


Parish: Southbourne	Ward: Southbourne
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**SB/23/00024/OUT**

<b>Proposal</b>	Erection of up to 84 dwellings with associated parking, public open space, drainage and alterations to access (all matters reserved except for access).		
<b>Site</b>	Land To The North Of Penny Lane Penny Lane Hermitage PO10 8HE		
<b>Map Ref</b>	(E) 476000 (N) 106000		
<b>Applicant</b>	Seaward Strategic Land Ltd	<b>Agent</b>	Mrs Katie Lasham

**RECOMMENDATION TO DEFER FOR SECTION 106 THEN PERMIT**

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

- 1.1 Parish Objection – Officer recommends Permit

## **2.0 The site and surroundings**

- 2.1 The application site constitutes a level rectangular agricultural field located to the immediate north of residential development in Hermitage. Accessed from Penny Lane, which in turn leads to the A259, the site is bounded to the north by a hedgerow and the main railway line, to the west by woodland and to the east, beyond a mature hedgerow, by an agricultural field.
- 2.2 Whilst of an open character, with long ranging views northwards to the South Downs, the site is also characterised by the residential form to the south which includes a variety of architectural styles on Penny Lane and Southbourne Avenue. To the south-eastern boundary is the Morcumb Park Homes site and a dwelling with an equestrian sand-school, beyond.
- 2.3 The site is outside of any settlement boundary, as defined by Policy SD2 of the Chichester Local Plan: Key Policies 2014-2029 (the 'Local Plan') and Policy SB1 of the Southbourne Neighbourhood Plan (referendum modified) 2014-2029 (the 'Neighbourhood Plan').
- 2.4 Chichester Harbour National Landscape, a designated Area of Outstanding Natural Beauty (AONB), is located to the south, immediately beyond the A259 whilst the South Downs National Park is located approximately 2km from the site including the closest boundary of the International Dark Skies Reserve approximately 4km away with its buffer zone and transition zones extending much closer.
- 2.5 The CDC Local Plan review Landscape Gap Assessment 2019 identifies a potential Landscape Gap to the immediate east of the application site whilst the woodland to the immediate west of the application site is the subject of a group Tree Preservation Order (TPO). Furthermore, an oak tree, the subject of a TPO, is located at the entrance to the site from Penny Lane.
- 2.6 The site is also located to the immediate east of the Lumley Wildlife Corridor, as defined by Policy SB13 of the Neighbourhood Plan, with a Public Right of Way (PRoW) running from the entrance to Penny Lane through the site, along its southern boundary, and across the Penny Lane railway crossing that is located in the north-western corner of the site and is currently accessed via a wooden stile. A second PRoW runs outside of, but parallel to, the eastern boundary connecting the A259 to a railway crossing located to the north-east of the site which is accessed via two gates.
- 2.7 Located in Environment Agency (EA) Flood Zone 1 with a low probability of flooding the site also has a drainage channel running along its southern boundary immediately adjacent to the existing dwellings with part of it culverted. In terms of foul drainage the site is located within the area served by the Thornham Waste Water Treatment Works (WWTW).

### **3.0 The Proposal**

3.1 The application seeks outline planning permission for up to 84 dwellings with all matters reserved except for access. Therefore, detailed plans are proposed for the access points to the site and there are a series of principles, set out within the submitted parameter plan and the Heads of Terms for a s106 legal agreement, that a future reserved matters application would have to comply with.

3.2 The detailed access includes:

- An area of carriageway introduced at the end of Penny Lane to connect into the site; and
- Cutting back of the existing verge to provide 2m wide footways on both sides of Penny Lane (retaining approx. 0.3m of verge on either side).

3.3 The parameter plan includes:

- Dwellings located within a central area of the site;
- Dwellings predominantly up to 2-storey but with a central area, extending towards to entrance, that could be up to 2.5-storey and the eastern dwellings to be no more than 1.5 storey;
- Sustainable Urban Drainage (SUDS) basins located along the southern boundary of the site;
- A wildlife corridor buffer at the western end of the site (to only include SUDS, pathways and development ancillary to the open space);
- A landscape buffer at the eastern end of the site including an Equipped Play Area;
- A buffer to the woodland to the west of the site that is subject to a group Tree Preservation Order (no SUDS within the buffer);
- Location for a noise mitigation feature, if required, along the northern boundary;
- A pedestrian and cycle route within the site from Penny Lane to the Penny Lane railway crossing in the north-west corner;
- A pedestrian and cycle route within the site from Penny Lane to the eastern PRoW;
- Internal pedestrian and cycle routes within the site between the proposed residential area and all other pathways;
- A replacement mature tree to the north of the Penny Lane access if required to compensate for the potential loss of the oak tree at the entrance to the site; and
- An area of land in the north-west corner of the site that would be safeguarded for improvements to the Penny Lane level crossing, if required.

3.4 The s106 legal agreement Heads of Terms includes:

- 30% affordable housing (rounded down to the nearest whole dwelling with any shortfall resulting in a financial contribution);
- A minimum of 25% of affordable housing will be First Homes;
- Of the remaining affordable housing the S106 Agreement requires the development to be in accordance with 35% Social Rented, 23% Affordable Rent and 17% Shared Ownership;
- The size of the affordable units would be agreed at the reserved matters stage;
- Open market units would be broadly in accordance with a minimum of 2% 1-bed, % 2-bed and 45% 3-bed;

- Tactile paving and dropped kerbs at the existing uncontrolled crossing at the respective junctions of Southbourne Avenue and Penny Lane and Main Road and Penny Lane;
- The installation of Real Time Information (RTI) displays at 4 x existing bus stops on Main Road; and
- Additional safety measures at the Penny Lane & Church railway crossings, to be agreed prior to commencement and likely compromising Miniature Stop Lights and upgraded gate.

#### 4.0 History

22/02061/EIA                      EIANR                      Request for an EIA Screening Opinion in relation to proposed residential development of 85 no. dwelling units and associated hard and soft landscape scheme.

#### 5.0 Constraints

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

#### 6.0 Representations and Consultations

##### 6.1 Chidham and Hambrook Parish

Object for the following reasons:

- The site is outside of the settlement boundary as defined by the Neighbourhood Plan;
- The access from Penny Lane is not suitable with cars and vans regularly parked on the verges and the caravan site also using the access;
- Southbourne Avenue will become a cut through which it is not suitable for;
- There is limited visibility turning right onto the A259;
- The impact upon the A27 cannot be mitigated through financial contributions;
- The site is within a wildlife corridor and there will be an impact upon the respective nearby AONB and National Park;
- The site only has one access point;
- The submitted bat survey is inadequate; and
- Thornham WWTW has insufficient capacity with only 170 connections available.

## 6.2 Southbourne Parish Council

Object for the following reasons:

- The proposed site is outside of the Settlement Boundary as defined by the Neighbourhood Plan and is not suitable for development;
- It is not in conformity with the Housing Needs Survey undertaken by the Neighbourhood Plan;
- The housing mix has too many 3 and 4 bedroom dwellings when the need is for 1 and 2 bed dwellings;
- The 2.5 storey dwellings are inappropriate and harmful to the setting of the National Park;
- The development will harm the TPO'd oak tree at the entrance to the site;
- Penny Lane does not have capacity to accommodate the additional traffic proposed;
- The submitted transport assessment is inaccurate given the existing traffic and parking concerns;
- The proposal to widen pavements on Penny Lane would exacerbate the parking issues;
- The proposal would exacerbate existing flooding and the submitted drainage report does not reflect the severity of the existing situation;
- The proposal would result in further wastewater discharge; and
- The Council has a four-year housing land supply so the tilted balance does not apply.

## 6.3 Chichester Harbour Conservancy

The proposal would not have a significant impact upon the setting of the wider AONB landscape, subject to dwellings being two-storey, and would maintain the landscape gap between Hermitage and Southbourne by restricting the built form on the eastern part of the site.

Therefore, no objection subject to the following suggested conditions:

- Dwellings are limited to two-storey;
- Financial contribution to Solent Bird Aware;
- Bat surveys being undertaken as required by the Councils Ecologist; and
- Suitable conditions to enhance the wildlife corridor, protecting trees and hedgerows and safeguarding bat and reptile populations.

## 6.4 Environment Agency

No objection on the basis the proposal is to connect to mains foul drainage.

## 6.5 National Highways

Commented as follows:

- The proposal would not have an unacceptable impact upon the safety, reliability and operational efficiency of the strategic road network within the vicinity of the site;
- It would form part of a cumulative impact upon one or more junctions of the A27 Chichester bypass; and
- A proportionate financial contribution should be sought towards highway works on the A27.

## 6.6 Natural England

No objection subject to s106 agreement to secure on-site land use change from arable to open space to mitigate nutrient impact and financial contribution to Solent Bird Aware to mitigate recreational disturbance impact.

## 6.7 Network Rail

Network Rail have considered the implications of the proposed development and its proximity to two level crossings (Penny in the north-west corner of the site and Church to the north-east). Following discussions, a financial contribution has been indicated to fund improvements to both or either level crossings. This is set out in the draft s106 Heads of Terms and Network Rail support the ringfencing of this contribution, provided this can be utilised for Penny and/or Church level crossings. Further, Network Rail supports the amended parameter plan (PAR-01 REV P3) which indicates land to be reserved for improvements to Penny level crossing and would request this to be secured as part of a legal agreement, should the development receive planning consent.

Additionally, subject to planning consent being granted, Network Rail would request that the financial contribution (prior to commencement) and railway crossing temporary works and permanent works (prior to occupation of first dwelling) are included as conditions on the decision notice. Within the wording for the financial contribution and the permanent works, Network Rail requests that reference is included to Penny and/or Church level crossings.

Subject to the aforementioned detail in this email being agreed, Network Rail are content for Chichester District Council to determine the application.

## 6.8 South Downs National Park Authority

Commented as follows:

- Any proposal should seek to enhance links between the Lumley Wildlife Corridor and the National Park;
- The impact of lighting upon the dark night skies of the National Park, particularly the Dark Night Skies Reserve, should be considered; and
- The proposal should seek to improve cycling routes to the National Park, with particular regard to the Salterns Way and Centurion Way.

## 6.9 Southern Water

Comment that they can facilitate foul sewerage disposal at Thornham WWTW but request that a planning condition is added that the development is not occupied until the position is confirmed again at that point in time.

## 6.10 WSCC Lead Local Flood Authority

No objection subject to the following conditions

- The submission of detailed designs of the surface water drainage scheme in accordance with the submitted Flood Risk Assessment;
- Confirmation of the arrangements for future maintenance and management of the Sustainable Drainage scheme;

- A full CCTV survey of the existing culverts; and
- Detailed designs of any necessary upgrades to the culverts to ensure there is adequate capacity.

#### 6.11 WSSC Local Highway Authority

No objection subject to a planning condition requiring a Construction Traffic Management Plan (CTMP) and a s106 legal agreement including:

- Extending Penny Lane into the access site;
- Provision of a 2m footway on both sides of Penny Lane by cutting back the existing verge;
- Provision of tactile paving and dropped kerbs at the existing uncontrolled crossing at the junction of Southbourne Avenue and Penny Lane;
- Provision of tactile paving and dropped kerbs at the existing uncontrolled crossing at the junction of Penny Lane and Main Road;
- Provision of Real Time Information (RTI) displays at the existing bus stops on Main Road; and
- Provision of a final Travel Plan as part of the reserved matters application and a £3,500 monitoring fee.

#### 6.12 WSSC Public Rights of Way

Request that the existing PRoW through the site is upgraded to 2m in width with a rolled stone all weather surface.

#### 6.13 WSSC Fire & Rescue

No objection subject to a condition regarding the provision of, and access to, fire hydrants.

#### 6.14 CDC Archaeology

No objection subject to an archaeological Written Scheme of Investigation.

#### 6.15 CDC Drainage

Due to the scale of the proposal the Lead Local Flood Authority are the most appropriate body to comment.

#### 6.16 CDC Environmental Health – Air Quality

No objection subject to conditions regarding construction and operational stage mitigation.

#### 6.17 CDC Environmental Health – Land Contamination

No objection subject to conditions regarding unexpected contamination.

#### 6.18 CDC Environmental Health - Lighting

No objection subject to conditions regarding minimising light spill.

## 6.19 CDC Environmental Health - Noise

No objection subject to conditions regarding noise mitigation.

## 6.20 CDC Environmental Strategy

Comment as follows:

- Bats and wildlife corridor - Satisfied that the buffer to the wildlife corridor is suitable but there should be no light spill (further information should be provided at the reserved matters stage to show lighting levels within the area and how planting can reduce the impact);
- Trees - Tree T01 includes a bat roost so must be retained and enhanced with a 5m buffer;
- Lighting - Lighting should generally be minimised to limit the impact upon bats;
- Nutrient Neutrality - Agree with the applicants calculations that the proposal will result in a reduction in the discharge of nitrates;
- Recreational Disturbance - Agree that a contribution to Solent Bird Aware will mitigate any impact;
- Over Wintering Birds - Satisfied that there will be a negligible impact;
- Reptiles - No impact subject to securing mitigation via planning condition;
- Badgers - A survey should be undertaken prior to commencement to ensure badgers aren't using the site;
- Nesting Birds - Any clearance works should be undertaken out of bird breeding season;
- Hedgehogs - Any brush piles, compost and debris piles on site should be removed out of the hibernation period;
- Biodiversity Net Gain - Agree the calculations in the BNG Assessment report and that they can be delivered on site in principle; and
- Sustainability - Welcome the provision of air source heat pumps but would require measures to ensure that vehicle charging is accommodated.

## 6.21 CDC Housing

Commented as follows:

- Content with the proposed open market unit sizes;
- Agree that the 30% affordable housing is policy compliant;
- Of the 30% affordable housing require a minimum of 25% first homes followed by broadly 35% social rent, 22% affordable rent and 18% shared ownership;
- The exact unit sizes of the affordable units can be determined at the reserved matters stage;
- Note the inclusion of bungalows and smaller first home units; and
- Would welcome the inclusion of self and custom build units if the applicant were agreeable.

## 6.22 CDC Trees

With regard to the TPO oak tree at the entrance to the site the PiCUS Tomograph Scan image shows major/advanced decay/cavity on virtually the whole stem diameter which suggests that the tree is not sustainable. The proposed installation of a road/path would, however, likely speed up the limited longevity of the tree.



The applicants report does suggest that the tree is sustainable with a series of appropriate remedial actions but overall it is considered in poor condition and does not have long term sustainability.

### 6.23 Third Party Representations

78 objections, in addition to a letter from Hermitage Residents Group with 93 signatories, on the following grounds:

- The Council has a housing land supply so the proposed dwellings are not needed;
- The application is contrary to the Neighbourhood Plan, in particular it is outside the defined settlement boundary;
- Unsustainable location for new development contrary to the NPPF;
- Development should be focussed on brownfield land;
- Constitutes the overdevelopment of the area, particularly along the A259;
- Loss of valuable agricultural land that is needed for food production;
- The site regularly floods and the proposal will result in unacceptable surface water including overflowing ditches;
- Penny Lane is not able to accommodate additional vehicles including due to its narrow width;
- Wildlife regularly utilise the site including deer and slow worms;
- The application has failed to conduct a traffic survey at the Penny Lane/Main Road junction which has had repeated accidents;
- The traffic flow data fails to include all developments including Morcumb Park;
- No parking survey has been submitted by the applicant;
- Harm to the settlement gap resulting in the coalescence of settlements;
- Impact upon the setting of the National Park including views into and out of the National Park;
- Impact upon Chichester Harbour AONB National Landscape;
- Absence of bat survey;
- Impact of proposed lighting upon bats;
- Loss of open space to exercise dogs;
- The use of desktop studies and data from 2011 to establish drainage impact is inappropriate;
- Proposal will increase existing flooding in Parham Place;
- Safety concerns over the proximity of the railway line and crossings;
- Lack of infrastructure in the local area to support additional people, for example schools, shops, post office and doctors;
- Inadequate capacity within the local sewerage system will mean more harmful discharge into Chichester Harbour, a designated SSSI;
- Will not meet the needs of the local community;
- Impact from traffic upon pedestrians in the area;
- Loss of tree at the entrance to the site that is the subject of a Tree Preservation Order;
- Lack of access for emergency vehicles along Penny Lane;
- Would not be in character with the local area;
- Would not meet the housing needs of the local community, more one and two bed properties are required as is a higher percentage of affordable housing;
- Lack of community consultation;
- Surface water run-off along Penny lane; and
- Mature trees and hedgerows will be destroyed.

## 7.0 Planning Policy

7.1 The Development Plan for the area principally comprises the Chichester Local Plan 2014-2029, the Southbourne Neighbourhood Plan 2014-2029 and the NPPF. The Southbourne Modified Neighbourhood Plan (referendum modified plan) 2014-2029 and Chichester Local Plan Review Preferred Approach 2016 - 2035 are emerging policies to be afforded appropriate weight with regard to guidance at Para 48 of the NPPF.

### **Relevant Planning Policies - Adopted**

7.2 Planning policies given **substantial** weight in the consideration of this application include:

#### 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 2012-229
- Policy 6 Neighbourhood Development Plans
- Policy 8 Transport and Accessibility
- Policy 9 Development and Infrastructure Provision
- Policy 33 New Residential Development
- Policy 34 Affordable Housing
- Policy 39 Transport, Accessibility and Parking
- Policy 40 Sustainable design and construction
- Policy 42 Flood Risk and Water Management
- Policy 43 Chichester Harbour Area of Outstanding Natural Beauty
- Policy 45 Development in the Countryside
- Policy 47 Heritage and Design
- Policy 48 Natural Environment
- Policy 49 Biodiversity
- Policy 50 Development and disturbance of birds in Chichester and Langstone Harbours SPAs
- Policy 52 Green Infrastructure
- Policy 54 Open Space, Sport and Recreation

#### {\ul Southbourne Parish Neighbourhood Plan 2014 – 2029}

- {\bullet} Policy 1 Development within the settlement boundaries
- {\bullet} Policy 4 Housing Design
- {\bullet} Policy 7 Environment

#### National Policy and Guidance

7.3 Government planning policy comprises the National Planning Policy Framework (NPPF December 2023). The relevant sections of the NPPF pertinent to the assessment of this application include:

- Section 2 Achieving Sustainable Development
- Section 4 Decision Making
- Section 5 delivering a Sufficient Supply of homes

- Section 8 Promoting healthy and safe communities
- Section 9 Promoting sustainable transport
- Section 11 Making effective use of land
- Section 12 Achieving well designed places
- Section 14 Meeting the challenge of climate change, flooding and coastal change
- Section 15 Conserving and enhancing the natural environment
- Section 16 Conserving and enhancing the historic environment

7.4 The relevant paragraphs of the National Planning Practice Guidance and the National Design Guide (January 2021) have also been taken into account.

### **Relevant Planning Policies - Emerging**

7.5 Planning policies given **significant** weight in the consideration of this application include:

#### Southbourne Neighbourhood Plan (referendum modified) 2014-2029:

7.6 The Council issued its Decision statement for the modified Neighbourhood Plan at the start of January and it subsequently went to a referendum on 25 January, which it passed. A recommendation to therefore 'make' the Neighbourhood Plan is being considered at the 27 February Full Council meeting and, subject to approval, will thereafter be a fully adopted part of the Development Plan.

7.7 The relevant policies of the Southbourne Neighbourhood Plan (referendum modified) 2014-2029 include:

- Policy SB1 Development within and outside the settlement boundaries
- Policy SB3 Local Housing Needs
- Policy SB4 Design in Southbourne Parish
- Policy SB6 Design and Heritage in Hermitage
- Policy SB13 Green and Blue Infrastructure Network
- Policy SB14 Biodiversity
- Policy SB15 Trees, Woodland and Hedgerows
- Policy SB17 Achieving Dark Skies
- Policy SB18 International Nature Sites
- Policy SB19 Zero Carbon Buildings
- Policy SB20 Water Infrastructure and Flood Risk
- Policy SB21 Sustainable Travel

7.8 Planning policies given **moderate** weight in the consideration of this application include:

#### Chichester Local Plan Review Preferred Approach 2016 - 2035

7.9 Work on the review of the adopted Local Plan to consider the development needs of the Chichester Plan Area through to 2039 is now well-advanced. Consultation on a Preferred Approach Local Plan has taken place. Following detailed consideration of all responses to the consultation, the Council has published a Submission Local Plan under Regulation 19, which was approved by Cabinet and Full Council for consultation in January 2023. A period of consultation took place from 3rd February to 17th March 2023, and the Submission Local Plan is expected to be submitted to the Secretary of State for independent examination in 2024. In accordance with the Local Development Scheme, it

is anticipated that the new Plan will be adopted by the Council in 2024. At this stage, the Local Plan Review is an important material consideration in the determination of planning applications, the weight that can be attached to the policies contained therein is dependent on the significance of unresolved objection attributed to any relevant policy, commensurate with government policy in the NPPF.

#### 7.10 The relevant policies of the Chichester Local Plan 2021 - 2039: Proposed Submission (Regulation 19) include:

- Policy S1 Spatial Development Strategy
- Policy S2 Settlement Hierarchy
- Policy NE2 Natural Landscape
- Policy NE3 Landscape Gaps between Settlements
- Policy NE4 Strategic Wildlife Corridors
- 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 SPAs and Medmerry Compensatory Habitat
- Policy NE8 Trees, Hedgerows and Woodlands
- Policy NE10 Development in the Countryside
- Policy NE13 Chichester Harbour AONB
- Policy NE15 Flood Risk and Water Management
- Policy NE16 Water Management and Water Quality
- Policy NE19 Nutrient Neutrality
- Policy NE20 Pollution
- Policy NE21 Lighting
- Policy NE22 Air Quality
- Policy NE23 Noise
- Policy NE24 Contaminated Land
- Policy H1 Meeting Housing Needs
- Policy H2 Strategic Locations/Allocations 2021-2039
- Policy H3 Non-Strategic Parish Housing Requirements 2021-2039
- Policy H4 Affordable Housing
- Policy H5 Housing Mix
- Policy H6 Custom and/or Self Build Homes
- Policy H7 Rural and First Homes Exception Sites
- Policy H10 Accessible and Adaptable Homes
- 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 P8 Materials and Detailing
- Policy P14 Green Infrastructure
- Policy P15 Open Space, Sport and Recreation
- Policy P16 Health and Well-being
- 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 L1 Infrastructure Provision

7.11 The aims and objectives of the Chichester in Partnership Community Strategy 2016-2029 which are relevant and material to the determination of this planning application are:

- Promoting and developing a dementia friendly district
- 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
- Maintain the low levels of crime in the district in the light of reducing resources
- Support and empower communities and people to help themselves and develop resilience
- Support communities to meet their own housing needs
- Support and promote initiatives that encourage alternative forms of transport and encourage the use of online services
- Promote and increase sustainable, environmentally friendly initiatives in the district
- Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area

## **8.0 Planning Comments**

8.1 This section will assess the application against the Development Plan and any relevant material considerations. The main issues arising from this proposal are:

- Principle of development
- Housing
- Design
- Landscape impact
- Connectivity
- Protected Designations - Habitat Regulation Assessment
- Flooding & Surface Water Drainage
- Sustainable Measures
- Other matters

### **i. Principle**

8.2 The application site is located outside of the settlement boundary defined by the Local Plan and Neighbourhood Plan and is, accordingly, not a location where the Local Plan Development Strategy, set out at Policy 2, or the Neighbourhood Plan would seek to direct development. The site is also not considered to be an exception site, as defined by Policy 35 of the Local Plan, as it does not meet all the policy criteria including not being "modest in scale" or proposing to "provide 100% affordable housing".

8.3 Following the issue of a revised NPPF, Council's like Chichester that have an emerging Local Plan which has completed its 'Regulation 19' formal consultation stage and is ready to submit for examination, need only identify a four-year supply of housing sites for the 5-year period. The Council has recently re-issued its Updated Position Statement on its 5YHLS housing supply (as at 1 April 2023). The current assessment for the Chichester

Local Plan area demonstrates a four-year housing land supply of 4.19 years. However, the important caveat to the new policy in NPPF paragraph 226 is that the new arrangement on housing supply is only a temporary arrangement which will apply for just a 2-year period from the date of publication of the NPPF. By the 6 March Committee therefore, the Council will already be 2.5 months into that temporary 2-year period which ends on 20 December 2025. Under the new NPPF, the relevant housing policies in the Local Plan (2, 5 and 45) which were previously considered out-of-date when measured against a requirement to demonstrate a 5YHLS, are no longer out-of-date when measured against the requirement for a 4YHLS which the Council is able to demonstrate. By virtue of housing policies which are temporarily not out-of-date and a 4YHLS, officers maintain that the 'tilted balance' to decision making is not engaged and the Council is able to determine the application on the basis of a flat balance

- 8.4 Although the Council's housing land supply position is greater than 4 years, this is not by a significant margin and it is therefore important that the Council grants permission for appropriate developments to ensure that the housing supply remains positive to meet the identified needs of the District and enable the Council to control the location of development by defending against inappropriate development proposals. In addition, it is important that housing supply remains buoyant to ensure the Council is able to maintain the provision of a 5 year housing land supply upon adoption of the emerging local plan.
- 8.5 In the absence of a 5 year housing land supply the Interim Position Statement (IPS) was introduced. Whilst the Council is currently only required to demonstrate a 4 year housing land supply, the document remains a useful tool to consider the merits of a proposal and to ensure that where housing is needed to maintain a housing land supply it is guided to appropriate and sustainable locations. The development can be assessed against the (abridged) criteria-based approach of the IPS as follows:

**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 proposed development sits immediately to the north of the existing settlement boundary of Hermitage, as identified by both the Local Plan and the Neighbourhood Plan.

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

Policy 2 of the Local Plan identifies Southbourne as a Settlement Hub and Hermitage as a Settlement Village. Southbourne is therefore a location where development would be focussed, to reinforce its strategic role, and the application site has good sustainable access to the facilities and services Southbourne offers. Furthermore, the application site relates well to Emsworth which is outside of the District but has a significant level of facilities and services that are accessible by cycle or along pedestrian footpaths from the site. The scale of the proposed development is therefore considered appropriate to its location.

**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.**

The application site lies to the immediate north of existing built form but to the west of agricultural land that provides a physical and visual separation between Hermitage and Southbourne, which is noted in the Council's 2019 Landscape Gap Assessment.

The application site is separated from the agricultural field that forms the 'gap' by a linear defined line of vegetation. Furthermore, the proposed parameter plan includes a significant amount of open space on the application site adjacent to the eastern boundary in addition to restricting building heights to 1.5 storey on the eastern edge of the proposed built form.

It is not therefore considered that the proposal would not result in the actual or perceived coalescence of settlements.

**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.**

Within the context of the wildlife corridor buffer to the west and the open space located to the east the built form area of the proposal has a density of 35dph (based on the maximum 84 dwellings proposed). This is considered to strike an appropriate balance between respecting landscape character, ensuring housing is provided to meet the needs of the District and a quantum of development appropriate to the site's location.

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

Whilst there is little visual interrelationship between the application site and the Chichester Harbour AONB National Landscape, the site is visible from the South Downs National Park. The submitted parameter plan would secure an appropriate spatial distribution of uses, building height and density of development to ensure that the development respects the setting of the National Park whilst planning conditions would secure an appropriate lighting scheme.

**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 proposed parameter plan includes a significant buffer to the adjacent wildlife corridor including providing ecological enhancements.

**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.**

All necessary infrastructure would be secured by the application either via a s106 legal agreement or planning condition requiring compliance with the submitted parameter plan whilst there is currently capacity at Thornham WWTW to accommodate the development.

**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.**

The submitted Energy Statement and clarification e-mail from the applicant sets out a number of measures that the proposed development would employ including no fossil fuels, the provision of air source heat pumps per dwelling, EPC ratings of B or above and sustainably sourced timber frames. Whilst it is considered the proposal could go further, and a condition is proposed as such, it is considered that the approach is acceptable in principle.

**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.**

As an outline application the proposed parameter plan includes the appropriate arrangement of built form and open space, including a wildlife corridor buffer and landscape gap buffer. Whilst the appearance of the development is a reserved matter it is considered that the application has demonstrated that, in principle, a high-quality and locally distinctive design can be achieved.

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

The proposal is located close to the services and facilities of Southbourne and Emsworth and is well connected into the existing PRow network. Pedestrian and cycle networks are also accessible with the detailed access connecting into the existing network on Penny Lane.

**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.**

The application has demonstrated that it will not increase flood risk elsewhere, has taken the opportunity to reduce flood risk overall and is located in a sequentially appropriate place for new development.

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



The application has provided a Nitrate Assessment that demonstrates that the proposed use would result in less nitrates being discharged than the existing agricultural use of the land.

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

Assessment of the application has not identified any barriers to delivery and the applicant has set out that, should permission be granted, they anticipate occupations from Spring 2026 onwards.

8.6 Importantly, the site lies adjacent to a built up area in a sustainable location, and significant weight is therefore afforded to the meaningful and deliverable contribution that the proposal would make to meeting the District's housing need.

## **ii Housing**

### Affordable Housing

- 8.7 The application includes 30% affordable housing and this will be secured in the s106 legal agreement including a mechanism to ensure that any shortfall, due to rounding numbers, is addressed through a commensurate financial contribution. Furthermore, given that the Community Infrastructure Levy (CIL) receipt from the proposal is necessary to ensure infrastructure improvements to mitigate the impacts of the additional population that development will bring, and affordable housing can apply for exemption from CIL, the s106 agreement is proposed to restrict the development from providing any additional affordable housing above the agreed percentage.
- 8.8 As this is an outline planning application it is appropriate that the exact tenure split of the affordable housing is determined at a later date, closer to implementation, to ensure that it best reflects housing need at that point in time. The s106 agreement will, however, stipulate that at least 25% of affordable housing is First Homes in accordance with the requirements of the NPPF and the remainder of the affordable housing will be in general compliance with 35% social rent, 22% affordable rent and 18% shared ownership.
- 8.9 It is therefore considered that, in this regard, the proposal is in accordance with Policy 34 of the Local Plan, the CDC Planning Obligations & Affordable Housing SPD 2016 and Policy SB3 of the Neighbourhood Plan.

### Size of Units

- 8.10 Whilst the exact final mix of size of units will be determined at the reserved matters stage for the affordable units, based on housing need at that point in time, it is appropriate to set the parameters for the open market unit size mix at the outline stage to ensure that accords with the need identified by the Council's Housing and Economic Development Needs Assessment (HEDNA) 2022 and Policy SB3 of the Neighbourhood Plan states that "the provision of 1 or 2 bed dwellings suitable for younger households is encouraged to meet the significant local need for smaller dwellings, as are accessible purpose designed

C3 dwellings and extra-care accommodation to enable people to downsize and remain in the Parish".

- 8.11 Therefore, whilst Policy SB3 concludes that "the precise housing mix will be determined on a site by site basis", the s106 agreement will require that, rounded up to the nearest whole number, there will be a minimum of 2% open market 1-bed units, a minimum of 30% 2-bed open market units and a minimum of 45% 3-bed open market units.
- 8.12 Combined with the affordable smaller units, that will be secured at the reserved matters stage, it is considered that the proposal accords with Policy 34 of the Local Plan, the CDC Planning Obligations & Affordable Housing SPD 2016 and Policy SB3 of the Neighbourhood Plan.

#### NDSS & Higher Access Standards

- 8.13 The application proposes dwellings and apartments that meet the minimum Nationally Described Space Standards (NDSS) standards and are M4(2) compliant with regard to supporting access for all mobility groups.

#### Self and Custom Build

- 8.14 Whilst the application does not propose any self or custom build dwellings, in conflict with Policy SB3 of the Neighbourhood Plan which states that they "will be encouraged", their absence is not considered an overriding reason for refusal.

### **iii Design**

- 8.15 Policy 33 of the Local Plan sets out at criteria 1 that proposals must "meet the highest standards of design" whilst the NPPF, at Paragraph 139, is clear that "development that is not well designed should be refused" with Paragraph 135 setting out the clear expectations. This is further supported by Policy SB4 of the Neighbourhood Plan and the 2021 National Design Guide which sets out how to create beautiful, enduring and successful places.

#### Layout

- 8.16 As an outline application a parameter plan has been submitted that sets out the fixed parameters that, as required by condition, subsequent reserved matters applications must accord with.
- 8.17 The parameter plan:
- Places the built form in the centre of the site with a strong connection to Penny Lane;
  - Includes 2.39ha of residential form, equating to a maximum 35dph, which is considered appropriate for the edge of settlement location;
  - Includes an appropriate buffer to the western wildlife corridor making efficient use of the land by locating pathways and SUDS basins within it;
  - Respects the open landscape to the east, ensuring no perception of settlement coalescence, through including a large section of open space and restricting the height of the dwellings on the eastern edge to 1.5 storey;
  - Acknowledges the potential need for taller buildings, up to 2.5 storey, at key points including along the entrance into the site and forming a central core;

- Includes an internal network of pathways connecting into existing movement networks;
- Appropriately locates an Equipped Play Area to the east of the site within proximity of the proposed dwellings;
- Appropriate buffers to trees and hedgerows are provided;
- A mature tree is placed in the centre of the development to compensate for the loss of the TPO oak tree at the entrance to the site, if necessary, and terminate the view from Penny Lane;
- Utilises appropriately located SUDS basins along the southern boundary, to provide attenuation whilst also acting as a buffer between the proposed development and the existing dwellings to ensure residential amenity is respected;
- The SUDS basins and open space around it pay regard to Policy SB13 of the Neighbourhood Plan which seeks for "proposals for development schemes for housing should incorporate woodland and/or wetland planting"; and
- Shows an acoustic boundary, if necessary, parallel to the railway line.

### Appearance

- 8.18 Whilst the appearance of the proposed development is a reserved matter the applicants have both utilised the parameter plan to set out key principles in addition to producing a design Principles Document that sets out a series of high-quality design principles, such as how to address open space, create attractive street scenes and establish movement hierarchies, and applies them to the site-specific circumstances of the application site and surrounds. The document is considered to provide a useful understanding of the principles behind the parameter plan in addition to providing the Council the opportunity to secure the direction of design travel at the outline application stage to provide additional control and comfort.
- 8.19 It is therefore considered that the application has demonstrated, in principle, that it would provide the appropriate environment, with regard to building height, spatial distribution of uses and density of development, to facilitate a high-quality development and develop an appropriately locally distinctive sense of place. The imposition of a condition requiring that the reserved matters application(s) are in broad accordance with the submitted design Principles Document provides additional security in this regard.

### Open Space

- 8.20 The proposed parameter plans include 0.036ha of Equipped Play Space (against a policy requirement of 0.026ha) and 2.30ha of Amenity Open Space (against a policy requirement of 0.086ha).
- 8.21 The open space is located appropriately, making the efficient use of land by also acting as the respective wildlife corridor and strategic gap buffers, and is well connected to the movement network. It is therefore considered that the proposed open space, subject to s106 agreement requirements regarding the provision of the equipped play space and the future management and maintenance of the space, is in accordance with the CDC Planning Obligations & Affordable Housing SPD and Policy 40 of the Local Plan in this regard.

## Design Summary

- 8.22 The proposed design, layout and open space are all proposed to be secured by the submitted parameter plan that a future reserved matters application would have to be in accordance with. Therefore, whilst the detailed design will be considered at the reserved matters stage the proposal is not considered to prejudice the ability to deliver a high-quality design at that stage but will rather positively facilitate a local distinctive design that works positively with the natural capital of the site. It would also ensure that there would be an acceptable relationship, in principle, with the occupants of dwellings currently adjacent to the site.
- 8.23 It is therefore considered that, in principle, the proposed development would be able to accommodate the highest standards of design and create a high quality and beautiful place. The application is therefore in accordance with Policy 33 of the Local Plan, Policy SB4 of the Neighbourhood Plan and the National Design Guide 2021.

### **iv Landscape Impact**

- 8.24 With close proximity to the South Downs National Park and Chichester Harbour National Landscape (AONB) the application site is located within the South Coast Plan National Character Area which is described as "a flat, coastal landscape with an intricately indented shoreline lying between the dip slope of the South Downs and South Hampshire Lowlands". This is further reflected by the site being within the Southbourne Coastal Plain, as defined by the West Sussex Landscape Character Assessment, which notes that "intensive horticulture, glasshouses, horse paddocks, busy roads and bypasses are features of this landscape".
- 8.25 Whilst the above and other landscape studies, such as the Chichester Harbour AONB Landscape Character Assessment, all note that urban sprawl from housing are threats to the established character of the area it is notable that the CDC Landscape Capacity Study 2019 acknowledges that the site has a 'medium' landscape value. A key matter is however, as set out in the CDC Landscape Gap Assessment 2019, the need to prevent settlement coalescence between Hermitage and Southbourne identifying a potential settlement gap to the immediate east of the application site.
- 8.26 Within this context the application site is considered to form a logical extension infilling between existing residential development to the south, the strong physical barrier of the railway line to the north and the woodland to the west. The layout of uses the parameter plan proposes, with a large area of open space to the east and limiting building heights on the eastern side to 1.5 storey would respect the settlement gap.
- 8.27 Whilst the site has limited visibility from the Chichester Harbour National Landscape AONB it would be visible from the South Downs National Park given there are expansive views from the site to the Downs. However, when viewed from the National Park by those experiencing it, including on the numerous PRoW's as the topography of the Downs rises, the site would, even with the modest number of 2.5 storey dwellings proposed, be viewed within the context of the existing built form and would not be easily distinguishable from the wider settlement. The submitted Landscape and Visual Impact Assessment (LVIA)

supports this conclusion noting a range of effects but with either only a negligible or minor effect being the most common outcome.

8.28 It is therefore considered that the landscape has the necessary capacity to accommodate the proposed development without harm to the character of the area or nearby designated sites. Subject to securing an appropriate design, layout and lighting controls at the reserved matters stage, in broad accordance with the details submitted, it is therefore considered that the proposal would be in accordance with Policy 48 of the Local Plan and Policy SB17 of the Neighbourhood Plan in this regard.

### Trees

8.29 There are a number of trees and hedgerows forming the boundaries of the site, including a woodland to the immediate west that is the subject of a group Tree Preservation Order (TPO). Both the submitted Tree Protection and Retention Plan and submitted parameter plan accordingly includes an appropriate buffer to the trees and hedgerow to ensure that any works occur outside of the respective Root Protection Areas (RPA) and a condition is proposed to require the installation of the tree protection measures during construction works.

8.30 However, an Oak Tree that stands at the end of Penny Lane at the entrance to the site is the subject of an individual TPO and makes a contribution to the amenity of the area providing a visible termination of Penny Lane. Whilst the proposed access seeks to retain the tree there are concerns that, due to the proximity of hardstanding, there would be pressure from the proposed access upon the tree which would be detrimental to its health.

8.31 Both the applicant and a third-party objector have submitted professional arboricultural assessments of the condition of the tree with differing conclusions. The Council's Tree Officer has considered the reports and, in particular, the PiCUS Sonic Tomograph scan that was undertaken of the tree which showed a significant amount of internal decay within the tree which has resulted in a major cavity. It is therefore considered that, whilst the introduction of the access carriage way would likely speed up the process, the tree is regardless already in significant decline and has limited longevity.

8.32 Policy SB15 of the Neighbourhood Plan requires that, "where the loss of mature trees or hedgerow is proven to be unavoidable, the proposals must make provision on site for like for like replacements and of similar ecological function and maturity" ... "where like for like replacement of a fully mature tree is not achievable then consideration should be given for an increased number of less mature specimens". Such an approach is also set out within Policy 52 of Local Plan.

8.33 The applicant considers that they can introduce a series of remedial measures, including removing unstable or hung-up deadwood, reducing the crown by 2-3m and chemical treatments to seek to reduce fungal pathogen attacks on the tree and boost the trees natural defences to improve the overall health of the tree.

8.34 This view is, however, in conflict with that of the Council's Tree Officer so, in the event the tree does have limited longevity, the application also commits to the planting of a replacement tree of commensurate maturity and substance within the site, likely within a central green space albeit the exact location is for the reserved matters stage to determine. It is considered that this would provide appropriate compensation.

8.35 Given the above it is not considered that, when the planning balance is applied, the retention of the tree is an overriding concern given that it is in poor health, it can be compensated for, and the application would make a meaningful contribution to meeting the District's housing need. Accordingly, subject to a planning condition to secure implementation, the approach to proactively manage the decline of the tree and plant appropriate replacements, both directly through a mature tree and through the introduction of smaller specimens, is considered to accord with policy SB15 of the Neighbourhood Plan and Policy 52 of the Local Plan.

### Dark Skies

8.36 The South Downs National Park is an International Dark Skies Reserve and lighting impacting its setting can erode the quality of the Reserve. The same is applicable to the experiential quality of the Chichester Harbour National Landscape (AONB) and Policy SB17 of the Neighbourhood Plan seeks to ensure no impact upon either designated landscape by requiring applications of the scale proposed to demonstrate how it is intended to prevent light pollution. Whilst Chichester Harbour is separated from the site by significant development the National Park is approximately 2km from the site, is visible from the site, and the closest boundary of the International Dark Skies Reserve is approximately 4km away with the buffer zone and transition zones extending much closer.

8.37 A lighting Assessment has therefore been submitted with the application including a range of measures that could, in principle be employed at the reserved matters stage to acceptably mitigate any impact in this regard. It is therefore considered that, subject to a condition requiring details at the reserved matters stage, the application has demonstrated, in principle, that there would be an acceptable impact. The application is therefore in accordance with policy SB17 of the Neighbourhood Plan and the first statutory purpose of the National Park in this regard.

### **v Connectivity**

#### Vehicular Access, Highway Safety and Highway Capacity

8.38 The proposed vehicular access to the site is via the natural continuation of Penny Lane northwards utilising the existing agricultural access that is already a made road up the boundary of the application site. However, whilst Penny Lane is an acceptable 4.8m wide and the majority of dwellings have multiple off-road parking spaces, there are no parking restrictions in place and many cars are parked on the highway. A significant number of third-party objections received refer to the difficulty of traversing Penny Lane drawing references to the trouble emergency vehicles may experience accessing the proposed development in addition to future concerns regarding the respective Penny Lane/Main Road and Southbourne Avenue/Main Road accesses should the application be permitted.

8.39 The submitted Transport Assessment indicates that the proposed development would likely generate a total of 49 vehicle movements in the peak AM hour (09:00-10:00) and 45 in the peak PM hour (17:00-18:00) and that these additional movements would be within the reasonable capacity of the junction. Furthermore, a Stage 1 Road Safety Audit has been undertaken to consider the junctions demonstrating that, subject to a package of mitigations, there would be an acceptable impact.

- 8.40 Whilst the third-party representations are noted a carriageway width of 4.8m, which Penny Lane has, is considered acceptable to facilitate access to the scale of development proposed noting that it is a residential street where vehicle speeds should be low. Whilst vehicles meeting each other may have to occasionally wait, either at the junction or where two cars meet when respectively seeking to pass a parked car this is not considered an overriding reason for refusal.
- 8.41 Access is not a reserved matter and detailed plans have therefore been submitted showing how the proposed development would connect into Penny Lane including the cutting back of verges to provide continuous 2m footpaths. This has also been the subject of a Stage 1 Road Safety Audit which concluded acceptability.
- 8.42 It is therefore considered, as acknowledged by the Local Highway Authority, that there would not be a severe impact, as defined by the NPPF, and would result in an acceptable access subject to a planning condition requiring a Construction Traffic Management Plan (CTMP) and a s106 legal agreement to secure:
- The connection of the site to the highway at the end of Penny Lane including cutting back of verges;
  - Tactile paving and dropped kerbs at the existing uncontrolled crossing at the junction of Southbourne Avenue and Penny Lane;
  - Tactile paving and dropped kerbs at the existing uncontrolled crossing at the junction of Penny Lane and Main Road; and
  - Real Time Information (RTPI) displays at the existing bus stops on Main Road.
- 8.43 With regard to the Strategic Highway Network, National Highways have confirmed that they consider the proposal would not have an unacceptable impact upon the safety, reliability and operational efficiency of the strategic road network within the vicinity of the site. However, there would be, alongside other committed developments, a cumulative impact upon one or more junctions of the A27 Chichester bypass and, as such, a proportionate financial contribution should be made towards highway works on the A27 which the applicants have agreed.
- 8.44 It is therefore considered that safe access and operation would be provided and that, with mitigation, the proposal would have an acceptable impact upon both the local and strategic highway networks. The application is therefore considered in accordance with Policies 9 and 39 of the Local Plan, Policies I1, T1 and T2 of the emerging Local Plan and Policy SB21 of the Neighbourhood Plan.

#### Pedestrian and Cyclist Connectivity

- 8.45 The site benefits from access to the PRow running through the western side of the site in addition to offering the opportunity to connect into the existing PRow to the east of the site. Furthermore, through an upgrade proposed at the entrance to the site from Penny Lane, there would be pedestrian and cycle connectivity to local facilities and services, such as in Southbourne and Emsworth.
- 8.46 The submitted parameter plan secures connections into the respective PRow's whilst the submitted detailed access plan shows the upgrade of the connection into Penny Lane. Whilst the existing PRow through the site is not proposed to be upgraded as requested by the WSCC Public Rights of Way Officer, due to concerns over its proximity to the dwellings to its south, drainage channel to the south and TPO buffer to the west, it would

remain in its unmade and unhindered form, with a secondary more formalised access route located to its north and this is considered acceptable.

8.47 The arrangements proposed, subject to being secured, are therefore considered acceptable and would promote sustainable modes of transport in accordance with Policies 8 and 9 of the Local Plan and Policy SB21 of the Neighbourhood Plan.

#### Railway Crossing

8.48 Two railway crossings, both facilitating PRowS crossing the line, are located within proximity to the application site, one in the north-west corner within the application site and protected by a wooden stile and one to the north-east, outside of the application site, protected by a dual-gate arrangement.

8.49 Consultation has been undertaken with Network Rail who have advised on the risk generated by the proposed development. The increased trip generation of users of the crossings by the development would likely be marginal within the context of users generated by the existing local population. However, the proposed development would place both dwellings and open space within close proximity of the crossings and, with regard to the north-west crossing, within immediate proximity.

8.50 The existing crossing to the north-east is already protected by a double gated arrangement and is less vulnerable than the north-west crossing which is only protected by a wooden stile and, given the Amenity Open Space immediately adjacent, would unmitigated result in an unacceptable level of risk.

8.51 Given the current condition of the crossing the applicant has agreed that prior to the commencement of development additional safety measures would be agreed with Network Rail and the Council, which would likely comprise Miniature Stop Lights and upgraded gate. An area safeguarded for the implementation of works within the site, is also to be made available by the applicant at nil cost, as shown on the submitted parameter plan. The agreed measures would be funded by a £370,000 contribution from the applicants and would be installed and be operational prior to the occupation of any dwellings.

8.52 As Network Rail have confirmed that the Miniature Stop Lights could, in principle, be installed within the existing land used by the railway it is not considered that the presence of the adjacent woodland, the subject of a group TPO, or tree T01, immediately adjacent to the crossing and the host of a bat roost, are insurmountable issues in principle. It is also noteworthy that the above mitigations, and the timing of their implementation, is commensurate with that imposed by the Planning Inspector at the Land North of Highgrove Farm, Main Road Bosham appeal (21/00571/FUL).

8.53 It is therefore considered that, subject to the use of an appropriately restrictive s106 legal agreement to secure the above, the proposed works would appropriately mitigate any increased risk arising from the proposed development. The application is therefore, in this regard, considered in accordance with Policies 8 and 9 of the Local Plan and Policy SB21 of the Neighbourhood Plan.

#### **vi Protected Designations - Habitat Regulation Assessment**



### Nutrient Neutrality

- 8.54 The site is within the fluvial catchment for Chichester Harbour discharging to Thornham Waste WWTW and, as such and as set out within the Council's Appropriate Assessment, there is a likelihood of an impact upon the Chichester and Langstone SPA, Ramsar and Solent Maritime SAC.
- 8.55 However, the application is accompanied by a Nitrate Assessment which sets out that the proposal, taking into account the baseline of the current agricultural use, would result in an overall decrease of 12.47 kg/TN/yr.
- 8.56 It is therefore considered, subject to securing the cessation of the existing agricultural use in its entirety upon commencement of development and the implementation of measures during construction to mitigate against sediment entering the watercourse, that the proposal is in accordance with policy 49 of the Local Plan, Policy SB18 of the Neighbourhood Plan and the Conservation of Habitat and Species Regulations 2017.

### Recreational Disturbance

- 8.57 The application site is within 5.6km of Chichester and Langstone Harbours SPA and, as such and as set out within the Council's Appropriate Assessment, there is a likelihood of an impact upon the designations through recreational disturbance arising from the residents of the proposed development.
- 8.58 The applicant has agreed to make the appropriate contribution per dwelling to the Solent Bird Aware Strategy and this is proposed to be secured in the s106 legal agreement. It is therefore considered that the application is in accordance with Policies 49 and 50 of the Local Plan, Policy SB18 of the Neighbourhood Plan and the Conservation of Habitat and Special Regulations 2017.

### Protected Species

- 8.59 The proposal has the potential to have a wide range of impacts upon protected species, particularly given the site's location close to internationally designated sites. The application is therefore accompanied by an Ecological Impact Assessment in addition to a bat survey and reptile mitigation strategy.
- 8.60 With regard to bats the submitted bat survey identified bats utilising the site with 92% of usage being the Common Pipistrelle, 7% Soprano Pipistrelle, 1% Noctule/Leislars and less than 1% Serotine and long-eared bats. Third-party objectors have submitted a bat survey report, utilising a recorder on tree T08 on the western boundary, which identified 2,437 bat movements over 11 nights including the barbastelle bat which was recorded on 7 nights.
- 8.61 The application proposes a significant buffer to the western boundary in addition to agreement to a lighting strategy that will prohibit lighting close to the woodland and minimise light spill towards the woodland from the proposed dwellings. It is considered that this would, in principle, facilitate an acceptable impact subject to a planning condition requiring final details of a lighting strategy at the reserved matters stage.

8.62 Furthermore, a bat roost was identified in tree T01 in the north-west corner of the site and the best solution would be for enhancements to the tree including a 5m buffer. However, the tree is located directly adjacent to the existing PRoW and the railway crossing. Therefore, whilst it would not be possible to secure a buffer without diverting the existing PRoW, it is not considered that the proposal would result in any significant additional impact upon the tree. The presence of bat roost would, however, need to be taken into account when considering any improvements to the railway crossing.

8.63 With regard to other species, as confirmed by the Council's Ecologist:

- Over Wintering Birds - Consider that there will be a negligible impact;
- Reptiles - Consider that there would be no impact subject to a planning condition securing the mitigation set out in the submitted Reptile Mitigation Strategy;
- Badgers - A planning condition is proposed to ensure that a survey is undertaken prior to commencement to ensure that badgers aren't using the site;
- Nesting Birds - A planning condition is proposed to ensure that any clearance works are only undertaken out of bird breeding season; and
- Hedgehogs - A planning condition is proposed to ensure that any brush, compost or debris piles on site are only removed outside of the hibernation period.

8.64 It is therefore considered that, subject to appropriate conditions to ensure a precautionary principle, there would be an acceptable impact, both during the construction and operational stages, in accordance with Policy 49 of the Local Plan, Policy SB14 of the Neighbourhood Plan and the Conservation of Habitats and Species Regulations 2017.

#### Wildlife Corridor

8.65 Policy 49 of the Local Plan seeks to "protect, manage and enhance" the District's network of ecology, biodiversity and geological sites which includes "wildlife corridors". This is supported by Policy SB13 of the Neighbourhood Plan which identifies wildlife corridors and requires that "development proposals that lie within or are adjoining the Network [which includes wildlife corridors] are required, where relevant, to have full regard to creating, maintaining and improving the Network, including delivering a net gain to general biodiversity value and wildlife connectivity".

8.66 The application site is located immediately to the east of the Lumley Wildlife Corridor as identified by the Neighbourhood Plan and has, accordingly, included an appropriate buffer to the wildlife corridor as secured by the parameter plan. To ensure that the space is an effective use of land it includes a SUDS basin, pedestrian connectivity and Amenity Open Space but is appropriately limited to these uses only by the parameter plan.

8.67 It is therefore considered that the application is in accordance with Policy 49 of the Local Plan and Policies SB13 and SB14 of the Neighbourhood Plan in this regard.

#### Biodiversity Net Gain

8.68 Whilst the application was submitted ahead of the impending legislative requirement for 10% Biodiversity Net Gain (BNG), Policy SB13 of the Neighbourhood Plan requires a "net gain to general biodiversity value" and Policy SB14 requires "at least a 10% net gain in biodiversity".

- 8.69 The application included a BNG Assessment Report setting out how the proposals would provide a 43% habitat gain and 77% hedgerow gain when assessed against the then current DEFRA metric 3.1 and an Ecological Enhancement Strategy to demonstrate how, in principle, the ecological enhancements proposed could be accommodated.
- 8.70 Whilst the proposal should now be assessed against the current DEFRA 4.1 metric it is considered that, given the significant BNG achieved under metric 3.1 and the minor changes between the metrics the proposal would still provide the gains necessary under metric 4.1, given the limited scope of changes between the two metrics.
- 8.71 It is therefore considered, subject to a condition requiring further assessment against metric 4.1 at the reserved matters stage to demonstrate a minimum 10% BNG, the application is acceptable in principle in this regard in accordance with Policies SB13 and SB14 of the Neighbourhood Plan.

### **vii Flooding & Surface Water Drainage**

- 8.72 The application site is located within EA flood zone 1 which has a low probability of flooding and is where the NPPF seeks to sequentially direct new development in this regard. However, there are a series of drainage channels, both open and culverted, that run through the site and onwards south towards the A259.
- 8.73 The application is accompanied by a sustainable Drainage Report which sets out the approach to drainage and the submitted parameter plan sets out the proposed location of Sustainable Urban Drainage (SUDS) basins taking into account the existing drainage channel and existing drainage flows.
- 8.74 Groundwater monitoring has been undertaken and, in combination with the fact that the underlying material is clay, relying on infiltration would not acceptably mitigate any impact with regard to not exceeding existing greenfield run off rates.
- 8.75 Given the above the application proposes, in the first instance, to reuse water through the introduction of water butts and other rainwater harvesting systems. Thereafter, as per the existing situation on site, the proposal is to discharge surface water into the existing watercourses surrounding the site but to also introduce SUDS basins to provide attenuation in the event of greater flows or weather events so that water is held until it can be released at an acceptable rate.
- 8.76 The location of the SUDS basins has been determined by the water flows on the site whilst their volume has been determined by the potential flow rates, taking into account an appropriate climate change allowance. Through the introduction of attenuation features the proposal would result in a betterment to the existing flood risk experienced by the adjacent existing dwellings.
- 8.77 The Lead Local Flood Authority have concurred with the submitted Report conclusions with no objection subject to detailed designs at the reserved matters stage and conditions requiring residual measures to ensure that the existing culverts have appropriate capacity and are maintained as such.
- 8.78 It is therefore considered that, subject to planning conditions, the application has demonstrated that it will not increase flood risk elsewhere, has taken the opportunity to

reduce flood risk overall and is located in a sequentially appropriate place for new development. It is therefore considered in accordance with Policy 42 of the Local Plan and Policy SB20 of the Neighbourhood Plan.

### **viii Sustainable Measures**

- 8.79 The application includes an Energy Statement and clarification e-mail from the applicants which sets out a number of measures that the proposed development would employ. Whilst this includes no fossil fuels, Electric Vehicle Charging, the provision of air source heat pumps per dwelling, EPC ratings of B or above and sustainably sourced timber frames, it is considered that the proposal could go further given the requirements of Policy 40 of the Local Plan and Policy SB19 of the Neighbourhood Plan which states that developments must "must minimise the amount of energy needed to heat and cool buildings through landform, layout, building orientation, massing and landscaping".
- 8.80 However, as the proposal is an outline application it is considered that there are no barriers to the delivery of appropriate sustainable measures and is therefore acceptable in principle. Accordingly, a planning condition is proposed to require final details at reserved matters stage when the detailed layout and design of the proposed dwelling is known.

### **ix Other Matters**

#### Agricultural Land

- 8.81 Whilst the applicants have not undertaken a site-specific survey to establish the existing agricultural land value the Natural England map appears to designate the site as very good agricultural land value, albeit it is challenging to attach a high degree of certainty given the scale of the Natural England map.
- 8.82 In the event that the land does constitute very good agricultural land it is not considered, given the limited scale of the site, its restriction by the woodland to the west, dwellings to the south and railway line to the north and the weight given to meeting housing need, that the loss of the agricultural land would constitute an overriding reason for refusal when the planning balance is applied.
- 8.83 Furthermore, it is not considered that the loss of the site for agricultural use would prejudice the agricultural operation of the land to the east of the application site.

#### Noise

- 8.84 Whilst the application site is bounded to its south by residential development where there would be a mutually reciprocal and acceptable acoustic impact, to the immediate north is a railway line that runs parallel to the site boundary.
- 8.85 The application includes a Noise and Vibration Assessment which concludes that the acoustic impact would be below the Significant Observed Adverse Effect Level (SOAEL) but above the Lowest Observed Adverse Effect Level (LOAEL). It is therefore considered appropriate that mitigation measures are implemented.
- 8.86 Whilst mitigation could take the form of an acoustic barrier, and the parameter plan accordingly makes acceptable provision in this eventuality, this would result in an element

of, but not overriding, landscape harm. Alternative measures such as the orientation of dwellings to ensure amenity spaces do not abut the railway line and the set back of dwellings from the railway line would therefore be explored as the initial option.

8.87 It is therefore considered that, subject to a planning condition requiring the agreement of noise measures during both the construction and operational stages, including timetable for implementation and verification measures, at the reserved matters stage the application is in accordance with Policies 33 and 40 of the Local Plan in this regard.

#### Air Quality

8.88 The site is not located within an Air Quality Management Area (AQMA) and the application is accompanied by an Air Quality Assessment. The conclusions of the report, which set out no operational stage impacts but impacts that require mitigation during the construction stage, are agreed.

8.89 It is therefore considered that, subject to a planning condition requiring the agreement of noise measures during the construction stage, the application is in accordance with Policies 33 and 40 of the Local Plan in this regard.

#### Construction Impacts

8.90 Whilst any development will result in temporary disturbance to the local area and community, and this is unavoidable, it is appropriate to require measures to minimise any impacts. Accordingly, alongside the recommended mitigations in the Noise and Vibration Assessment and the Air Quality Assessment, the applicants have set out a series of proposed measures including:

- Noise and dust suppression;
- Wheel washing for vehicles leaving the site;
- Construction traffic management;
- Silt Management Strategy;
- On site contractor parking;
- Appropriately location construction compound;
- Restriction of sediment entering watercourses; and
- Community notification and liaison.

8.91 It is therefore considered that, subject to a condition requiring the final details of a Construction Environmental Management Plan (CEMP) and a Construction Traffic Management Plan (CTMP), the application is acceptable in principle in this regard.

#### Crime

8.92 It is considered that the parameter plan does not prejudice the ability to secure appropriate measures at the detailed design stage through the reserved matters application. It is therefore considered that the application is in accordance with Policy 33 of the Local Plan in this regard.

#### Foul Drainage

8.93 The application proposes a mains connection to Thornham WWTW to dispose of foul waste. The WWTW is an environmentally constrained treatment plant as it discharges into

Chichester Harbour. Accordingly, the WWTW are the subject of a Position Statement which restricts any new connections once the remaining capacity is taken by committed development.

8.94 In accordance with Councils 'Position Statement on managing new housing development in the Thornham WWTW Catchment' there was capacity for an additional 347 dwellings to connect as at 1 February 2024. Accordingly, it is considered that there is currently capacity and, as such, the proposed arrangement is currently considered acceptable in accordance with Policy SB20 of the Neighbourhood Plan.

#### Land Contamination

8.95 The application includes a Phase II Land Contamination Survey which identified that no significant anomalies or risks were identified with regard to ground gas and vapours or contaminants. It is therefore considered that, subject to a planning condition regarding unexpected contamination, the application is acceptable in this regard.

#### Infrastructure and Planning Obligations

8.96 The development would be liable to pay the Council's Community Infrastructure Levy (CIL) charge of £120 sqm (+ indexing from January 2016) which, whilst the applicant can seek CIL exemption of affordable units, would mitigate the impact on wider infrastructure that the introduction of residents would result in.

8.97 However, a s106 legal agreement would also be necessary to secure the infrastructure directly necessary and related to the development to make it acceptable in planning terms. The following is therefore proposed to be secured:

- 30% affordable housing (rounded down to the nearest whole dwelling with any shortfall resulting in a financial contribution);
- A minimum of 25% of affordable housing will be First Homes; Of the remaining affordable housing the S106 Agreement requires the development to be in accordance with 35% Social Rented, 23% Affordable Rent and 17% Shared Ownership; The size of the affordable units would be agreed at the reserved matters stage; and Open market units would be broadly in accordance with a minimum of 2% 1-bed, % 2-bed and 45% 3-bed; Timing of delivery of affordable units, appropriate management by an approved body and a nominations agreement;
- Financial contribution of £7,728 per dwelling towards the A27 Local Plan mitigation works in line with the Council's SPD 'Approach for securing development contributions to mitigate additional traffic impacts on the A27 Chichester Bypass' with an uprated tariff based on the methodology set out in draft policy T1: transport Infrastructure (A27 Mitigation contributions) in the Chichester Local Plan 2021-2039: Proposed Submission (Regulation 19);
- Financial contribution of £443 per 1-bed, £639 per 2-bed, £834 per 3-bed, £980 per 4-bed and £1,150 per 5-bed for recreational disturbance mitigation at Chichester and Langstone Harbours SPA, in accordance with Planning Obligations and Affordable Housing SPD ;
- Provision of Amenity Open Space including a Local Equipped Area of Play (LEAP) (required minimum of 0.026ha of equipped play space and 0.086ha of amenity open

space, based on CDC Open Space Calculator). Management and on-going maintenance to also be secured.

- Secure the following off-site Highway works:
  - Provision of tactile paving and dropped kerbs at the existing uncontrolled crossing at the junction of Southbourne Avenue and Penny Lane;
  - Provision of tactile paving and dropped kerbs at the existing uncontrolled crossing at the junction of Penny Lane and Main Road; and
  - Real Time Information (RTI) displays at the existing bus stops (four in total) where both Thorney Road and Penny Lane meet Main Road.
- Works to the Railway:
  - Scheme of additional permanent safety measures at the Penny Lane & Church railway crossings, likely compromising Miniature Stop Lights and upgraded gate, and a timetable for the works to be agreed with Network Rail and the LPA prior to commencement of development;
  - £370,000 towards improvements to the Church or Penny Lane railway crossing; and
  - The safeguarding of land for improvements to the Penny Lane railway crossing and the making available of it at nil cost to accommodate/facilitate improvements to the crossing, as required.
- The cessation of the agricultural use of the land upon commencement of development; and £6,639 s106 monitoring fee.

8.98 This is considered in accordance with Policies 8, 9, 34, 49, 50, 52 and 54 of the Local Plan, the CDC Planning Obligations & Affordable Housing SPD 2016, Policies SB3, SB14, SB14, SB18 and SB21 of the Neighbourhood Plan, Policy L1, T1 and T2 of the emerging Chichester Local Plan 2021-2039: Proposed Submission Version, the NPPF and the Conservation of Habitat and Species Regulations 2017.

### **Conclusion and Planning Balance**

8.99 The application site is not allocated for development nor proposed as an exemption site. However, it is sustainably located, can be delivered without significant harm and is technically competent.

8.100 Whilst the Council is currently able to demonstrate a housing land supply this is only by a small margin and it is therefore important that the Council continues to grant permission for suitable sites that can make a meaningful and deliverable contribution to meeting the District's housing needs.

8.101 The tilted balance set out at Paragraph 11(d) of the NPPF does not apply to the application. However, the meaningful contribution that the proposal would make to meeting housing needs in given significant weight when the planning balance is applied.

8.102 Therefore, given that the application is technically competent and broadly policy compliant in all other regards, overriding weight is given to the meaningful and deliverable contribution that the application would provide to meeting housing need and the application is accordingly recommended for approval.

## Human Rights

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

### **RECOMMENDATION**

**DEFER FOR SECTION 106 THEN PERMIT** subject to the following conditions and informatives:-

1) (i) Approval of the details of the layout, scale, appearance and landscaping (hereinafter called "reserved matters") shall be obtained from the Local Planning Authority before any development is commenced.

Plans and particulars of the reserved matters referred to in paragraph (i) above, relating to the layout of the site, the scale of the buildings, the appearance of the buildings or place, and the landscaping of the site shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

(ii) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of two years from the date of this permission.

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

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

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

3) The development, hereby permitted, shall not be carried out other than in accordance with the approved Parameter Plan SEAW170635 PAR-01 dated 02.02.24 and Access General Arrangement 102545-T-005 C dated Sept 2020 unless otherwise agreed in writing.

Reason: To safeguard the landscape character of the area, ensure safe access, ensure the appropriate spatial distribution of uses, ensure connectivity to the movement network, ensure the protection of the adjacent woodland and wildlife corridor and safeguard the relationship with existing adjacent uses in accordance with Policies 33, 39, 42, 48, 49, 52 and 54 of the Chichester Local Plan: Key Policies 2014-2029, policies SB4, SB13 and SB14 of the Southbourne Neighbourhood Plan (referendum modified) 2014-2029 and the NPPF.



4) The reserved matters application(s) shall be in broad accordance with the Design Principles Document Feb 2024 unless otherwise agreed in writing.

Reason: To ensure the creation of a high quality, beautiful and well-designed place in accordance with Policies 33, 39, 42, 48, 49, 52 and 54 of the Chichester Local Plan: Key Policies 2014-2029, policies SB4, SB13 and SB14 of the Southbourne Neighbourhood Plan (referendum modified) 2014-2029 and the NPPF.

5) Prior to the commencement of development a lighting strategy, in broad accordance with the Lighting Impact Assessment 2560-DLF-ELG-XX-RP-EO-13001 dated 10.10.22, shall be submitted to and agreed, in writing, by the Local Planning Authority. The scheme shall set out how the development shall be designed to ensure that artificial light shall not exceed thresholds from the Institution of Lighting Professional's, 'Guidance Notes for the Reduction of Obtrusive Light (Guidance Note 01/20)' and shall include an isolux diagram showing the predicted luminance in both the horizontal and the vertical plane (at a height of 3.5 metres) for the development. The development shall be undertaken in accordance with the agreed details.

Reason: To safeguard protected species and other species present on the site and the dark night skies of the South Downs National Park in accordance with Policies 48 and 49 of the Chichester Local Plan: Key Policies 2014-2029, Policies SB14 and SB17 of the Southbourne Neighbourhood Plan (referendum modified) 2014-2029 and the NPPF.

6) Prior to the commencement of development and notwithstanding the Energy Statement dated November 2022 and e-mail from Ian Johnson dated 8 February 2024 a schedule of sustainability measures, setting out how the proposal meets the requirements of Policy 40 of the Chichester Local Plan: Key Policies 2014-2029 and Policy SB19 of the Southbourne Neighbourhood Plan (referendum modified) 2014-2029, shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall be undertaken in accordance with the agreed details.

Reason: To ensure that the development constitutes sustainable design and construction in accordance with Policy 40 of the Chichester Local Plan: Key Policies 2014-2029, Policy SB19 of the Southbourne Neighbourhood Plan (referendum modified) 2014-2029 and the NPPF.

7) No development shall commence until a Construction Environmental Management Plan (CEMP) and Construction Traffic Management Plan (CTMP) for the development, hereby approved, has been submitted to and approved, in writing, by the Local Planning Authority. The CEMP shall be in accordance with the conclusions of the submitted Air Quality Assessment dated September 2022, the Noise and Vibration Assessment dated October 2022 and include details of:

- (a) A plan of the defined working area;
- (b) The location of the site compound and any buildings within it;
- (c) The means of enclosure of the site compound;
- (d) The provisions to be made for the parking of contractors, site operatives, employees and visitors;
- (e) The provision for wheel washing facilities;

- (f) The route vehicles will take to the site and the measures in place to control movements along Penny Lane and Southbourne Avenue;
- (g) The method and timing of any piling required;
- (h) Measures to control the emission of dust and dirt;
- (i) Measures to prevent adverse impacts to surface water and ground water;
- j) Any screening or hoarding;
- k) A lighting strategy; and
- l) Hours of construction.

The development must be carried out in accordance with the approved details.

Reason: To safeguard the amenity of occupiers of adjoining properties, highway and pedestrian safety, the character and appearance of the area and to prevent pollution in accordance with Policies 33, 40, 48 and 49 of the Chichester Local Plan: Key Policies 2014-2029 and the NPPF.

8) Prior to the commencement of development an archaeological Written Scheme of Investigation, including the timing of any investigation and details of recording, shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall be undertaken in accordance with the agreed details.

Reason: To ensure that the special archaeological interest of the site is appropriately identified and, if necessary, safeguarded in accordance with Policy 47 of the Chichester Local Plan: Key Policies 2014-2029 and the NPPF.

9) Prior to commencement of development, in accordance with the submitted Flood Risk Assessment (Pell Frischmann, 16/06/2023, revision P04) and drawing number 106701 PEL XX ZZ XXX CD 0501 (Drainage Strategy by Pell Frischmann, 19/06/2023, revision P04), detailed designs of a surface water drainage scheme incorporating the following measures shall be submitted to and agreed with the Local Planning Authority. The approved scheme will be implemented prior to the first occupation of the development. The scheme shall address the following matters:

- i) Detailed infiltration testing in accordance with BRE Digest 365 (or equivalent) along the length and proposed depth of the proposed attenuation basin/s, as stated within section 3.1.5 of the Sustainable Drainage Report by Pell Frischmann, 19/06/2023, revision P04. If infiltration is proven to be unfavourable then Greenfield runoff rates for the site shall be agreed with the Lead Local Flood Authority. These post development runoff rates will be attenuated to the equivalent Greenfield rate (as calculated in Sustainable Drainage Report) for all rainfall events up to and including the 1% annual probability. The discharge location for surface water runoff will be confirmed to connect with the wider watercourse network;
- ii) Provision of surface water attenuation storage, sized and designed to accommodate the volume of water generated in all rainfall events up to and including the critical storm duration for the 3.33% and 1% annual probability rainfall events (both including allowances for climate change);
- iii) Detailed designs, modelling calculations and plans of the of the drainage conveyance network in the:
  - 3.33% annual probability critical rainfall event plus climate change to show no above ground flooding on any part of the site; and

- 1% annual probability critical rainfall plus climate change event to show, if any, the depth, volume and storage location of any above ground flooding from the drainage network ensuring that flooding does not occur in any part of a building or any utility plant susceptible to water (e.g. pumping station or electricity substation) within the development.
- iv) The design of the infiltration / attenuation basin will incorporate an emergency spillway and any drainage structures include appropriate freeboard allowances. Plans to be submitted showing the routes for the management of exceedance surface water flow routes that minimise the risk to people and property during rainfall events in excess of 1% annual probability rainfall event. V. Finished ground floor levels of properties are a minimum of 300mm above expected flood levels of all sources of flooding (including the ordinary watercourses, SuDS features and within any proposed drainage scheme) or 150mm above ground level, whichever is the more precautionary; and
- v) Details of how all surface water management features to be designed in accordance with The SuDS Manual (CIRIA C753, 2015), including appropriate treatment stages for water quality prior to discharge.

Reason: To ensure that flood risk is appropriately managed in accordance with Policy 42 of the Chichester Local Plan: Key Policies 2014-2029, Policy SB20 of the Southbourne Neighbourhood Plan (referendum modified) 2014-2029 and the NPPF.

10) Prior to the commencement of development details of the location and timetable for planting of a mature tree, to compensate for the loss of the oak tree at the entrance to the site, shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall be undertaken in accordance with the agreed details.

Reason: To compensate for the expected loss of the oak tree, the subject of a Tree Preservation Order, in accordance with Policy 52 of the Chichester Local Plan: Key Policies 2014-2029, Policy SB15 of the Southbourne Neighbourhood Plan (referendum modified) 2014-2029 and the NPPF.

11) Prior to the commencement of development plans of the site showing details of the existing and proposed ground levels, proposed finished floor levels, levels of any paths, drives, garages and parking areas and the proposed completed height of the development and any retaining walls have been submitted to, and been approved in writing by the Local Planning Authority. The details shall clearly identify the relationship of the proposed ground levels and proposed completed height with adjacent buildings. The development shall be undertaken in accordance with the agreed details.

Reason: To safeguard the amenity of occupiers of adjoining properties, highway and pedestrian safety, the character and appearance of the area and to prevent pollution in accordance with Policies 33 and 48 of the Chichester Local Plan: Key Policies 2014-2029 and the NPPF.

12) Prior to commencement of development, details of the proposed footpaths and movement connections, including to the existing Public Right of Ways, in broad accordance with parameter Plan SEAW170635 PAR-01 dated 02.02.24 and including a timetable for implementation, shall be submitted to and agreed in writing.

Reason: To ensure the site is connected to the existing movement network in accordance with Policy 439 of the Chichester Local Plan: Key Policies 2014-2029, Policy SB13 of the Southbourne Neighbourhood Plan (referendum modified) 2014-2029 and the NPPF.

13) In conjunction with the first Reserved Matters application for the development, details, including the timetable for delivery and verification measures, of how the development will result in a minimum Biodiversity Net Gain of 10%, measured against the Statutory Natural England Metric November 2023, shall be submitted to and agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the development results in an appropriate biodiversity enhancement in accordance with Policy 49 of the Chichester Local Plan: Key Policies 2014-2029, Policy SB14 of the Southbourne Neighbourhood Plan (referendum modified) 2014-2029 and the NPPF.

14) Prior to or in conjunction with the first Reserved Matters application for the development hereby permitted, a full CCTV survey of the existing culverts for their entire length, between the application site and its' outfall downstream including pipe diameter, invert and cover levels, condition (any blockages/roots/debris etc), incoming connections, alignment (both vertical and horizontal) and any associated structures.

Reason: To ensure that the development achieves a high standard of sustainability and ensure the flood risk is adequately addressed for each new dwelling and not increased in accordance with the NPPF.

15) Prior to or in conjunction with any Reserved Matters application, a detailed design shall be submitted to and approved in writing by the Local Planning Authority and Lead Local Flood Authority for any upgrades to the culvert to provide capacity for peak rainfall events (both the existing scenario and upon development of the site). The details shall include all relevant plans, sections, schedules and construction details if upgrades are required. This must demonstrate that any alterations proposed to the culvert do not increase flood risk downstream, by showing that there is adequate capacity within the channel for any additional peak flows where the culvert outfalls. These details will also be required for Ordinary Watercourse Consent (see Informative).

Reason: To ensure that flood risk is appropriately managed in accordance with Policy 42 of the Chichester Local Plan: Key Policies 2014-2029, Policy SB20 of the Southbourne Neighbourhood Plan (referendum modified) 2014-2029 and the NPPF.

16) Prior to development above slab level the 'Management Recommendations' and 'Enhanced Management Measures' set out within the Updated Health and Condition Survey Report LLD2016 dated 21.12.22 for the oak tree at the entrance to the site shall be implemented, and maintained as such, unless otherwise agreed in writing.

Reason: To optimise the longevity of the tree, the subject of a Tree Preservation Order, in accordance with Policy 52 of the Chichester Local Plan: Key Policies 2014-

2029, Policy SB15 of the Southbourne Neighbourhood Plan (referendum modified) 2014-2029 and the NPPF.

17) Prior to development above slab level details of noise attenuation measures, in broad accordance with the Noise and Vibration Assessment dated October 2022 and including a timetable for implementation and verification measures, shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall be undertaken in accordance with the agreed details.

Reason: To safeguard the amenity of the occupiers of the proposed dwellings in accordance with Policy 33 of the Chichester Local Plan: Key Policies 2014-2029 and the NPPF.

18) The development hereby approved shall not be first occupied until details of the maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be implemented prior to the first occupation of the development hereby approved and thereafter managed and maintained in accordance with the approved details in perpetuity. The Local Planning Authority shall be granted access to inspect the sustainable drainage scheme for the lifetime of the development. The details of the scheme to be submitted for approval shall include:

- i) A timetable for its implementation;
- ii) Details of SuDS features and connecting drainage structures and maintenance requirement for each aspect, III. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

Reason: To ensure that the development achieves a high standard of sustainability and ensure the flood risk is adequately addressed for each new dwelling and not increased in accordance with NPPF and local planning policy.

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

Reason: In accordance with The Fire and Rescue Services Act 2004.

20) Prior to the first occupation of any dwelling, hereby permitted, the agreed safety mitigation measures for the Penny Lane and Church railway crossings (as required by the Obligation in the S106 Agreement), shall be fully installed and operational.

Reason: To safeguard the occupiers of the proposed dwellings in accordance with Policy 33 of the Chichester Local Plan: Key Policies 2014-2029 and the NPPF.

21) The development, hereby permitted, shall be undertaken in accordance with the submitted Tree Retention and Protection Plan LLD2016-LAN-DWG-003 Rev 02 dated 30.10.20 unless otherwise agreed in writing.

Reason: To ensure that trees are appropriately protected to safeguard the ecological and amenity value in accordance with Policy 52 of the Chichester Local Plan: Key Policies 2014-2029, Policy SB15 of the Southbourne Neighbourhood Plan (referendum modified) 2014-2029 and the NPPF.

22) The development, hereby permitted, must be carried out in strict accordance with the methodology, mitigation and enhancement measures and recommendations detailed in the Ecological Impact Assessment LLD2727-ECO-REP-003-00-EcIA dated 21.10.22, Reptile Mitigation Strategy LLD2727-ECO-REP-004-00 dated 20.04.23 and Bat Activity Survey Report LLD2727-ECO-REP-006-00-BAS dated 08.09.23 unless otherwise agreed in writing.

Reason: To safeguard protected species and other species present on the site in accordance with Policies 48 and 49 of the Chichester Local Plan: Key Policies 2014-2029, Policy SB14 of the Southbourne Neighbourhood Plan (referendum modified) 2014-2029 and the NPPF.

23) No works to trees or vegetation on the site shall take place during the bird breeding season between 1st March - 1st October unless under the observation and instruction of a qualified ecologist.

Reason: To safeguard protected species and other species present on the site in accordance with Policies 48 and 49 of the Chichester Local Plan: Key Policies 2014-2029, Policy SB14 of the Southbourne Neighbourhood Plan (referendum modified) 2014-2029 and the NPPF.

24) No brush piles, compost or debris piles shall be removed between the hibernation period mid-October to mid-March unless under the observation and instruction of a qualified ecologist.

Reason: To safeguard protected species and other species present on the site in accordance with Policies 48 and 49 of the Chichester Local Plan: Key Policies 2014-2029, Policy SB14 of the Southbourne Neighbourhood Plan (referendum modified) 2014-2029 and the NPPF.

25) If contamination not previously identified in the Phase II Site Investigation Report GWPR5036/DS dated November 2022 is found to be present at the site then no further development or site clearance shall be carried out until a remediation strategy detailing how this unsuspected contamination is to be dealt with has been submitted to and approved, in writing, by the Local Planning Authority. Development shall proceed in accordance with the remediation strategy.

Reason: To ensure that risks from land contamination, ground gases and contaminated groundwater to the future uses of the land, neighbouring land, surface water, groundwater and wider environment are mitigated to ensure that the development can be carried out safely without any unacceptable risks to workers, neighbours and off-site receptors in accordance with the NPPF.

## INFORMATIVES

- 1) The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal, discussing those with the applicant and therefore working with the applicant and consultees to result in an application able to be recommended for approval.
- 2) S106 - This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990.
- 3) The council has created a Surface Water Drainage Proposal Checklist document that can be found in the downloadable documents box on the following webpage: <http://www.chichester.gov.uk/landdrainage>. This document is designed to clearly outline the Council's expectations and requirements for Surface Water Drainage Proposals. If pre-commencement surface water conditions are applied to the application this document should be used for any subsequent Discharge of Conditions Applications.
- 4) The developer's attention is drawn to the provisions of the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats etc) Regulations 1994, and to other wildlife legislation (for example Protection of Badgers Act 1992, Wild Mammals Protection Act 1996). These make it an offence to kill or injure any wild bird intentionally, damage or destroy the nest of any wild bird intentionally (when the nest is being built or is in use), disturb, damage or destroy and place which certain wild animals use for shelter (including badgers and all bats and certain moths, otters, water voles and dormice), kill or injure certain reptiles and amphibians (including adders, grass snakes, common lizards, slow-worms, Great Crested newts, Natterjack toads, smooth snakes and sand lizards), and kill, injure or disturb a bat or damage their shelter or breeding site. Leaflets on these and other protected species are available free of charge from Natural England.

The onus is therefore on you to ascertain whether any such species are present on site, before works commence. If such species are found or you suspected, you must contact Natural England (at: Natural England, Sussex and Surrey Team, Phoenix House, 32-33 North Street, Lewes, East Sussex, BN7 2PH, 01273 476595, [sussex.surrey@english-nature.org.uk](mailto:sussex.surrey@english-nature.org.uk)) for advice. For nesting birds, you should delay works until after the nesting season (1 March to 31 August).

- 5) A formal application to Southern Water for connection to the public sewerage system is required in order to service this development. Attention is drawn to the New Connections Services Charging Arrangements document which has now been published and is available to read on Southern Water's website via the following link: [southernwater.co.uk/developing-building/connection-charging-arrangements](http://southernwater.co.uk/developing-building/connection-charging-arrangements).
- 6) The applicant is reminded that the prior written consent of the Lead Local Flood Authority (WSCC) or its agent (CDC) will be required in order to comply with the Land Drainage Act 1991 and Flood and Water Management Act 2010 for the discharge of any flows to watercourses, or the culverting, diversion, infilling or

obstruction of any watercourse on the site. Any discharge to a watercourse must be at a rate no greater than the pre-development run off values. For further information please email [landdrainage@chichester.gov.uk](mailto:landdrainage@chichester.gov.uk).

- 7) Section 278 Agreement of the 1980 Highways Act - Works within the Highway - The applicant is advised to enter into a legal agreement with West Sussex County Council, as Highway Authority, to cover the off-site highway works. The applicant is requested to contact The Implementation Team Leader (01243 642105) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.
- 8) The applicant is advised that the erection of temporary directional signage should be agreed with the Local Traffic Engineer prior to any signage being installed. The applicant should be aware that a charge will be applied for this service.

For further information on this application please contact David Cranmer on 01243 534734.

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RO0RA0ERHSE00>