


Parish: East Wittering and Bracklesham	Ward: The Witterings
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EWB/21/01376/OUT

Proposal	Outline Application (with all matters reserved except Access) for the development of up to 62 no. dwellings and associated access, open space, ponds, footpath and cycleway.		
Site	Land West of Bracklesham Lane Bracklesham PO20 8SR		
Map Ref	(E) 480650 (N) 97031		
Applicant	Mr C/O Lawson	Agent	Mrs Elizabeth Lawrence

RECOMMENDATION TO REFUSE



	NOT TO SCALE	Note: Do not scale from map. For information only. Reproduced from the Ordnance Survey Mapping with the permission of the controller of Her Majesty's Stationery Office, Crown Copyright. License No. 100018803
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1.0 Reason for Committee Referral

1.1 Major application on which Officers consider decision should be made by Committee.

2.0 The Site and Surroundings

2.1 The application site is located on the north-eastern edge of East Wittering. It comprises a field of approximately 2.62 hectares of flat agricultural land bounded to the east by B2198 Bracklesham Lane, to the west by Stubcroft Lane and by existing housing development at Middleton Close and Robinson Way to the south. Farmland lies to the west of Stubcroft Lane and to the north beyond the vegetated field boundary ditch. The site adjoins the settlement boundary for East Wittering to the south and to the east. Opposite, on the east side of Bracklesham Lane and extending further to the north is a development of 85 new homes recently constructed at the former South Downs Holiday Village site. There is an underground gas main which is part adjacent to but outside of the east site boundary. The site lies within the Environment Agency's Flood Zone 1 and is within 1km of RSBP Medmerry Nature Reserve.

3.0 The Proposal

- 3.1 The application is for a development of up to 62 new homes submitted in outline with all matters reserved save for access. A single point of vehicular access to the site 6 metres wide with 8 m corner radii is proposed from Bracklesham Lane with its centre line approximately 32 metres north of the junction of Clappers Lane with Bracklesham Lane. Visibility splays of 2.4m x 143m to the north and in excess of 2.4m x 150m to the south can be achieved. A new footpath is proposed from the south side of the new access road into the site, approximately 50m down the west side of Bracklesham Lane to meet the existing bus stop.
- 3.2 The application is accompanied by an illustrative layout showing a mix of houses and flats arranged each side of a winding central access road which serves a number of cul-de-sacs. A SuDS surface water drainage basin is shown in the south-west corner of the site. An indicative wildlife corridor is shown following the line of the north site boundary. The illustrative layout also shows a potential footpath/cycleway link from the development to Stubcroft Lane on the west site boundary with the future potential to create an off-road link to the existing recreation ground in East Wittering across the adjoining field which is also land under the applicant's control.
- 3.3 The proposed housing mix is as follows:

6 x 1 bed flats
18 x 2 bed houses
29 x 3 bed house
9 x 4 bed houses
Total 62

In terms of the 70:30 split between market and affordable homes this results in:

Market mix - 43 units. Exact mix would be determined at reserved matters stage but in the following proportions to comply with the latest April 2022 HEDNA. The number of units appearing in brackets after the % range is that suggested by the Council's Housing Officer.

- 1 bed - 5-10% (2 units)
- 2 bed - 30-40% (13 units)
- 3 bed - 35-45% (19 units)
- 4 bed - 15-20% (9 units)

Affordable Mix - 19 units comprising: 25% First Homes; 18% Shared Ownership; 35% Social Rent; 22% Affordable Rent.

This results in the following mix:

- First Homes: 1 x 1 bed; 3 x 2 bed; 1 x 3 bed (total 5)
- Shared Ownership: 2 x 2 bed; 1 x 3 bed (total 3)
- Social Rent: 3 x 1 bed; 2 x 2 bed; 1 x 3 bed; 1 x 4 bed (total 7)
- Affordable Rent: 2 x 1 bed; 1 x 2 bed; 1 x 3 bed (total 4)

- 3.4 Parking provision for the development for cars, electric vehicles and cycles would accord with WSCC standards and would need to comply with the Part S of the Building Regulations introduced in June 2022 which requires all new homes in a development to have the preparatory work completed for future installation of an electric vehicle charging point. The overall parking provision for cars, electric vehicles and cycles would be dependent on the final overall housing mix to be submitted at reserved matters stage.
- 3.5 The proposed density of the development is approximately 24 dwellings per hectare.
- 3.6 The surface water drainage strategy is to drain the development to an attenuation basin to be sited in the south-west corner of the site which will be fitted with a flow control outlet mechanism restricting off site flows to the adjacent watercourse to no more than existing greenfield rates.
- 3.7 Foul drainage would be to the existing public sewer.

4.0 History

14/03543/OUT	WDN	Outline application - 50 dwellings and associated access, parking, gardens, open space, footpath, cycle path and balancing/wildlife pond.
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5.0 Constraints

Listed Building	NO
Conservation Area	NO
Rural Area	YES
AONB	NO
Tree Preservation Order	NO
EA Flood Zone	FZ1
- Flood Zone 2	NO

- Flood Zone 3	NO
Historic Parks and Gardens	NO

6.0 Representations and Consultations

6.1 East Wittering and Bracklesham Parish Council

(Comments received 04.04.2022)

The Council resolved that their current detailed objections to the scheme remain unchanged.

(Comments received 15.09.2021)

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

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

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

(The letter then refers to 7 planning applications in Birdham, Earnley and East Wittering/Bracklesham and provides a table of reported environmental incidents relative to those sites, including sewage pollution incidents)

(Comments received 22.06.2021)

East Wittering and Bracklesham Parish Council OBJECT to this application.

Following advice from the Minister of State for Housing, the Rt. Hon. Christopher Pincher MP in a letter dated 12th May 2021 that "The National Planning Policy Framework (NPPF) is also clear that the cumulative effect of development alongside the infrastructure required to support it, can be material considerations in deciding whether development is appropriate", we believe that the application should not be considered in isolation, but cumulatively alongside the following developments to ascertain their combined impact upon the area:

Land South of Clappers Lane 20/03125/OUT

Land West of Church Road 20/02491/OUT

Land At Stubcroft Farm 21/01090/EIA

The combined scale of these applications falls within paragraph 49 of the NPPF, which states that, "arguments that an application is premature are unlikely to justify a refusal except in the limited circumstances where both:

a) the development is so substantial or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to the emerging plan; and

b) the emerging plan is at an advanced stage but not yet formally part of the development plan for the area."

The minister also states in the same letter that "Our policy is clear that the absence of an up-to-date five-year land supply or substantial under-delivery against the Housing Delivery Test does not necessarily give the green light to any development". We therefore believe that there are several compelling and material considerations that are relevant in objecting to this application. We also believe that the application does not accord with the development criteria set out in the Chichester District Council Interim Position Statement for Housing (November 2020) for the following reasons:

1) The application breaches criteria 4 of the interim position statement as the development has artificially sub-divided site HEW0008 in an attempt to avoid significantly more onerous infrastructure and S106 obligations, leaving the site exposed to the risk of piecemeal development. There is no assurance in the planning application that the developer will not attempt to bring further applications on this site forward in the future. Indeed, the developer has previously shared plans with the Parish Council for a development of 270 houses, whilst the Flood Risk Addendum Report clearly indicates on Page 5 that it is for approximately 300 homes.

We believe that the application also breaches criteria 4 as it does not accord with the findings of the latest Housing and Economic Development Needs Assessment (HEDNA, September 2020) and proposes too many larger three bedroomed properties for open market sale with insufficient smaller one and two-bedroom properties resulting in an arbitrarily low housing density.

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 land parcels will not be encouraged.

Relevant policies include:

- CLPKP Policy 2 Development Strategy and Settlement Hierarchy
- CLPKP Policy 7 Masterplanning Strategic Development
- CLPKP Policy 33 New Residential Development
- CLPKP Policy 47 Heritage and Design
- LPR Policy S2 Settlement Hierarchy
- LPR Policy S32 Design Strategies for Strategic and Major Development Sites
- LPR Policy DM3 Housing Density

2) The application breaches criteria 6 of the interim position statement. The site has been identified in the Ecological Mapping of Chichester District (LPR ref. 032 appendix 1) as of strategic importance, providing occupied sites for the following key species:

- Water Vole
- Northern Lapwing
- Woodland Bat
- Barn Owl

The development will create disturbance to significant lengths of hedgerow, which currently provide cover for Woodland Bats and Barn Owls, and the development will result in significant loss of open farmland, which is vital for Lapwing and also provides hunting grounds for Barn Owls. Site construction and the use of the proposed public open spaces, especially for dog walking purposes will result in considerable harm, specifically from construction and ongoing recreational disturbance to the riparian ditch network, adversely impacting the area-wide water vole population and severing vital wildlife corridor routes. Additionally because of issues with the wastewater treatment capacity in the area, we believe that it will have an adverse impact upon the protected habitats at Pagham and Medmerry Harbours and the Selsey -Hounds Marine Conservation Zone (MCZ). Detailed reasons for these concerns are provided below under wastewater.

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 adversely affect the potential or value of the wildlife corridor.

Relevant policies include:

- CLPKP Policy 49 Biodiversity
- LPR Policy DM29 Biodiversity
- LPR Policy S30 Strategic Wildlife Corridors
- LPR Policy DM31 Trees, Hedgerows and Woodlands

Relevant evidence:

- Strategic Wildlife Corridors Background Paper
- Local Biodiversity Action Plan

3) The application breaches criteria 7 and criteria 12 of the interim position statement as it fails to demonstrate how the necessary increases to capacity to the foul sewer network and the Waste Water Treatment works at Sidlesham will be secured and delivered to accommodate the additional demand. Residents regularly contend with sewage backing up into their properties into toilets, sinks, baths and showers. The addition of extra network demand will only exacerbate these issues. Southern Water have acknowledged in their response to the application that the existing foul sewage network does not have the capacity to accommodate the additional housing. Additionally, on the 5th March 2021 they advised Earnley Parish Council in response to a complaint about repeated incidents involving sewage backing up in to residents houses that;

"Following discussions within Southern Water, the relevant Technician and County Manager believe the issues facing Clappers Lane should be addressed by promoting as an Asset Risk Management (ARM) Project within Southern Water. The purpose of this is to promote the area for future funding to resolve the issues experienced by residents.

I appreciate that local resident's request immediate action, however, the issue cannot be resolved by simple means. A large input of capital is required in order to resolve the problem, which is where promoting via ARM is the correct course of action to take. However, I'm unable to provide a timescale of scheme approval."

This response explicitly recognises the requirement for investment in a major upgrade of the sewage and Waste Water Treatment network, whilst making clear that at the present time Southern Wate have no scheme or funding available to deliver this. On this basis, to

grant permission for this application would be in breach of the Urban Waste Water Treatment Directive (SI 2841, 1994), Schedule 2, which requires that:

1. Collecting systems shall take into account waste water treatment requirements.
2. The design, construction and maintenance of collecting systems shall be undertaken in accordance with the best technical knowledge not entailing excessive costs, notably regarding:
 - (a) volume and characteristics of urban waste water;
 - (b) prevention of leaks;
 - (c) limitation of pollution of receiving waters due to storm water overflows.

Natural England have raised specific concerns about the impacts the development will have upon nutrient levels in Solent European sites. This is a valid consideration and needs to be properly assessed. The latest EA condition report for Broad Rife (2019, appendix 1), which takes overflow discharges from Sidlesham WWTW shows that the overall condition category for the watercourse is Bad. This is the poorest rating. The report shows that there are numerous issues with pollutants, including excess nitrates, with one of the main sources identified as the water industry.

Broad Rife discharges into both Pagham and Medmerry harbours, both of which are protected sites that discharge into the Selsey-Hounds Marine Conservation Zone (MCZ). The Selsey Bill and the Hounds Marine Conservation Zone Designation Order 201 (no.35,) Section 5 (2) (a) requires that the MCZ must be kept in a favourable condition, "(a) with respect to a habitat within the Zone that means that:

- i) its extent is stable or increasing
- ii) its structure and functions, its quality, and the composition of its characteristic biological communities are such as to ensure that it remains in a condition that is healthy and not deteriorating"

The lobster population in the MCZ has experienced a sudden and precipitous fall in numbers and a major project, CHASM, is currently in progress to understand what is driving this, including the influence of water quality on supporting the ecosystem. Until this work has been completed, alongside a full analysis of the effects of increased nitrate discharge into Broad Rife on the protected and compensatory habitats at Pagham and Medmerry, the application should not be permitted.

As a minimum, a full Environmental Impact Assessment (EIA) and an Appropriate Assessment under regulation 61 of the Conservation of Habitats and Species Regulations 2010 (Habitats Regulation Assessment, HRA) should be carried out examining all relevant factors, including the impact of the development on Pagham and Medmerry Harbours, nitrate levels in the Solent Catchment Area and the impact on the protected features of the MCZ before planning permission can be granted for this application, although we believe that there are already sufficient grounds for refusal within the existing Interim Planning Position Statement and the Local Plan.

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

Relevant policies include:

- CLPKP Policy 9 Development and Infrastructure Provision
- CLPKP Policy 12 Water Management in the Apuldram Wastewater Treatment

Catchment

- CLPKP Policy 34 Affordable Housing
- CLPKP Policy 54 Open Space, Sport and Recreation
- LPR Policy S6 Affordable Housing
- LPR Policy S12 Infrastructure Provision
- LPR Policy S31 Wastewater Management and Water Quality

Relevant evidence includes:

- Infrastructure Delivery Plan
- Open Space, Sport Facilities, Recreation Study and Playing Pitch Strategy
- Approach to securing development contributions to mitigate additional traffic impacts on the A27 Chichester Bypass SPD
- Surface Water and Foul Drainage SPD
- Joint Environment Agency and Southern Water Position Statement on Managing New Housing Development in the Apuldram (Chichester) Wastewater Treatment Works Catchment

The application breaches criteria 10 of the interim position statement as it fails to provide sufficient improvements to vehicular, pedestrian and cycle access to the local road network. The traffic modelling also excludes the following proposed developments, which will all impact upon local network capacity:

- 320 homes at Stubbcroft Farm (21/01090/EIA)
- 73 homes at Koolbergen, Kelly's Nurseries And Bellfield Nurseries Bell Lane Birdham Chichester West Sussex PO20 7HY (20/02066/OUT)
- 25 homes at The South Side Of Church Lane Birdham West Sussex (20/03034/OUT)
- 30 homes at Earnley Concourse (20/02236/OUT)
- 5 homes at Earnley Gardens (20/03289/FUL)

As such the cumulative effects of multiple developments on the local road network are being seriously understated in the supplied traffic models and new analysis should be completed including the cumulative impacts of the missing 453 homes on all major junctions, including the Bell Lane, Donnington and Stockbridge roundabouts. Initial analysis of the Bell Lane Roundabout conducted on behalf of the Parish Council by Graham Bell Associates states that;

"...WSCC has raised the issue of the roundabout capacity analysis in the Land West of Bracklesham Lane assessment, in their consultation response dated 7th June 2021. The applicants will need to respond to that and will presumably adjust their modelling... There is a significant cumulative impact issue at this roundabout given all of the potential development sites in East Wittering and Bracklesham and Earnley Parish Council areas, which impact to greater or lesser degrees on the capacity of this roundabout. The improvement proposed by the Clappers Lane developer is, frankly, a waste of time from a practical point of view, but the problem is that any effective improvement would require land acquisition. To date, WSCC seem to be reluctant to oppose development on this basis, but with each successive development, the cumulative impact gets worse with no effective solution in sight. There is a real risk here that they will take financial contributions from the developers towards an effective (but currently unknown) improvement, and then do nothing about the problem so that queues and delays simply get longer. We believe that capacity at this roundabout is a key issue in regard to cumulative impacts on developments in EWandB and EPC areas."

A full Environmental Impact Assessment (EIA) of the effects of noise, dust and construction disturbance on residents of the adjoining properties in Stubcroft Lane and Middleton Close should be completed before planning permission is granted.

Should the development be permitted, significant improvements would be required to the local transport network. These include a signal-controlled pedestrian crossing in Bracklesham Lane, improved street lighting to the footpath on both sides of Bracklesham Lane, provision of dedicated bus pull ins with covered bus shelters provided on both sides of Bracklesham Lane north of the development to protect secondary school pupils who need to catch the bus for school transport.

Planning conditions should specify that the proposed cycle link to Downview Recreation Ground be surfaced in Tarmac (or similar hard surfacing) and lit, making it suitable for use in all weather conditions and at all times of the day or night.

If planning permission is granted to the development, specific conditions should be attached to the site to ensure that construction traffic must enter site only via Bracklesham Lane. Heavy goods movements should also be restricted in the interests of pedestrian safety, with none permitted Mon-Fri between the hours of 7.15-9-30am and 3.00-4.00pm to avoid conflict with primary and secondary school children using the local pedestrian and bus network by the site entrance.

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.

Relevant policies include:

- CLPKP Policy 8 Transport and Accessibility
- CLPKP Policy 39 Transport, Accessibility and Parking
- LPR Policy S23 Transport and Accessibility
- LPR Policy DM8 Transport, Accessibility and Parking

Relevant evidence includes:

- Local Plan Policies Map
- Settlement Hierarchy Background Paper
- WSCC Walking and Cycling Strategy 2016-2036
- Chichester Local Cycling and Walking Infrastructure Plan
- Other relevant government guidance such as LTN 1/20 Cycle Infrastructure Design

The application breaches criteria 7 and 11 of the interim position statement as it is not located in an area at low risk of predicted future flooding and does not detail how the necessary supporting infrastructure (e.g., raising of coastal sea defences) will be secured to meet the predicted flood risk of climate change induced sea level rise.

The site was previously removed from the Housing and Employment Land Availability Assessment (HELAA, October 2020) because it was not regarded as sustainable due to the latest forecast impacts of climate change and projected sea level rise. A revision of the HELAA maps then placed the site back into a lower flood risk category, however, the data used to model the revised maps is currently subject to further update and revision. The EA do not anticipate that up-to-date flood risk maps will be available until the autumn.

With so much uncertainty in the data, and likely revisions that will show increased flood risk to the whole coast, due to newer and more pessimistic climate change models, the entire coastline should be designated as a Coastal Change Management Area.

NPPF paragraph 167 defines this as "...any area likely to be affected by physical changes to the coast" and requires that the planning authority.

a) be clear as to what development will be appropriate and in what circumstances; and
b) make provision for development and infrastructure that needs to be relocated away from Coastal Change Management areas.

The Planning authority should therefore detail how critical infrastructure servicing the site such as the Sidlesham WWTW will be safeguarded or relocated as this is within the zone likely to be flooded by future sea level rise before planning permission can be granted.

The current Pagham to East Head Coastal defence strategy (2008) for the Bracklesham to East Wittering frontage identifies the chances of securing funding for necessary coastal defence works as unlikely and states that "defences would be raised over time to account for the risks from rising sea levels over the next 100 years. The national funding priority is very low for this frontage. There is very little chance within the foreseeable future of securing national funding for a scheme to renew the defences. Funding from public and private sources will need to be explored. If this proves unsuccessful, Chichester District Council will need to develop plans involving potentially affected householders that describe what will be done as the defences fail." In the intervening 13 years since the strategy was adopted no funds for raising of the coastal defences have been secured.

Paragraph 169 of the NPPF goes on to state that "Local Planning Authorities should limit the planned lifetime of any development in a Coastal Change Management Area through temporary permission and restoration conditions, where this is necessary, to reduce a potentially unacceptable level of future risk to people and the development".

On this basis, if the application is granted, planning conditions should be attached for a commuted sum to be paid to the planning authority for both compensation of affected householders and remediation of the site when coastal defences fail and it becomes unsuitable for human habitation so that it can be restored as a wildlife habitat.

A recent judgement from the planning inspectorate, Appeal Ref: APP/L3815/W/20/3250327 Mayfield, Prinsted Lane, Prinsted, Southbourne PO10 8HS refused an appeal in an area identified at similar risk of future climate change induced flooding on the grounds that: "the appeal proposal would cause significant harm to the Council's development strategy and settlement hierarchy, and to the Council's and the Government's flood risk strategy for housing development. I attach substantial weight to this harm." The same harms would be attached to this development, only on a much larger scale and as such it should be resisted as there is now an established precedent for refusal.

Strategic objective 2.1 of the National Flood and Coastal Erosion Risk Management Strategy for England (2020) requires "Between now and 2030 all new development will contribute to making places resilient to flooding and coastal change". Until the EA have published the revised flood risk data taking in to account the most-up-to-date models of sea level rise and coastal change, this objective cannot be proved to be met, and to grant planning permission to the application at this stage would be reckless to future residents.

With regards to other ground and surface water flooding issues, the applicant includes several caveats in their Flood Risk Assessment, Flood Risk Assessment Addendum and their Drainage Reports. These include;

- the site is likely subject to seasonal flooding due to the high-water table and that the effects of tidal locking on the local drainage and ditch networks are not fully understood,
- detailed topographical surveys have not yet been completed on the site and so it is not possible to ascertain exactly how much of the land lies below 4.7m AOD and therefore at increased flood risk,
- the lack of up-to-date assessments from the EA on coastal flooding and climate change modelling to inform the FRA,
- full groundwater monitoring and infiltration testing has not yet been completed so the constraints on the SUDS systems are not yet fully understood and
- recognition that deep soakaway features are unlikely to be suitable for the site due to the high groundwater levels.

Given the lack of certainty in the reports and assessments provided so far and the catastrophic impact of potential flooding events upon both the site and neighbouring properties, planning permission should not be granted until more detailed work and analysis have been completed.

The application further breaches criteria 11 as it acknowledges that the raised banks on the storage lake on the site could cause floodwater to be diverted to other areas and also fails to detail how ongoing maintenance of the SUDS systems will be managed in perpetuity.

If permission were to be granted for this outline planning application it should be a condition that it does not cause flooding issues in other areas and that details of the ongoing funding for SUDS maintenance must be provided and independently verified as fit for purpose. If this cannot be verified, then a commuted sum for the future maintenance of the SUDS system should be paid to the Parish Council, as responsibility for ongoing maintenance will inevitably fall on to the parish as a provider of last resort.

11. Development is to be located in areas at lowest risk of flooding first, and must be located, designed and laid out to ensure that it is safe, that the risk from flooding is minimised whilst not increasing the risk of flooding elsewhere, and that residual risks are safely managed. This includes, where relevant, provision of the necessary information for the Council 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 effective function of the flood plain, either by impeding surface water/ flood flows or reducing storage capacity. All flood risk assessments and sequential and exception test processes should be informed by the most recent climate change allowances published by the Environment Agency.

Built development can lead to increased surface water run-off; therefore new development is encouraged to incorporate mitigation techniques in its design, such as permeable surfaces and surface water drainage schemes must be based on sustainable drainage principles.

Relevant policies include:

- CLPKP Policy 42 Flood Risk and Water Management
- LPR Policy S27 Flood Risk Management
- LPR Policy DM18 Flood Risk and Water Management

Relevant evidence includes:

- Strategic Flood Risk Assessment Level 1
- HELAA
- Chichester Surface Water and Foul Drainage SPD
- WSCC Lead Local Flood Authority Policy for the Management of Surface Water

The application breaches criteria 12 of the interim position statement as it does not detail how it will prevent further foul water discharge events into the Solent water catchment area given the chronic lack of capacity in the local waste-water treatment network, full details of which have been provided earlier in our submission. As such it will fail to meet the requirements for nitrate neutrality in all new housing developments:

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.

Relevant evidence includes:

- Advice on achieving nutrient neutrality for new development in the Solent Region, Natural England June 2020

Finally, the Parish Council would like to add that the development will adversely impact the whole village, further extending the settlement boundary and diminishing the open and rural nature of the area. The development would also exacerbate existing issues around access to schools, medical treatment and services and contribute to over-capacity issues upon the local road network, which has been subject to numerous cumulative development impacts over the past 3-5 years.

6.2 Earnley Parish Council

(Comments received 25.05.2022)

Having reviewed the substitute plans, at its meeting on 23rd May 2022, Earnley Parish Council resolved to maintain its objection to this application.

(Comments received 23.07.2022)

At its meeting on 24th June 2021, Earnley Parish Council resolved to object to this application and fully support East Wittering and Bracklesham Parish Councils objection to this application and in support of East Wittering and Bracklesham Parish Council's objection to this application, we would make the following specific comments about the applicant's Transport Assessment (TA):

1. Why are the vehicle trip rates so much lower than for the nearby approved South Downs and Beeches schemes? Overall, the AM peak hour two-way trip rate total is 17% lower, and the PM peak hour is 36% lower. Were they comparable, then of course the traffic generated would be proportionately greater than that stated in the TA.

2. The TA underestimates the amount of traffic that will travel off the Manhood, in particular for work. The applicant bases their traffic distribution on the 2011 Census journey to work data, but since then it is well recognised that a significant number of jobs have been lost on the Manhood, in particular following the closures of Cobham Aerospace, the Earnley Concourse, Northshore Yachts and South Downs Holiday Village. A transport consultant retained by us has made the case that some 70% of peak hour traffic will travel off the peninsula, a figure verified by our own survey of traffic from the Beeches site. In 2014 the parish council surveyed some 1,200 job vacancies for the whole area stretching from Portsmouth in the west, Bognor in the east and Chichester to the north and only 6% of those jobs were for locations on the Manhood Peninsula.

3. Clearly, if more traffic travels north off the Manhood this will put further pressure on the key junctions right up to and including the Stockbridge roundabout with the A27. The Bell Lane roundabout is already acknowledged as being at capacity. Whilst this application in itself may not be very significant in term of traffic impact, the key issue (as the NPPF makes clear) is the cumulative impact of this application added to the already approved housing schemes in the area and possible future schemes - and therefore a "line in the sand" needs to be drawn. At an appeal enquiry for the Beeches development on Clappers Lane (14/00457/OUT), the planning inspector stated that he "sympathised with that view" and that "the line in the sand argument is often embedded in policy" (paras 33 and 34 of the decision letter). He also stated in para 33 that: "The analysis demonstrates that the development envisaged in the emerging Plan would, in spite of all the junction improvement financed through contributions, result in very significant queues and delays at the end of the Plan period". In the same paragraph he concludes, therefore, that any measurable additional traffic: "could reasonably be described similarly [i.e. severe] and, consequently, that any measurable additional effect (even otherwise unnoticeable ones) might also be severe." Since that enquiry a further 195 houses have been approved in the vicinity of this application site.

In addition to East Wittering and Bracklesham Parish Council comments in relation to the issues surrounding the sewage capacity on the Manhood Peninsula please find attached correspondence that Earnley Parish Council has had with Southern Water, and their inability to address the existing issues in the area, which will only be exacerbated with any further building, and we request that this is uploaded to the website. ([please see CDC website for the additional correspondence](#))

6.3 Birdham Parish Council

(Comments received 05.07.2022)

Birdham Parish Council objects to planning application 21/01376/OUT, Land West Of Bracklesham Lane Bracklesham PO20 8SR and fully endorses the objection of the EAST WITTERING and BRACKLESHAM PARISH COUNCIL. We fully agree that the cumulative effect of the planning applications on the Western Manhood is so significant that this application cannot be considered in isolation.

The total number of proposals of which we are aware is:

- 65 homes Land West of Bracklesham Lane Bracklesham PO20 8SR. (21/01376/OUT)
- 100 homes Land South of Clappers Lane (20/03125/OUT)
- 65 homes Land West of Church Road (20/02491/OUT)
- 320 homes at Stubbcroft Farm (21/01090/EIA)

- 73 homes at Koolbergen, Kelly's Nurseries And Bellfield Nurseries Bell Lane Birdham Chichester West Sussex PO20 7HY (20/02066/OUT)
 - 25 homes at The South Side Of Church Lane Birdham West Sussex (20/03034/OUT)
 - 30 homes at Earnley Concourse (20/02236/OUT)
 - 5 homes at Earnley Gardens (20/03289/FUL)
 - 160 homes. Whitecroft Farm, Main Road Birdham. At pre-application stage.
- This is a total of 843 houses.

The latest proposed local plan housing allocation (Letter, 26 November 2020) for the Western Manhood is 200, all allocated to Birdham (unfairly, for a village of 200 houses, and in contravention of the Settlement Hierarchy).

The difficulties with infrastructure on the Manhood are well known to the District, but consistently ignored, as each development argues that it will make very little difference to the total, but when taken together, the numbers are very significant.

The sewerage system is inadequate for existing users, and all new developments in Birdham do not have a satisfactory sewerage system. In addition, the Sidlesham WWTW discharges semi-treated sewerage into the Pagham Harbour for more than 10% of its operating time. No development should be permitted for connection to Sidlesham until this woeful state of affairs has been full addressed.

There is also the issue of the A27 and, of particular interest to the Western Manhood, the A286, There has been a marked deterioration in road safety on the A286, and the road has become significantly busier in the last few years. Between 2015 and 2020 there were 5 fatalities and 5 serious injuries on the A286, with a further 15 serious injuries and 2 fatalities on the B2179 and B2178. The District Council's proposal to build a link road from the Fishbourne Roundabout is many, many years from reality and, in our view, is never likely to overcome the planning and land ownership difficulties.

If the SLR were to be constructed it would not do anything to improve the congestion problems on the A286 and B2179 where the increased housing number and consequent trip generation would cause more congestion and safety issues. This is a point worth stressing, because the SLR would not provide any alleviation of traffic problems on the peninsula which are being compounded by overdevelopment. To be considering plans for 843 houses without the benefit of an overall plan is clearly not a proper way to proceed.

It is, therefore, the Parish Council's view that this planning application, and all others on the Western Manhood, must be refused until the Local Plan has progressed to a point where a realistic number of houses can be accommodated with suitable infrastructure, properly taking into account the environmental importance of the Manhood Peninsula.

6.4 Selsey Parish Council

(Comments received 25.03.2022)

Selsey Town Council reiterates its previous objection to this application on the grounds that it would have an impact on the current sewage network; and an impact on the education requirements. Just over 10% of pupils in this area do not get their first place choice of school. The proposal would have an adverse impact on the transport infrastructure and it would be an artificial sub-division of a bigger site. Furthermore, the

Town Council supports the objections raised by East Wittering and Bracklesham Parish Council in its letter of 22 June 2021.

(Comments received 22.06.2021)

Selsey Town Council comment to object to this application on the grounds that it would have an impact on the current sewage network, an impact on the education requirements and an impact on the transport infrastructure and it would be an artificial sub-division of a bigger site.

6.5 West Itchenor Parish Council

(Comments received 13.07.2021)

West Itchenor Parish Council objects to planning application 21/01376/OUT - Land West Of Bracklesham Lane, Bracklesham and fully endorses the objection of the East Wittering and Bracklesham Parish Council. We fully agree that the cumulative effect of the planning applications on the Western Manhood is so significant that this application cannot be considered in isolation.

6.6 Chichester Harbour Conservancy

The current proposal lies outside the AONB, and in a location out of visual sight of the AONB. The site is also adjacent to built-up urban environment, fronting Bracklesham Lane and at Robinson Way. The proposal is considered to have little significant visual impact on the AONB protected national landscape or be demonstrably harmful to the natural beauty of the AONB environment and supporting surroundings. For these reasons The Chichester Harbour Conservancy makes no comment on the current submission.

6.7 Environment Agency

No objection to the proposal as submitted.

6.8 Southern Water

Initial desk top study indicates that these additional flows may lead to an increased risk of foul flooding from the sewer network. Any network reinforcement that is deemed necessary to mitigate this will be provided by Southern Water. It may be possible for some initial dwellings to connect, pending network reinforcement. Southern Water will review and advise on this following consideration of the development programme and the extent of network reinforcement required. Southern Water endeavour to provide reinforcement within 24 months of planning consent being granted (Full or Outline). Southern Water hence requests the following condition to be applied: Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development.

6.9 National Highways

05.10.2023

We have carried out a review of the application papers and our recommendation is that we raise no objection to the development proposal

08.06.2023

We will be concerned with proposals that have the potential to impact on the safe and efficient operation of the SRN, in this case, particularly within the vicinity of the A27. Having assessed the submitted application, we note that given its location and form we are able to conclude that it would not have an unacceptable impact upon the safety, reliability and operation of the SRN.

However, Highways England will require the applicant to make a relevant contribution to the A27 Local Plan mitigations based on Chichester District Council's SPD 'Approach for securing development contributions to mitigate additional traffic impacts on the A27 Chichester Bypass'.

The development is located in the East Whittering/Bracklesham Development Zone; hence a contribution of £3,248 per dwelling applies. Therefore, a contribution of £211,120 (65 dwellings x £3,248/dwelling) will be required.

[Planning Officer Comment: the original proposals for 65 dwellings having been reduced to 62 dwellings results in an amended contribution of £201,376 (£3,248 x 62).

Notwithstanding the 2016 SPD the draft A27 Chichester Bypass Mitigation SPD in response to draft policy T1 of the Chichester Local Plan 2021-2039: Proposed Submission (Regulation 19) exacts an amended methodology for calculating the A27 improvements mitigation and would require a contribution of £503,094]

6.10 Natural England

Advise that as this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound. Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s). Notwithstanding this, Natural England's advice is that this proposed development, and the application of these measures to avoid or reduce the likely harmful effects from it, may need to be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment.

6.11 WSCC - Highways

23.10.2023

The only change I would advise is that the EV condition would now be covered by Building Regs. With Stubcroft Farm now refused then all other consented (or pending appeals in terms of 150 at Birdham) are included in the modelling.

17.11.2021

No Objection.

Access - A new priority junction would be provided onto Bracklesham Lane between the junctions of Bracklesham Lane and Clappers Lane and the access to the redeveloped South Downs Holiday Village. Swept path vehicle analysis has been provided and shows concurrent car with refuse vehicles or fire tender would be acceptable.

Junction modelling - A number of junction modelling scenarios have been provided, the most onerous of which includes Temprow growth to 2029, inclusion of committed development at South Downs Holiday Village, and current application ref 21/01830/OUT (150 dwellings land off Birdham Road, Birdham). The modelling indicates the junction would work well within capacity with maximum delays of 20 seconds on the B2179 in the AM and PM peaks and as such the development would not have a severe impact on the operation of the junction.

The applicant has undertaken a junction turning count and queue length surveys to address concerns on the impact of the development on the A286/B2198/B2179 junction. These were undertaken on Thursday 16th September 2021 and flows at the nearest permanent traffic counter on the A286 for that date have been compared to corresponding 2019 flows. Following review of the video footage of the queue length surveys I am now of the opinion that the junction modelling does not require the use of adjustments factors to enable it to replicate existing conditions. The video footage shows that any queues that did form appear to be from the platooning of traffic behind slow moving vehicles rather than as a result of the junction's operation.

Trip generation - Trics has been utilised to establish the development is anticipated to generate 31 AM peak movements, 28 PM peak movements and a 12hr total of 293 two way movements.

Conditions - securing a shared route through the development as shown on drawing title Cycle Route Overview; Vehicular access provision; car parking spaces; EVC parking spaces; cycle parking; CEMP.

S.106 Agreement - Travel Plan Statement and Travel Plan auditing fee of £1,500.

6.12 WSCC - Lead Local Flood Authority

13.09.2023

Objection.

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

- The application is not in accordance with NPPF paragraph 167 or 169, PPG Flood risk and coastal change or 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.

Applicant Action Required:

- Address fluvial flooding from the ordinary watercourse.
- Include appropriate climate change allowance for assessment of the lifetime of the development (including the 3.33% AEP design flood event).
- Use up to date FEH2022 rainfall data for all design flood events.
- Drainage survey required to provide evidence of existing discharge rate and condition (may include detailed asset or CCTV survey).
- Infiltration storage drainage design should be recalculated to either only discharge through the sides of the structure or apply the appropriate factor of safety.

- Include appropriate climate change allowance for the lifetime of the development (including 3.33% AEP design) for storage volumes.
- Use up to date FEH2022 rainfall parameters in any modelling scenarios.
- Indicative vehicular access route and off-road parking needs to be provided to ponds, basins and swales within the masterplan.
- Provide an easement of a minimum of 3 m from the top bank of any watercourse is required for maintenance of the watercourse. This should be on both banks, but justification should be provided if access is proposed from only one side of the bank or less than 3m (e.g. 2.5 times the width of any plant likely to be used (from the top of bank with maintenance plant parallel to the watercourse)).
- Due to the likely long duration build out time (including phased development proposals), a plan and supporting calculations and drawings are required to show a timeline of how temporary measures will be put in place to protect the water environment and any newly built SuDS features. This will include any temporary water quality and flow control devices.
- A high-level assessment of how water quantity and water quality will be managed during the construction phase is required. Identifying high level assumptions such as the need to discharge to a sewer or watercourse with appropriate pollution measures.
- A Cv value of 0.75 is currently being used in MicroDrainage calculations, which means that not all the water within the catchment is draining into the proposed drainage system. A Cv value of 1 should be used instead.
- Increased use of source control SuDS features.
- 1 metre freeboard from groundwater is required, or as much as possible.
- Further evidence required to show that the proposed ponds are not within the floodplain of the watercourses near the ponds. This is to ensure the ponds both have capacity for critical storm events.

09.06.2021

No Objection.

Current surface water flood risk based on 30year and 100year events - Low risk

Modelled groundwater flood hazard classification - Moderate risk

Watercourses nearby - Yes on site boundary

Records of any surface water flooding within the site - No

6.13 WSCC - Fire and Rescue Service

Details of location of fire hydrants to be submitted to and approved by LPA in consultation with WSCC before development commences. No occupation of any dwelling until installed.

6.14 WSCC - Education

The site will be CIL liable. CIL will be sought by the County Council as local education authority from the charging authority to provide the necessary education mitigation for the proposed development.

[Planning Officer Comment: In terms of the current availability of school places, the local education authority in advising the Council on the proposals for 100 dwellings at the appeal on land south of Clappers Lane commented on 15.06.2022, "The development falls within the catchment area for East Wittering Primary School. Currently the school does have capacity to cater for the children from this development, [the 100 dwelling appeal

scheme] the school does have capacity to expand should the need in the area increase further. Therefore we would anticipate requesting CIL funding towards any expansion of the existing provision."]

6.15 CDC - Drainage Engineer

09.06.2021

Flood Risk: The area of the site where housing is proposed is wholly in flood zone 1 (low risk) and not shown to be at significant risk from a 1 in 200yr tidal event in 2115. We have no additional knowledge of the site being at increased flood risk. Therefore, subject to satisfactory surface water drainage we have no objection the proposed use, scale or location based on flood risk grounds.

Surface Water Drainage: The outline proposal is to discharge to surface water to the adjacent watercourse at a restricted rate (5 l/s), with surface water attenuated on site up to the 1 in 100yr event + CC. We are satisfied that the applicant has demonstrated that the approach should adequately drain the development, but the applicant will still need to undertake winter groundwater monitoring, and winter percolation tests to either rule out the use of infiltration or identify where infiltration can be utilised. Wherever possible, driveways, parking spaces, paths and patios should be of permeable construction.

SuDS standard condition recommended.

[Planning Officer Comment: the above comments from June 2021 in respect of Flood Risk are now superseded by the updated comments of the WSCC Lead Local Flood Authority set out at paragraph 6.12]

6.16 CDC - Housing Enabling Officer

(Comments received 01.03.2022 on amended 62 dwelling proposal)

Following the First Homes provision set out in a written ministerial statement which became effective on 28 June 2021 the development is required to provide a minimum of 25% of all affordable homes as First Homes. First Homes must be sold on a freehold basis to first time buyers and key workers at a minimum discount of 30%. First Homes cannot be sold for more than £250,000 after the discount has been applied and can only ever be sold to a household which meets eligibility criteria. The Council has also introduced a local connection requirement which requires that First Homes sales are prioritised for households who have a live, work or family connection to Chichester District.

[Planning Officer Comment: the applicant subsequently modified the housing mix so that it now incorporates the correct proportion of First Homes and the resultant proposed affordable housing mix set out at paragraph 3.2 accords with the requirements of the Housing Enabling Officer]

(Comments received 25.08.2021 on proposed 65 dwelling proposal)

The above housing mix is acceptable and will contribute to meeting an identified housing need within East Wittering and Bracklesham and the wider Chichester District.

6.17 CDC - Environmental Strategy

08.11.23

It has previously been agreed that the site is not used as functionally linked habitat by waders and brent geese (ESU comments of Jan 2022). There is potential for impact through recreational disturbance on Chichester Harbour and on Medmerry compensatory habitat. The site is unusual in that it lies within the 5.6km zone for Chichester and Langstone Harbours SPA / Ramsar, inside the 400m buffer zone around Medmerry compensatory habitat but outside the 3.5km zone of influence for Pagham Harbour SPA / Ramsar. We have to treat Medmerry as if it were a habitats site under the Habitats Regulations. The PEA makes mention of direct payment to the RSPB to deal with the potential for impact on Medmerry, but no definite proposal for such contributions has been agreed.

The Pagham joint scheme of mitigation is delivered on behalf of Arun and ourselves by the RSPB. The wardening that the RSPB deliver covers both Pagham and Medmerry as they run the two sites as one, and the scheme is shortly to be re-named as the Pagham and Medmerry scheme of mitigation to reflect this. The zone of influence in the adopted local plan does not cover Medmerry only 3.5km from Pagham SPA boundaries. To deal with potential for impacts on Medmerry, I therefore suggest that, as the site is within the 400m buffer for Medmerry, that we treat as if it is within the zone of influence of Pagham. That means it is effectively in the zone of influence for two sites. In this situation it is our long established practice to collect the higher of the two mitigation contributions and then split the contribution between the two schemes (Bird Aware for Chichester and RSPB for Pagham and Medmerry).

07.03.2022

Ecology Update:

Following submission of the Addendum to Ecology Report (Feb 2022) we are satisfied that the amendments to the SUDS pond have been considered in relation to ecology.

(Comments received 11.01.2022 which supersede previous comments other than those identified in the 11.01.2022 response below)

Bats: The mitigation and enhancement detailed in the Phase II Bat Surveys (December 2021) is sufficient and suitable for site. Once the housing details are finalised, we will require the location of the 25 integral bat bricks to be included on the landscaping / mitigation plans.

Reptiles: The reptile mitigation and enhancement strategy detailed in the Phase II Reptile Survey Report (December 2021) is suitable. The proposed reptile translocation site is appropriate for the reptile habitat to be removed to.

Water Voles: The mitigation and enhancement detailed in the Phase II Water Vole Survey (December 2021) is sufficient. The site has potential for further ecological enhancements that would benefit more than water voles. We would like to see the incorporation of linear ponds to the ditches proposed for enhancements. These should be included on the landscaping/mitigation plans.

Brent Geese: Further to the Ecologists letter, which details their observation of the site over a number of years, we agree that overwintering bird surveys are not appropriate, and a degree of practicality must be applied. A contribution to the nature reserve, as per the

PEA (February 2021) is suitable. Full details of this should be provided with the full application.

Policy 40: The information provided in the Sustainability Statement 2021 is suitable for this stage of the application. Once final details of the sustainable design and low carbon/carbon neutral energy sources have been finalised, details of this along with the SAP calculations must be submitted as part of the Reserve Matters application. The applicants should be aware that updated Building Regulations come in to force 15 June 2022. An improvement of over 30% on Building Regulations will be required to meet the demands of Policy 40.

(Comments received 11.01.2022)

Recreational disturbance: The site lies within the Zone of Influence for Chichester Harbour, a contribution to the Bird Aware: Solent Mitigation Scheme will be required to mitigate the increased recreational pressure at the Harbour.

Medmerry Nature Reserve: The mitigation measures outlined in section 5.1.2 in the Preliminary Ecological Assessment (February 2021) should be adhered to, including a monetary contribution to RSPB to help towards conservation objectives of the Nature Reserve in the future.

Enhancements: Require a number of enhancements to be incorporated within the scheme and shown with the landscaping strategy.

6.18 CDC - Archaeology

This site lies on a part of the coastal plain that has proved particularly attractive to settlement and that therefore has a general potential to contain deposits of archaeological interest. Of particular relevance are the discovery of sherds of Bronze Age pottery on an adjacent site in 2006 prior to development and the fact that Bracklesham Lane is thought to be Roman in origin. In the circumstances it would be appropriate to require that the archaeological potential of the site should be evaluated by trial trenching ahead of development in order to ensure that the significance of anything of interest thus identified might be properly conserved. Standard planning condition recommended.

6.19 188 Third Party Objections

- harmful to road safety
- existing long delays on roads particularly in Summer will increase as only one road in, one road out
- existing traffic congestion will get worse, ambulances can't get through
- sewage system is already overloaded, cannot cope and will result in back up and pollution
- limited work opportunities on the peninsula, most will have to travel adding further to road congestion
- Council has obsession with filling housing quotas at expense of the environment
- this is a village not a town
- loss of character of settlement
- over development, too much housing not enough facilities
- should be building on brownfield sites not green farmland

- will ruin village as a tourist attraction and devastate vibrant local economy
- further housing is not sustainable in this location
- urban sprawl
- no infrastructure, schools and surgery are stretched beyond capacity
- likely to result in further problems of surface water flooding
- loss of valuable agricultural land for food production, harmful to nations food security
- negative impact on local biodiversity, impact on water voles and bats and loss of wildlife habitat
- site will be affected by climate change related flood risk
- Bracklesham has taken more than its fair share of new housing over the last 10 years

7.0 Planning Policy

The Development Plan

- 7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029, the CDC Site Allocation Development Plan Document and all made neighbourhood plans. There is currently no made neighbourhood plan for East Wittering and Bracklesham.
- 7.2 The principal development plan policies relevant to the consideration of this application are therefore 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 4: Housing Provision
 Policy 5: Parish Housing Sites 2012- 2029
 Policy 6: Neighbourhood Development Plans
 Policy 8: Transport and Accessibility
 Policy 9: Development and Infrastructure Provision
 Policy 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 48: Natural Environment
 Policy 49: Biodiversity
 Policy 54: Open Space, Sport and Recreation

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

- 7.3 The Chichester Local Plan 2021-2039: Proposed Submission (LPPS) has now completed its 'Regulation 19' consultation (17 March 2023) and it is anticipated that the plan will be submitted for examination later this year (the Council's published Local Development Scheme in January 2023 anticipated Summer 2023, this is now anticipated to be late 2023. 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 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 P17 New and Existing Local and Community Facilities including Local Shops
Policy E1 Meeting Employment Land Needs
Policy E2 Employment Development
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 September 2023) and related policy guidance in the Planning Practice Guidance (PPG).
- 7.5 Paragraph 11 of the revised Framework states that plans and decisions should apply a presumption in favour of sustainable development, and for decision-taking this means:
- c) approving development proposals that accord with an up-to-date development plan without delay; or*
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
- i. the application of policies in this Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed;*
- or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*
- 7.6 Footnote 8 for Paragraph 11 d) clarifies that one situation where the policies most important for determining applications for housing are out-of-date (and planning permission should therefore be granted) is when a local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 7.7 Footnote 7 for Paragraph 11 d)i) clarifies that the policies referred to are those in the Framework rather than those in the development plan and include, inter alia, areas at risk of flooding or coastal change. Where an area is at risk of flooding or coastal change the NPPF's presumption in favour of permitting sustainable development afforded by paragraph 11, the 'tilted balance' which is enabled by Footnote 8 does not apply, notwithstanding the Council's position with regard to its 5-year housing land supply shortfall.
- 7.8 The following sections of the revised NPPF are relevant to this application: 2, 3, 4, 5, 8, 9, 11, 12, 14, 15, 16 and Annex 1. The relevant paragraphs of the National Planning Practice Guidance have also been taken into account.

Other Local Policy and Guidance

- 7.9 The following documents are also material to the determination of this planning application:
- CDC Surface Water and Foul Drainage SPD (September 2016)
 - CDC Planning Obligations and Affordable Housing SPD (July 2016)
 - CDC A27 Chichester Bypass Mitigation SPD (August 2023 - Draft)
 - Interim Position Statement for Housing Development (November 2020)
 - CDC Waste Storage and Collection Guidance
 - 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)
 - WSCC Guidance on Parking at New Developments (September 2020)
 - Chichester Landscape Capacity Study (March 2019): Section C, Sub-area 146

- West Sussex Landscape Character Assessment (2003): South Coast Plain, Chichester Harbour and Pagham Harbour

Interim Position Statement for Housing Development

- 7.10 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 at the time of writing the Council maintains its current position is a supply equivalent to 4.65 years (the Council's stated position at the Highgrove Farm, Bosham appeal - 21/00571/FUL).
- 7.11 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.
- 7.12 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:
- Encourage and support people who live and work in the district and to adopt healthy and active lifestyles
 - Protect and support the most vulnerable in society including the elderly, young, carers, families in crisis and the socially isolated
 - 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:

- a) Principle of development and the policy position
- b) Landscape impact
- c) Highways and access
- d) Foul water drainage
- e) Flooding and surface water drainage
- f) Capacity for the level of housing proposed
- g) Other matters - (sustainable design and construction, ecology, residential amenity, loss of agricultural land)

a) The principle of development and the policy position

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

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

8.3 The site currently 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, 5 and 45 are therefore out of date. Policy 45 as a countryside policy is out of date insofar as it is linked to policy 2 and is therefore reliant on there being up to date settlement boundaries within which to accommodate new housing as part of the Development Strategy. Policy 2 is considered up to date 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) has more constraints than other settlements and as a consequence the largest levels of growth are expected in the sub-regional centre, in settlement hubs outside the Manhood Peninsula and in service villages, with 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 to be 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, draft policy 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.

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 unless a proposal, is found to offend those policies in the Framework relating to Habitats sites and flooding. If these policies are offended then the 'tilted balance' is dis-engaged as footnote 7 of NPPF paragraph 11 makes clear. In other words an application is assessed against the standard or 'flat' planning balance. Notwithstanding the planning balance exercise and the policy context affecting the way that exercise is carried out, officers recognise that 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 2021 HELAA identifies the site (ref: HEWB0001a - Land at Bracklesham Lane (south)) as part of an adjoining wider area of land extending to the west and including land either side of Stubcroft Lane. Cumulatively the 9.88 ha is considered capable of delivering an indicative capacity of 300 dwellings. Under 'suitability' it states that, *'The site is considered potentially suitable subject to detailed consideration including on matters of access, flooding and ecology associated with the rife at the western edge.'* 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 consideration in decision-making 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 is contiguous with an identified Settlement Boundary (i.e. at least one boundary must adjoin the settlement boundary or be immediately adjacent to it).

The sites southern boundary adjoins the settlement boundary for East Wittering/Bracklesham. The criterion is satisfied.

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

East Wittering/Bracklesham is a sustainably located settlement defined as a Settlement Hub in the Local Plan (Policy 2) and draft Policy S2 in the LPPS. 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.

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

It is considered that the development meets this point. The site lies outside the location for any potential landscape gaps as identified in the CDC Landscape Gap Assessment (May 2019). There is no actual or perceived coalescence likely to arise from permitting this development. The criterion is met.

4) Development proposals make best and most efficient use of the land, whilst respecting the character and appearance of the settlement. The Council will encourage planned higher densities in sustainable locations where appropriate (for

example, in Chichester City and the Settlement Hubs). Arbitrarily low density or piecemeal development such as the artificial sub-division of larger land parcels will not be encouraged.

The proposals would result in a density of approximately 24 dwellings per hectare based on the overall site area. Although the site forms part of a larger parcel in the HELAA (ref HEW0008) with regard to this application there is no artificial sub-division of the land comprising this red lined application site, which is enclosed on all 4 sides by established physical boundaries. In the context of the rural edge of settlement location, this level of development compares favourably with the Council's 'benchmark' density value of 35dph for greenfield sites and is considered acceptable. The proposal meets this criterion.

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

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

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

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

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

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 LPPS sets out that this sum will be met from financial contributions provided by the outstanding housing developments in the LPPS. Draft Policy T1 Transport Infrastructure sets out the basis for the approach. At the time of writing the Council is considering responses to the consultation period undertaken on the proposed A27 Chichester Bypass Mitigation SPD which closed on 3 November. The draft SPD sets out a tariff-based approach for securing financial contributions towards A27 improvements based on a sliding scale depending on the number of bedrooms in each dwelling which averages out at £7,623 per dwelling.

Officers acknowledge that draft Policy T1 of the Local Plan 2021-2039: Proposed Submission (LPPS) is emerging and not adopted policy. However, the circumstances currently facing the Council with regard to the A27 scheme of improvements means 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 and the draft SPD 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.

Wastewater disposal would be through the statutory undertaker Southern Water. Affordable housing, open space, and highways improvements would all be secured through a Section 106 agreement and/or by planning conditions. WSCC has confirmed that the Primary education requirements of the development would be addressed through CIL. The criterion can be satisfactorily addressed through a combination of the S.106 agreement, CIL and relevant planning conditions.

However, whilst the applicant has agreed in principle to enter into a Section 106 agreement (or accept conditions) for other infrastructure (affordable housing, open space, SuDS, LAP and landscape bund), 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.

The development will need to meet the enhanced Part L building regulations criteria which were introduced in the revisions to the Building Regulations in June 2022. Additionally, the development is proposing solar PV panels on approximately 26 dwellings to meet the 10% requirement for renewables, air source heat pumps are to be installed to all properties and all properties will have an electric vehicle charging point. Water consumption will be limited to 110 litres person per day. The criterion to deliver environmentally sustainable development is therefore considered to be met.

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

The proposal is submitted in outline with all matters reserved save for consideration of the principle of development and access. The application is accompanied by an illustrative

layout showing how a development of 62 new homes could be laid out across the site. The illustrative layout shows an informal, loose arrangement of 2 storey dwellings which is considered to be acceptable design approach in the context of the rural, edge of settlement location. Subject to seeing the final details as part of the approval of any subsequent reserved matters application, there is no reason to suppose on this outline application that the criterion would not be met and that a high-quality layout with well-designed dwellings could be achieved. Indeed, this would be a requirement both under Local Plan policy 33 and in order to meet the NPPF's requirement to deliver well-designed places.

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.

East Wittering/Bracklesham is defined in the extant Local Plan and in the LPPS as a 'Settlement Hub'. The proposed development would immediately adjoin the settlement and would therefore by definition be sustainably located. It would be within comfortable walking and cycling distance of a wide range of facilities and services. The illustrative site plans also indicates both cycleway and footpath connections to Stubcroft Lane to the west and potentially beyond to the existing recreation ground across additional land also within the applicant's control. Both the Village Pre-School and Primary School, the Bracklesham Bay Post Office and Co-op supermarket are within the 1 km isochrone with a wide range of local shops and restaurants. Bracklesham Barn its associated equipped play area and the 2.8 ha recreation ground are 850 m away. Just beyond the 1km isochrone is the Witterings Pharmacy, Medical Centre and Dental Practice in the heart of East Wittering along with a Tesco Express. The existing 2 no. bus stops on Bracklesham Lane (northbound and southbound) with the northbound one located approximately 50 metres south of the proposed site access, are served by the 52 and 53 services. These provide 1 bus every 30 minutes Mon-Fri, 1 every hour on Saturday and 1 every 2 hours on Sunday.

In addressing the issue of accessibility to local services In East Wittering/Bracklesham it is helpful to consider the comments of the planning Inspector at the appeal on land west of Church Road, West Wittering for 70 dwellings (20/02491/OUT - APP/L3815/W/21/3286315 - 22 April 2022). As with the current application that appeal site is also located on the edge of the settlement. The Inspector in allowing that appeal concluded that,

'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. With regard to education, the local primary school, which currently has capacity, lies to the north of the village, between the site and the village centre and is easily accessible on foot from the site. Secondary school children would need to travel into Chichester for education, a trip of around 8 miles which is served by a school bus service. This is not an unreasonably long distance to travel for secondary education....With regard to access to employment and social and recreational opportunities, whilst there will be some jobs and entertainment on the peninsula it is likely that some future residents will travel to Chichester, and beyond, for work or leisure. However, I note that the distance involved is relatively short...These observations are consistent with the designation of East Wittering in both the adopted plan and emerging plan as a "settlement hub", which is a

settlement capable of providing a range of workplaces, and social and community facilities to meet identified local needs....I therefore conclude that the proposal would be in an accessible location with good access to most facilities and services.' It is considered that a similar summary can be made for the application site and on that basis the 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 on Flooding and Surface Water Drainage)

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

The foul water discharges from the development are to be routed to Sidlesham WwTW and there onto discharge into Broad Rife away from the protected waters of the Chichester Harbour SPA and Solent Maritime SAC. There is therefore no issue at this time with nitrates pollution of protected waters. On this basis the criterion is met.

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.

Although the application is submitted in outline this is a greenfield site in single ownership with no apparent abnormal circumstances and there is nothing to indicate that a development approved here could not be delivered within an earlier overall timeframe. Indeed the applicant's agent has advised that there is already developer interest in the site.

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 new Local Plan 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 Following assessment against the IPS, the proposal fails to comply with criteria 7 and 11 (i.e. 2 out of 13) and as such the application site is not considered appropriate or sustainable, subsequently the principle is not supported. The full detailed planning assessment is carried out below.

b) Landscape impact

- 8.13 The application site is not subject to any particular protection or designation in landscape terms. It is not in the AONB, not in or adjacent to a Conservation Area and is outside of the South Downs National Park. It is not identified in any adopted plan or policy as a 'valued landscape' in the meaning of the NPPF which might warrant its protection on landscape grounds.
- 8.14 The proposals to develop the site with housing are supported by a Landscape Visual Appraisal (LVA). The LVA identifies that the proposals would be perceived as a well-integrated residential extension of the existing development at Middleton Close. An ecological corridor with hedgeline and trees would be provided along the northern edge of the site in support of the existing ditch to reinforce what would become the new settlement edge at that point. The LVA accepts there would be a localised *minor adverse effect* in terms of the current contribution of the enclosed field to the relatively rural, open setting to the north of East Wittering as experienced in glimpsed views through the hedgerow lined public footpath at Stubbcroft Lane to the west. For vehicular users of Bracklesham Lane (and to a degree cyclists and pedestrians) the LVA finds that there would be a barely perceptible change due to the presence of existing built form to the backdrop with only glimpsed transient views through the continuous hedge line on the west side of Bracklesham Lane on approaching the settlement from the north. The LVA finds that the short term minor adverse effect on the pleasantness of the glimpsed view from the north-east would reduce to a *mid to long term negligible effect* with the maturation of the new planting on the north site boundary. Officers agree with these findings.
- 8.15 A new housing development on a previously open, undeveloped site will inevitably result in a visual and character change to that site from its baseline condition but that change does not automatically make the proposals unacceptable. In a situation where the Council cannot demonstrate a 5YHLS the decision maker must identify the very clear landscape harm that would result from the change and weigh this in the planning balance against the significant weight which the NPPF affords to the delivery of new housing including affordable housing.
- 8.16 As part of the suite of technical background documents to the LPR, the Landscape Capacity Study (November 2018) was commissioned by the Council to inform decisions about where new development might be located to meet future housing needs. Within the Study the application site forms a small part of the *East Wittering Northern Coastal Plain sub-area*. The Study identifies the site as having a 'low' landscape value and a 'medium' wider landscape sensitivity. It concludes that the sub-area has a **high** capacity for development due to its close relationship with East Wittering. The only other area which the study identifies in East Wittering/Bracklesham/Earnley with a 'high' capacity assessment for development is the land south of Clappers Lane for which an appeal for 100 dwellings was allowed in August 2022 (E/20/03125/OUT - APP/L3815/W/22/3291160). For that appeal there was a much stronger case on landscape impact than with the current application. Indeed, the Inspector acknowledged landscape harm and found conflict with Local Plan policies 33 and 48. He attached substantial weight to the loss of an open, rural landscape and significant weight to the loss of agricultural land. Despite finding non-compliance with 2 key Local Plan policies for the determination of that appeal he reduced the weight he applied to them in reaching his decision because of the absence of a 5YHLS. In applying the tilted balance at paragraph

11 d) (ii) of the NPPF he found that a presumption in favour of sustainable development had been established and that delivery of housing on that site was an overarching substantial benefit which outweighed the harm. Officers accept the conclusions of the applicants LVA when viewed in the context of the Landscape Capacity Study, and, in light of the Clappers Lane appeal decision, recognise that on a visually less sensitive site with a 'high' capacity assessment for development it would be difficult to substantiate a case for the proposals causing landscape harm.

- 8.17 In addition to the Landscape Capacity Study it is also relevant to consider the findings of the most recent Housing and Economic Land Availability Assessment (HELAA) in March 2021. The HELAA report for the site which includes an additional swathe of land to the west of Stubcroft Lane concludes that the site is suitable (subject to consideration of matters regarding access, flooding and ecology), available (it has been promoted since 2018), and achievable (the site is in one ownership and the owner has identified that it could be developed within 5 years and that there is already developer interest). By this measure the site is considered appropriate for some new development.
- 8.18 As the application is submitted in outline there are limited parameters on which to assess in detail the landscape impact of the proposals. Matters relating to the landscaping of the site, the layout of the housing and the scale, design and appearance are all for subsequent consideration as part of an application for the approval of reserved matters. The illustrative layout submitted with the application shows an access road from Bracklesham Lane winding through the site feeding a number of cul-de-sacs. The submitted Design and Access Statement confirms that all the houses and flats (2 blocks) will be at 2 storeys in keeping with the domestic scale at the adjoining Middleton Close development. The indicative loose knit arrangement of dwellings with the nearest dwelling set back around 65 metres from Bracklesham Drive across a grassed area which cannot be developed because of the presence of a gas main is considered likely to result in the opportunity to affect a soft transition between the existing developed edge of East Wittering in this location and the rural area beyond. On approaching East Wittering along Bracklesham Lane it is relevant that the residential context of the main settlement at the moment is first experienced at the former South Downs Holiday Village site which has extended the pattern of housing on the eastern side of that road a further 90 metres north of where the current application site boundary is. There would be no sense on arriving at the settlement from this key approach of the proposed development projecting incongruously out into the countryside. For the foregoing reasons it is considered that the proposed development could be successfully integrated into its surroundings and though it would inevitably result in a changed landscape in terms of its existing appearance and character, that change is not of such materiality as to warrant a refusal of the application on the grounds of landscape impact. Even though a more detailed assessment of landscape impact is not able to be made on an outline application where scale, appearance, layout and landscaping are reserved matters, on the balance of the information submitted it is not considered that conflict with policies 33 and 48 of the Local Plan is likely to result.
- 8.19 The Council's recent experience at appeal in cases where significant weight has been attached to moderate and/or significant harm caused by development to landscape character of sites within the countryside outside of designated landscapes, is that such weight is frequently not sufficient to outweigh the benefits of housing delivery in the context of the tilted balance.

8.20 In addition to the appeal allowed on land south of Clappers Lane, other appeal cases focusing on the Inspectors' consideration of the importance of landscape character and appearance in carrying out the planning balance are summarised below:

- Land to the West of Church Road (PINS ref.3286315) - April 2022
'Significantly harmful effect' on the rural character of the area identified by the Planning Inspector, given moderate weight in the planning balance. Harm did not significantly and demonstrably outweigh the benefits of the scheme. Appeal allowed on tilted balance.
- Land East of Broad Road, Nutbourne (PINS ref.3295000) and Land West of Drift Lane, Chidham (PINS ref.3295004) - August 2023
'Significant harm' to landscape character of the area identified, given significant weight in the planning balance. Harm did not significantly and demonstrably outweigh the benefits of the scheme. Appeal allowed on tilted balance.
- Chas Wood Nurseries, Main Road, Bosham (PINS ref.3299268) - October 2022
Greenfield site outside of settlement boundary. 'No adverse impact' on rural character of the area identified. Moderate cumulative adverse impacts of the appeal scheme did not significantly and demonstrably outweigh the benefits. Appeal allowed.

8.21 In the context of this application, the tilted balance engaged by footnote 8 of paragraph 11 of the NPPF (because of the Council's lack of a demonstrable housing land supply) is disengaged by footnote 7 because of the flood risk and the absence at the point of decision making of mitigation in respect of the habitat regulation issues. The presumption in favour of sustainable development does not therefore apply. However, even when assessed in terms of the 'flat' planning balance i.e. in a situation where the presumption in favour of sustainable development is not applicable, the development impact from the change in landscape appearance and character in this instance is not considered to outweigh the benefits of housing delivery.

c) Highways and access

8.22 The proposed development would be served by a single means of vehicular access from Bracklesham Lane through a simple priority T-junction. The long, straight stretch of road is subject to a 30-mph speed restriction at this point and the access would provide good visibility in both directions. The access is configured with a 6m width at the junction and swept paths show that it can accommodate the concurrent use by a car and refuse freighter. In terms of its technical specifications the access is appropriate and safe for the development it would serve and no objection is raised from the local highway authority subject to conditions as detailed earlier in the report and as attached to the recommendation below.

8.23 In terms of the impact of the development on the existing road network, the Committee will note that the LHA anticipate that the development would result in around 31 x AM peak movements, 28 x PM peak movements and a 12-hour total of 293 two-way movements. Even taken cumulatively with other committed and potential developments in the system (i.e. at Land South of Clappers Lane Earnley, Land West of Church Road West Wittering and Land South of Main Road Birdham) the result of these additional movements would not be 'severe' in terms of the test to be applied by paragraph 111 of the NPPF. The LHA

has looked at the likely impact of the development (individually and cumulatively) on specific junctions on the network north of the site to Chichester. In particular, the impact of the development has been considered on the A286/B2198/B2179 junction through the use of video monitoring of queue lengths. The junction is considered capable of working well within capacity without the need for mitigation and the impact would not be considered severe.

- 8.24 In relation to the traffic effects of the proposal on the A27, the Committee will note that National Highways (at paragraph 6.9 above) conclude that, '*...given its location and form we are able to conclude that it would not have an unacceptable impact upon the safety, reliability and operation of the SRN.*' However, this view in June 2023 was subject to the applicant's payment of a financial contribution in line with the Council's 2016 SPD towards a package of improvement measures to the junctions of the A27 to mitigate for the impact of additional traffic generation. As set out earlier in this section, the Transport Study for the Council produced in January 2023 identified that in many parts of the Local Plan area the road network is operating at or close to designed capacity. Road congestion is a major concern for residents and businesses and for the highway authorities with congestion around the junctions of the A27 a particular issue. The circumstances currently facing the Council, with regard to the A27 scheme of improvements, is such that unless all housing permitted ahead of adoption of the LPPS delivers a financial contribution of the scale envisaged in draft Policy T1, 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.
- 8.25 In its letter to the Council dated 11 September 2023, National Highways (NH) acknowledge that the Council has provided strong evidence through the Transport Study that the costs of delivering improvement works for the A27 Chichester bypass (Fishbourne, Bognor, Stockbridge and Whyke roundabouts) have increased significantly and are no longer viable under the current Planning Obligations and Affordable Housing SPD. In other words, NH accept that the non-indexed 7-year-old figures set out in the 2016 SPD are no longer fit for purpose in terms of securing the level of financial contributions necessary for mitigation measures to the junctions of the A27.
- 8.26 Given this implicit support from NH to the Council's revised position on seeking financial contributions from housing developments through draft policy T1 and the draft SPD on A27 Chichester Bypass Mitigation which updates the 2016 SPD, it is officers' 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.
- 8.27 The applicant has not formally agreed to provide the revised financial contribution envisaged in draft Policy T1 of the LPPS. The figure for the proposed 62 dwellings based on a tariff scale related to the number of bedrooms in each dwelling is £503,094 as opposed to a contribution of £201,376 under the 2016 SPD. In the absence of confirmation from the applicant that they are willing to provide the financial contributions envisaged in draft Policy T1 of the LPPS, there is considered to be conflict with policies 8, 9 and 39 of the Local Plan which together seek to mitigate the effects of development by providing infrastructure mitigation to ensure development does not worsen road conditions in terms of capacity, traffic congestion and road safety. The proposals would also conflict with IPS criterion 7 which has similar aims. It is officers' recommendation that the application is refused in respect of this issue.

d) Foul water drainage

- 8.28 The application proposals are to dispose of foul water from the site via the existing public mains sewer in Bracklesham Lane, then on into Stocks Lane from where it will be eventually routed to the Sidlesham Wastewater Treatment Works (WwTW). Whilst Southern water (SW) has not objected to the development it has indicated that some network improvements maybe necessary to manage the additional foul water flows to the WwTW in order to avoid the possibility of an increased risk of flooding from the sewer network. SW advises that it would endeavour to provide any necessary off-site sewer reinforcement within 2 years of planning permission being granted. With regard to estimated headroom capacity at Sidlesham WwTW itself, the capacity tables on the Council's website give an indication of remaining headroom at each WwTW at 1 January 2023, based on a comparison of current Environment Agency permits to average dry weather flow (DWF) Q80 data for the 5 year period 2018-2022. Table 1 indicates that Sidlesham WwTW is over capacity, with -1408 estimated remaining dwelling capacity (based on 500l per household per day). Infiltration reduction works are currently underway and a storm tank capacity increase of 45% is planned for 2025. Beyond this there are various programmes set out in the DWMP investment tables which are subject to funding decisions and review. These proposed works will include the need to increase capacity to allow for planned new development. On this basis although there is no capacity at present, works are approved and ongoing which would provide for increased capacity and as such a reason for refusal on the basis of capacity at Sidlesham WwTW could not be substantiated.
- 8.29 Officers are very mindful of the concerns and dissatisfaction amongst some local residents about the apparent frailties of the foul network and SW's ability to manage existing foul flows and prevent pollution. The Committee will be aware that in 3 recent appeals in the locality where the Council has identified this issue as a reason for refusing development, planning inspectors have needed to address it. On each occasion the planning inspector has acknowledged the concerns raised but declined to give the matter weight when carrying out the planning balance. Government policy in the NPPF provides a very clear approach for decision making in this regard which Inspectors adhere to. Paragraph 188 of the NPPF states:
- 188. The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.*
- 8.30 At the Land West of Church Road appeal the Inspector whilst understanding the strongly held views of residents could not conclude that sewage from the development would not be adequately dealt with. *'Notwithstanding the evidence of residents, I have no compelling basis for concluding that Southern Water are unable to treat the sewage arising from the proposal'*. He went on to add that *'...Should Southern Water fail to meet their obligations under the Act, the industry regulator, OFWAT is obliged to take appropriate action and to ensure necessary work is carried out.'*

- 8.31 At the Land South of Clappers Lane appeal where the Council specifically cited the inadequacies of the foul sewerage system as one of the main reasons for refusing that development, the inspector again took into account the concerns expressed by local residents and owners/managers of caravan and camping sites regarding problems that have been encountered as a result of the capacity of the foul sewer network. However, he concluded as follows, *'...I find no valid reason to refuse planning permission for the proposed development due to pollution or foul sewage drainage issues. However, taking a precautionary approach based on existing reported problems with flooding and foul drainage, I have imposed a planning condition that would prevent occupation of the development until SW has confirmed in writing that there is sufficient capacity in its network. I am satisfied that such a 'Grampian' condition would meet the test of whether there is no prospect of the condition being discharged. Therefore, in conclusion on this main issue, the proposal would not result in any unacceptable pollution from flooding in the area due to the disposal of foul sewage...'*
- 8.32 More recently at the Koolbergen, Kelly's Nursery and Bellfield Nursery, Bell Lane, Birdham appeal in August 2023, (PINS ref:3300814) the inspector opined: *'While I understand the strongly held views of residents in this regard, I conclude that sewage from the development could be adequately dealt with, would not increase pollution incidents, and in accordance with the principles set out in paragraph 188 of the Framework I see no reason it will not be effectively regulated'*
- 8.33 The issue of foul drainage has therefore been a consistent theme of objections to recent planning proposals in the locality of the application site. Ultimately OFWAT as the industry regulator has the step-in powers to remedy breaches. In the absence of an 'objection' from SW to this application but acknowledging its comment about the potential need for network improvements, it is considered that the foul drainage component of the application could be successfully addressed through the imposition of appropriate conditions 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. In light of the foregoing a foul drainage reason for refusal does not form part of the recommendation on this application.

e) Flooding and Surface water drainage

Flooding

- 8.34 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.'

- 8.35 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.'

8.36 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.

8.37 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.

8.38 A site-specific flood-risk assessment has been submitted with the application 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. Footnote 55 to paragraph 167 of the NPPF is quite clear that for sites over 1 hectare in Flood Zone 1, land identified by an SFRA as being at flood risk in the future should have a site-specific FRA.

8.39 As set out in the site screening information which forms part of the Interim Level 1 SFRA 2022, the HELAA site (ref HEWB0001a - Land at Bracklesham Lane (south)) which includes the application site has the following results:

HEWB0001a (Land at Bracklesham Lane (south))

- Present day flood zone: 14% FZ2, 24% FZ3a, 21% FZ3B - high risk
- Fluvial climate change (central allowance): 0% affected - low risk
- Tidal climate change (upper end): 100% affected - **high risk**

- Surface water including climate change: 1% affected - low risk
- Ground water: between 0.025m and 0.5m below ground surface level - Moderate Risk (modelled only)

8.40 In essence this information establishes that the application 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 other potential development sites which are at a 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 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.

8.41 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 is for dwellings which are classified as 'more vulnerable' and amenity open space classed as 'water-compatible'. To pass the Exception Test it must be demonstrated that 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 been demonstrated that the development would provide wider sustainability benefits to the community that outweigh the level of flood risk. Neither has it been demonstrated that 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.

8.42 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 and insufficient information has been submitted to demonstrate 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

- 8.43 The site has a natural slight fall in levels from north to south and the surface water drainage strategy is to capture and drain the surface water via pipes into a SuDS attenuation basin located in the southwest corner of the site. The basin is designed with 1:3 sloped sides with a storage capacity of 845 sqm and is designed to manage a 1 in 100-year storm event including climate change plus a 10% additional area. From the SuDS basin a hydrobrake or similar flow control outlet will allow water to be discharged from the basin at a rate no greater than the existing greenfield rate to the existing watercourse which tracks along the south site boundary and on to the west.
- 8.44 Officers are mindful of advice in the PPG regarding application of the sequential test to the selection of development sites in respect of groundwater flooding issues. Modelling maps produced in association with WSCC as the Lead Local Flood Authority (LLFA) identify the site as potentially at moderate risk from groundwater flooding. However, this degree of 'risk' is based on modelled data only, not on actual site measurements. The applicant's drainage consultant has submitted winter groundwater modelling results which show groundwater depths at between 0.70 and 1.29 metres below ground level (mbgl) (Winter 2020-21) and between 0.76 and 1.51 mbgl for Winter 2021-22. The actual on-site measurements reveal groundwater levels are therefore lower than the range indicated in the modelled results which suggests that the corresponding level of risk from groundwater flooding is lower than 'moderate' and that it is possible to use some infiltration as part of an overall surface water drainage strategy. The LLFA comment that a 1 metre freeboard (or as much freeboard as possible) from groundwater is required. Notwithstanding the groundwater issue, the comments of the LLFA are that the submitted surface water drainage strategy as a whole is deficient as it is not based on up-to-date standards and Planning Policy Guidance.
- 8.45 The LLFA advises that the applicant's proposals have not considered fluvial flooding from the ordinary watercourse. Also, in terms of how the site currently drains, a drainage survey needs to be submitted to provide evidence of the existing discharge rate and the condition of the ordinary watercourses to ensure they have capacity for the additional flows. In terms of the long-term sustainability of the development and to accord with the latest PPG, the proposals need to include appropriate climate change allowance for assessment of the lifetime of the development (including the 3.33% AEP design flood event) plus up-to-date FEH2022 rainfall data for all design flood events. In assessing how the site will drain without adversely affecting flood risk elsewhere, the LLFA comment that the infiltration storage design should be recalculated to either only discharge through the sides of the structure or apply the appropriate factor of safety based on the Ciria SuDS Manual. It should also include the appropriate climate change allowance for the lifetime of the development in terms of storage volumes and use up-to-date rainfall parameters in any modelling scenarios.
- 8.46 The LLFA also provide comment on how the drainage and watercourse features are to be maintained and again point to omissions in the drainage strategy in respect of not showing an indicative vehicular access route and off-road parking for the SuDS basin and swales and a minimum 3 metre easement from the top bank of any watercourse for maintenance purposes. In terms of the construction of the development, the LLFA require a plan and supporting calculations showing how temporary measures will be put in place to protect the water environment and newly built SuDS features including any temporary water quality and flow control devices and a high-level assessment of how water quality and quantity will be managed including appropriate pollution measures. The LLFA also identify that micro drainage calculations have used the incorrect value which means that not all

the water within the catchment is draining into the proposed drainage system. Finally, the LLFA requires further evidence to show that the proposed ponds are not within the floodplain of the watercourses near the ponds in order to ensure that the ponds have capacity for critical storm events.

8.47 Taking all of the above into consideration and on the advice of the LLFA, it is considered that insufficient information has been provided to demonstrate the site will be adequately drained by the proposed drainage strategy and flood risk assessment, which could result in increased flood risk elsewhere. The application is therefore 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 be contrary to NPPF paragraph 159 and Policy 42 in the Chichester Local Plan: Key Policies 2014-2029.

f) Capacity for the level of housing proposed

8.48 Whilst the application is for outline planning permission with access only and the matters of scale, layout, appearance and landscaping are reserved, it is vital that planning permission is only granted for a proposal, where the quantum of development including associated infrastructure is capable of being implemented. In this case, the application seeks outline permission for 62 units but due to a number of issues, there is concern that insufficient evidence has been provided to demonstrate that the site could accommodate this level of development whilst complying with the relevant policies and other material considerations.

8.49 As set out above there are significant concerns about the risk of flooding on this site (as per flooding and drainage sections above). In addition to the wider flood risk issue and the need to pass a sequential test, it is also not possible to know what proportion of the site would need to be given over to drainage solutions, potentially limiting the net developable area. The LLFA's consultation response clearly indicates that the applicant has used incorrect climate change allowances, incorrect rainfall data and the incorrect value to calculate the amount of water from the catchment which is draining into the proposed drainage system. as well as requiring further information on discharge rates, redesign of some SuDs features and clarification that the drainage pond is not located within floodplain of nearby ditches.

8.50 In accordance with the open space calculator within the Planning Obligations and Affordable Housing SPD, the amount of open space required for a development of 62 units, based on the housing mix proposed, is 656sqm of amenity open space and 197sqm of equipped on-site open space a total of 853sqm. The approximate total quantum of open space proposed under the illustrative masterplan within the red line and excluding the required provision of an 8m wide planted landscape buffer on the north site boundary and the 5m wide wildlife buffer to the south boundary and a 3m wide watercourse maintenance/access buffer, is 1,376sqm. The amended design and access statement suggests that the equipped play space is proposed off site, to the west of the application site within the existing recreation ground. The Council's Planning Obligation and Affordable Housing SPD requires play space for this size of development to be provided on site, which, in combination with the other required on-site infrastructure, most notably the SuDS provision, could reduce the site's capacity for the housing numbers sought. Furthermore, the illustrative masterplan currently proposes a flatted block (units 23-27)

without any private amenity space and as such any Reserved Matters application would be required to provide the necessary private amenity space.

8.51 As such, it is clear that there are a number of variables to consider when assessing the ability for the application site to accommodate the level of development proposed, a number of which are currently unclear due to a lack of information provided. In its current form the application, as supported by the illustrative masterplan, has failed to satisfactorily demonstrate that 62 dwellings, with adequate residential amenity and with the necessary infrastructure including SuDs or other means of drainage and on site equipped play space could be satisfactorily accommodated on the site. Insufficient information has been provided to demonstrate that the proposed development, with all necessary on-site infrastructure and mitigation, would not result in an overdevelopment of the site and a cramped layout, which would be inappropriate for this edge of settlement location, harmful to ecology, drainage and flood-risk and would erode the semi-rural character of the area.

g) Other Matters

Sustainable design and construction

8.52 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.

8.53 The application is accompanied by a Sustainability Statement which sets out how the 10 criteria in policy 40 of the Local Plan would be met. In order to reduce carbon emissions, the development would follow a fabric first approach to building design including insulation, high-performance windows and doors, increased air tightness and maximising passive solar gains. These measures are designed to deliver a 19% carbon reduction.

8.54 In addition to the passive building fabric improvements, the applicant confirms the consumption of energy would be minimised by providing all properties with Air Source Heat Pumps and fitting solar PV's on 40% of properties. Specified fixtures and fittings would reduce energy and water use which would be restricted to a maximum of 110 litres per person per day. Electric vehicle parking would need to accord with Part S of the Building Regulations which sets a requirement for each dwelling or parking space to have access to an electric vehicle charge point.

8.55 In conclusion it is considered that the requirements of Policy 40 and IPS criterion 8 are met and/or could be subject to condition/s were the application recommended for approval and it is noted in that regard that the Council's Environment Officer has acknowledged that the level of detail submitted is appropriate for an outline application.

Ecology

- 8.56 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.
- 8.57 The site lies within the 5.6km buffer (Zone of Influence) for the Chichester Harbour SPA and the 1km buffer zone for Medmerry Nature Reserve, which is compensatory habitat. The proposal would result in an increase in population living on the site, which could result in recreational pressure on the SPA and Medmerry compensatory habitat and disturbance to protected bird populations. A financial contribution towards the Bird Aware Solent scheme/Pagham Harbour Scheme (which also covers Medmerry Nature Reserve) is required in order to mitigate the recreational pressure impact arising from the new residents of the development in order to satisfy the integrity test in the Habitat Regulations.
- 8.58 The level of contribution required is determined by the number and mix of dwellings (bedrooms per dwelling) and calculated according to the tariffs set out in the Council's Infrastructure SPD. When a development proposal falls into an area where the Chichester Harbour SPA zones of influence and the Pagham Harbour Special Protection Area/Medmerry compensatory habitat zone of influence overlap, as in this case, Natural England advise that some reduction in the contribution is reasonable. This is on the basis that the occupiers of the new dwellings cannot be at both locations at the same time. However the Local Planning Authority still has to ensure that a robust package of mitigation can be implemented. In order to do this, within the area of overlap, only one contribution per net new dwelling unit will be payable. This contribution will be whichever is the higher of the two contributions at the time - currently this is the Pagham SPA/Medmerry tariff (£938 per dwelling) for dwellings with 1-3 bedrooms and the Chichester SPA tariff for 4 bedroom dwellings (£980 per dwelling). This will ensure that the development does not pay twice but will also ensure that the funding of neither scheme is undermined. Therefore a financial contribution of £938 per net additional dwelling is required for the 1-3 bedroom units and a financial contribution of £980 per net additional dwelling is required for the 4 bedroom units. The contribution would be divided in two, half for each of the two SPA mitigation schemes. Natural England has confirmed that subject to the Council securing the contribution which is predominantly for the employment of coastal harbour wardens, there would not be a likely significant effect on the Harbour SPA and its features of scientific interest. The applicant has indicated that they would make the relevant contribution through the mechanism of the S.106 agreement that would need to accompany any permission granted for the development. However, in the event that this application is refused as recommended there will be no S.106 agreement therefore the required mitigation would not be secured, and the proposals would therefore be in conflict with the Habitat Regulations.
- 8.59 In terms of the on-site ecological interests, these have been assessed in detail by the Council's Environment Officer based on the Ecological Assessment provided by the applicant and comments in that regard are attached above at paragraph 6.17. As a rural agrarian field, the site has ecological interest chiefly at its margins in terms of birds, bats,

reptiles and water voles and the submitted mitigation plan provides details of the measures proposed were the development to be permitted. As this is an outline application with 'layout' a reserved matter, detailed enhancement proposals would be conditioned once the layout is confirmed on any subsequent reserved matters approval. Were this outline application to be approved it would be subject to a condition requiring mitigation in specific parts of the site e.g., enhancement of the ditch on the north site boundary for water voles together with an ecological wildlife corridor and a wildflower buffer zone on the south boundary to incorporate a 5m wide grassland buffer to provide a reptile translocation site with reptile hibernacula.

8.60 In summary on this issue, it is considered that on-site ecological issues could be satisfactorily managed through the imposition of relevant conditions on any outline planning permission and the subsequent approval of reserved matters both during the construction and post-construction phases of the development. There is no identified conflict with Local Plan policy 49 provided that mitigation is secured in that way. In respect of off-site ecological impacts at the Chichester Harbour SPA and Medmerry Nature Reserve (compensatory habitat) on the basis that this application is being recommended for refusal, there is conflict with the Habitat Regulations insofar as the applicant has not entered into a S.106 agreement to secure the necessary recreational pressure mitigation contribution. This is contrary to policy 50 of the Local Plan and to policy 9 relating to the delivery of 'environmental' infrastructure through a legal agreement and this is reflected in the reason for refusal of the recommendation below.

Residential amenity

8.61 The application site adjoins the modern housing estate at Middleton Close to the south and part-shares a boundary to the east with the rear gardens of 4 existing properties fronting Bracklesham Lane. Whilst 'layout' is a reserved matter, the indicative layout submitted with the outline application suggests that the existing amenity of surrounding properties would be protected. There is no reason to suggest that on this outline application a scheme of housing could not be agreed which would be compatible with its immediate residential context.

Loss of agricultural land

8.62 The applicant's own assessment records the existing site as being Grade 2 agricultural land. The Council's records indicate that approximately the top two-thirds of the site is classed as Grade 2 with the lower (southern) third at Grade 3 (sub-division within that is not specified). Most of the site is therefore regarded as being Best and Most Versatile (BMV) agricultural land.

8.63 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.

8.64 Whilst the application proposals would result in the loss of some identified BMV land, the extent of that loss at 2.62 hectares is comparatively small. The recent application for 280 dwellings on land at Stubcroft Farm (EWB/22/02214/FULEIA) would have resulted in the loss of nearly 6.5 x more BMV agricultural land all at Grade 2 and this was cited as one of the reasons for refusal for that application. In identifying potential new housing sites outside of established settlement boundaries south of the Downs which are in sustainable locations, a high proportion of the greenfield sites will be within the BMV classification. This will inevitably mean that future housing will involve the loss of some areas of good quality farmland. In the context of the Council addressing its housing land supply shortfall it is not considered tenable that housing on all BMV agricultural fields should automatically be resisted. In spatial planning terms the application site is considered to be sustainably well located to add to the Council's housing supply notwithstanding the reasons for recommending the proposal for refusal identified in the recommendation below.

Infrastructure and planning obligations

8.65 In the event that the application was to be permitted, this development would be liable to pay the Council's CIL charge at £120 sqm which would address most of the infrastructure matters. A legal agreement would also be necessary to secure the infrastructure required to make the development acceptable in planning terms. For this application this would include:

- 30% affordable housing including appropriate housing mix and tenure, as set out earlier in the report
- Public open space, including equipped play space Ecological corridor/planted bund on north site boundary
- Travel plan and travel plan monitoring fee
- Financial contribution to mitigate the impacts of the development on the A27 - based on tariff-based approach set out in draft policy T1 of the LPPS and in the draft A27 SPD (£503,094 on the basis of the submitted market/affordable mix)

Financial contribution to mitigate the impacts of recreational pressure on the Chichester Harbour SPA and the Medmerry Nature Reserve. The level of contribution calculated on the current housing mix would be £58,534 (6 (1-beds) x £938, 18 (2-beds) x £938, 29 (3-beds) x £938 and 9 (4-beds) x £940. A final contribution will be calculated according to the final housing mix secured under any subsequent reserved matters approval and as set out in the Council's Infrastructure SPD

8.66 These requirements are set out in the Planning Obligations and Affordable Housing SPD.

8.67 In the absence of a S106 agreement to secure infrastructure provision, the application would fail to secure the necessary infrastructure and mitigation requirements which a development of this size generates, contrary to Paragraph 57 of the NPPF and policies 8, 9, 52 and 54 of the CLP.

Conclusion and planning balance

8.68 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.

- 8.69 The Council currently does not have a demonstrable 5-year housing land supply. Therefore, the Council's housing policies are deemed to be out of date. Paragraph 11 of the Framework states that in such circumstances, permission should be granted for sustainable development 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. Footnote 7 includes Habitat sites and areas at risk of flooding. Therefore, the tilted balance i.e., the presumption in favour of permitting sustainable development because of the absence of up-to-date housing policies and a 5-year housing land supply, and which is enabled by footnote 8 of paragraph 11 d), does not apply.
- 8.70 The harm identified in respect of the risk of future flooding and the inadequacy of the surface water drainage strategy, the lack of evidence to demonstrate the proposed level of development can be accommodated on the site plus a lack of a S.106 legal agreement to secure a range of infrastructure requirements and mitigation for the designated Habitat Regulation sites at Chichester Harbour and Medmerry 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

- 8.71 The Human Rights of all affected parties have been taken into account and the recommendation 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 and insufficient information has been submitted to demonstrate 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'.
- 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 fluvial flooding from the ordinary watercourse, 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, location of SuDs, impact of flood risk upon the development, 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 be contrary to NPPF paragraph 159 and Policy 42 in the Chichester Local Plan: Key Policies 2014-2029.
- 3) Insufficient evidence has been provided to demonstrate that a development of 62 dwellings could be satisfactorily accommodated on the site in respect of the following matters: adequate private amenity space for the flatted development, SuDs or other

means of drainage and on site equipped play space. Insufficient evidence has been provided to demonstrate that the proposed development with all necessary on-site infrastructure and mitigation, would not result in an overdevelopment of the site and a cramped layout, inappropriate for this edge of settlement location, harmful to ecology, drainage and flood-risk and to the semi-rural character of the area. Notwithstanding that the Council cannot currently demonstrate a 5-year housing land supply, the presumption in favour of development does not apply in this instance in line with paragraph 11(d)(i) and footnote 7 of the NPPF and the benefits of the proposal, including the delivery of market and affordable housing, are outweighed by the significant harm the proposal would cause. The proposal is therefore contrary to the aims and objectives of the National Planning Policy Framework (September 2023) and Policies 33, 48, 49, 52 and 54 of the Chichester Local Plan: Key Policies 2014-2029.

4) On the basis of the information provided, the proposals, in combination with other development, would further impact upon the A27 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 (CLPPS) 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 such that unless all housing permitted ahead of the adoption of the CLPPS delivers the financial contributions of the scale envisaged in draft Policy T1 of the CLPPS, 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 CLPPS. In the absence of any such contribution, the proposal would lead to an unsustainable cumulative 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 CLPPS and Paragraphs 8, 104, 105, 110 and 111 of the NPPF (September 2023).

5) 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, transport infrastructure, the provision, management and maintenance of public open space including equipped play area and landscape bund. Furthermore, there is no mechanism to secure the recreational disturbance mitigation for the Chichester and Langstone Harbour Special Protection Area and Medmerry Nature Reserve (compensatory habitat). 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 is based on the following plans:

DR-A-1100 REV P2;
DR-A-2100 REV P06; DR-A-2101 REV P09; D1925 203 REVB; 2020-6280-000 RevB (Access Overview in Transport Assessment); 2020-6280-001 RevB (Access Overview and Visibility Splays in Transport Assessment).

For further information on this application please contact Jeremy Bushell on 01243 534734.

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QSL849ERHS900>