submission. In the absence of any such contribution, the proposal would lead to an unsustainable increase in impacts upon these networks and would undermine the delivery of the necessary highways infrastructure strategy to see further growth of up to 3,600 dwellings beyond existing commitments. The proposal is therefore contrary to Policy 9 of the Chichester Local Plan: Key Policies 2014-2029, Policies I1, T1 and T2 of the emerging Chichester Local Plan Review 2021-2039: Proposed Submission and Paragraphs 8, 104, 105 and 110 of the NPPF (September 2023).

7) In the scenario where the application proposals come forward in isolation, the proposal would be read as a standalone development in the countryside, removed from any responding context and would appear out of keeping with its rural and undeveloped surroundings. The application proposals would fail to respect, respond to and enhance the landscape character of the area, which would form an incongruous form of development within the countryside thereby undermining the integrity of predominantly open and undeveloped land between settlements. The proposed development would therefore be contrary to policies 33, 45 and 48 of the CLP, paragraphs 130 and 174 of the NPPF and criteria 3 of the IPS.

8) The proposed development fails to deliver a 30% contribution towards affordable housing provision, either via an on-site provision for 13 affordable units together with 0.5 of a unit as a commuted sum or via a wholly commuted sum payment for the equivalent of 13.5 units. Furthermore, no independently verified viability assessment has been submitted to support a lower provision. The proposal is therefore contrary to Policy 34 of the Chichester Local Plan: Key Policies 2014-2029 and the Planning Obligations and Affordable Housing SPD.

9) In the absence of a signed Section 106 legal agreement the application makes no provision for securing the necessary infrastructure obligations the proposal generates including the provision of affordable housing and transport infrastructure. Furthermore there is no mechanism to secure the recreational disturbance mitigation for the Chichester and Langstone Harbour Special Protection Area or mitigation for the loss of part of the existing Secondary Support Area of functionally linked habitat for overwintering SPA birds. In failing to secure the necessary infrastructure and mitigation requirements which a development of this size generates, the proposals are contrary to Paragraphs 57, 63, 110 and 180 of the National Planning Policy Framework (September 2023) and Policies 8, 9, 34, 49 and 50 of the Chichester Local Plan: Key Policies 2014-2029, Policies I1, T1 and T2 of the emerging Chichester Local Plan Review 2021-2039: Proposed Submission, the Conservation of Habitats and Special Regulations (2017) and the Planning Obligations and Affordable Housing SPD.

## INFORMATIVES

1) The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

2) The decision was based on the following plans: CB\_15\_075\_PARAM\_000/REV.B; CB\_15\_075\_PAR\_002/REV.B; 6115-8-22; 041.0033.001/REV.D; and 041.0033.012/REV.A.

For further information on this application please contact Jane Thatcher on 01243 534734

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RHHME9ER0ZU00>