



# Public Document Pack

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**This meeting will be a virtual meeting  
and will be webcast live**

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2 July 2021

## COUNCIL MEETING

To all Members of the Council

You are summoned to attend a virtual meeting of the ARUN DISTRICT COUNCIL to be held on **Wednesday 14 July 2021 at 6.00 pm** to transact the business set out below:

A handwritten signature in black ink, appearing to read "N. V. Lynn".

Nigel Lynn  
Chief Executive

**PLEASE NOTE:** *This meeting will be a 'virtual meeting' and any member of the press and public may listen-in and view the proceedings via a weblink which will be publicised on the Council website at least 24 hours before the meeting.*

*This meeting is held in accordance with the resolution made by the Extraordinary Meeting of the Council on 12 May 2021 (Minute 551) which continues Section 5 Part 5 of the Constitution (The Virtual Meeting Procedure Rules) and declares the use of Council powers, under Section 111 of the Local Government Act 1972, and the general power of competence under Section 1 of the Localism Act 2011, for making advisory decisions, as appropriate.*

*This Council's revised Rules of Procedures for 'virtual meetings' can be found by clicking on this link: <https://www.arun.gov.uk/constitution>*

*Any members of the public wishing to address the Full Council meeting during Public Question Time, will need to email [Committees@arun.gov.uk](mailto:Committees@arun.gov.uk) by 5.15 pm on Wednesday, 7 July 2021 on line with current Procedure Rules. It will be at the Chief Executive's/Chair's discretion if any questions received after this deadline are considered.*

*For further information on the items to be discussed, please contact: [committees@arun.gov.uk](mailto:committees@arun.gov.uk)*

## AGENDA

1. APOLOGIES FOR ABSENCE

2. DECLARATIONS OF INTEREST

Members and Officers are invited to make any declarations of pecuniary, personal and/or prejudicial interests that they may have in relation to items on this agenda, and are reminded that they should re-declare their interest before consideration of the item or as soon as the interest becomes apparent.

Members and Officers should make their declaration by stating:

- a) the item they have the interest in
- b) whether it is a pecuniary, personal and/or prejudicial interest
- c) the nature of the interest
- d) if it is a pecuniary or prejudicial interest, whether they will be exercising their right to speak under Question Time

3. PUBLIC QUESTION TIME (BY ADVANCE NOTICE)

To receive questions from the public (for a period of up to 15 minutes)

4. QUESTIONS FROM MEMBERS WITH PECUNIARY/PREJUDICIAL INTERESTS (BY ADVANCE NOTICE)

To receive questions from Members with pecuniary/prejudicial interests (for a period of up to 15 minutes)

5. PETITIONS (Pages 1 - 300)

(a) To consider any petitions received from the public.

**(b) Petition Relating to Development in Pagham - Planning Applications P/25/17 OUT, P/140/16 OUT, P/134/16 OUT and P/30/19 OUT**

A Petition has been submitted to the Council from Mr and Mrs Rawlins in relation to planning applications P/25/17 OUT, P/140/16 OUT, P/134/16 OUT and P/30/19 OUT.

The petition organiser will be given 5 minutes (maximum) to present the petition at the meeting. The relevant Committee Chair will be given 5 minutes (maximum) for a right of reply before Councillors discuss the petition. (10 minutes).

As the Petition contains over 1,500 signatures it requires a debate by Full Council.

Following the presentation of the Petition Members are invited to debate the Petition for thirty (30) minutes with each councillor allowed to speak for a maximum of 3 minutes. The attached report provides the background information for the Council to consider in holding this debate. (30 minutes)

6. MINUTES (Pages 301 - 310)

To approve as a correct record the Minutes of the Annual Meeting of the Council held on 19 May 2021, which are *attached*.

7. CHAIR'S ANNOUNCEMENTS

To receive such announcements as the Chair may desire to lay before the Council.

8. URGENT MATTERS

To deal with business not otherwise specified in the Council summons which, in the opinion of the Chair of the Council (in consultation with the Chief Executive), is business of such urgency as to require immediate attention by the Council.

9. MOTIONS

To consider any Notices of Motions submitted in accordance with Council Procedure 15.

**OFFICER REPORTS**

10. ADOPTION (MAKING) OF THE ALDINGBOURNE NEIGHBOURHOOD PLAN 2019-2031 (10 MINUTES) (Pages 311 - 314)

The Aldingbourne Neighbourhood Development Plan 2019-2031 passed Examination in May 2021. The Examiner of this modified Plan concluded that the Neighbourhood Development Plan (NDP) passed the Examination and that the material modifications do not change the nature of the NDP which does not therefore, require a Referendum and so should proceed to be 'made'.

The 'making' of the NDP will give it legal force and it will form part of the statutory Development Plan for that area. Consequently, decisions on planning applications in the neighbourhood area will need to be made in accordance with the NDP, unless material considerations indicate otherwise.

11. ADOPTION (MAKING) OF THE WALBERTON NEIGHBOURHOOD PLAN - 2019-2031 (10 MINUTES) (Pages 315 - 318)

The Walberton Neighbourhood Development Plan 2019-2031 passed Examination in February 2021. Given the nature of the Policies in the submitted review of the Neighbourhood Development Plan (NDP), the Examiner's report concluded that subject to making the modifications recommended by the Examiner, the Plan meets the basic conditions set out in the legislation and should proceed to a Neighbourhood Planning Referendum.

A successful Neighbourhood Planning Referendum on the Walberton NDP 2019-2031 was held on 6 May 2021, where 91.9% of voters casted a Yes vote.

If more than 50% of those voting on the day, vote 'yes' then the local planning authority under section 61E(4) of the 1990 Act, needs to 'make' (adopt) the Plan. The 'making' of the plan by Full Council will give it legal force and it will form part of the statutory Development Plan for that area.

Consequently, decisions on planning applications in the neighbourhood area will need to be made in accordance with the NDP, unless material considerations indicate otherwise.

12. CONSTITUTION WORKING PARTY REPORT TO FULL COUNCIL (30 MINUTES) (Pages 319 - 334)

Full Council is asked to agree the recommendations of the Constitution Working Party held on 28 June 2021 on the suggested amendments to the Constitution following implementation of the Committee style of governance and following the first round of Committee meetings.

**RECOMMENDATIONS FROM SERVICE COMMITTEES, REGULATORY AND STANDARDS COMMITTEES AND WORKING PARTIES**

13. CORPORATE POLICY AND PERFORMANCE COMMITTEE - 17 JUNE 2021 (45 MINUTES) (Pages 335 - 346)

The Chair, Councillor Gunner, will present the recommendations from the meeting of the Corporate Policy and Performance Committee held on 17 June 2021. There are recommendations at:

- Minute 85 [Supplementary Estimate to Cover Costs Awarded Against the Council in Appeal P/58/19/PL – to view the Officer’s report – please click on this link - [Report](#)
- Minute 86 [Supplementary Estimate to Cover Costs for Defending Appeal on Land South of Barnham Station, Barnham] – to view the Officer’s report – please click on this link - [Report](#)
- Minute 88 [Minutes from the Meeting of the Planning Policy Committee – 1 June 2021 – Minute 42 – Delivery of West Bank Strategic Allocation] – to view the minutes from the Planning Policy Committee on 1 June and the Officer’s report – please click on these links – [Planning Policy Committee Minutes – 1 June 2021](#) and [Report](#)

14. GENERAL QUESTIONS FROM MEMBERS [BY ADVANCE NOTICE]

To consider general questions from Members in accordance with Council Procedure Rule 14.3. (30 minutes)

15. COMMITTEE MEMBERSHIPS

Any changes to Committee Memberships that need noting by the Council will be reported at the meeting by the Leader of the Council. (5 minutes)

16. REPRESENTATION ON OUTSIDE BODIES

The Council is asked to approve any changes to its representation on Outside Bodies. Any changes will be reported by the Leader of the Council at the meeting. (5 minutes)

- Note : If Members have any detailed questions, they are reminded that they need to inform the Chair and relevant Director in advance of the meeting.
- Note : Where there are recommendations from other Committees, please refer to the e-link under the specific agenda item to access the Officer report.
- Note : Filming, Photography and Recording at Council Meetings – The District Council supports the principles of openness and transparency in its decision making and permits filming, recording and the taking of photographs at its meetings that are open to the public. This meeting may therefore be recorded, filmed or broadcast by video or audio, by third parties. Arrangements for these activities should operate in accordance with guidelines agreed by the Council and as available via the following link [Filming Policy](#)

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## ARUN DISTRICT COUNCIL

### REPORT TO AND DECISION OF FULL COUNCIL ON 14 JULY 2021

**SUBJECT: CONSIDERATION OF PETITION RELATING TO DEVELOPMENTS IN PAGHAM**

**REPORT AUTHOR:** Karl Roberts, Director of Place  
**DATE:** 30 June 2021  
**EXTN:** 37760  
**AREA:** Planning

#### **EXECUTIVE SUMMARY:**

The Council has received a petition seeking the revocation of four approved outline planning permissions within the Parishes of Pagham and Aldwick.

This report provides the Council with all the necessary information to decide whether this is a course of action the Council wishes to take. The conclusion drawn in the report is that there is no sound planning reason (not expedient) to revoke any of the planning permissions referred to, having regard to the development plan and other material considerations. To do so would have significant financial implications for the Council which is a material consideration.

#### **RECOMMENDATIONS:**

##### **It is recommended that the Council:**

- 1) Resolves not to consider further the revocation of planning permission P/25/17/OUT as it does not appear to the local planning authority that it is expedient to revoke or modify this permission to develop land;
- 2) Resolves not to consider further the revocation of planning permission P/140/16/OUT as it does not appear to the local planning authority that it is expedient to revoke or modify this permission to develop land;
- 3) Resolves not to consider further the revocation of planning permission P/134/16/OUT as it does not appear to the local planning authority that it is expedient to revoke or modify this permission to develop land; and
- 4) Resolves not to consider further the revocation of planning permission P/30/19/OUT as it does not appear to the local planning authority that it is expedient to revoke or modify this permission to develop land.

## **1. BACKGROUND:**

- 1.1 The Council has received a petition seeking the revocation of four approved outline planning permissions within the parishes of Pagham and Aldwick.
- 1.2 A statement setting out 'The case on behalf of the petitioners' is appended as Appendix A along with a briefing paper on revocation produced by the House of Commons library at Appendix B.
- 1.3 The petition is now being considered by Full Council because after several submissions the petition has now reached the required 1500 signatures to trigger a Full Council debate.
- 1.4 Full Council has the option to consider the matter now based on the information available, ask for additional information or refer it to a Committee to consider the matter further. It is recommended that Full Council deals with the matter now.

## **APPLICATIONS**

- 1.5 The details of each application are set out below. A copy of the relevant decision notice and main Committee report for each and a plan showing the four sites is appended as Appendix C.
- 1.6 **P/25/17/OUT** - Outline application with all matters reserved - Erection of up to 65 No. dwellings, access roads, landscaping, open space & associated works. – Church Barton House.
- 1.7 **P/140/16/OUT** - Outline application for access only - mixed use development comprising of up to 400 dwellings, a care home with up to 70 beds, a Local Centre comprising up to 2000sqm of A1/A2/A3/D1/sui generis floorspace, provision of land for a 1FE primary school (with sufficient space to ensure that it is expandable to 2FE), provision of land for a scout hut, safeguarding of land to help link the site to the Pagham Harbour Cycle Route & other community uses including public open space & allotments with some matters reserved. – Land south of Summer Lane and west of Pagham Road.
- 1.8 **P/134/16/OUT** - Outline application for the development of up to 280 dwellings (including affordable homes), land for a replacement scout hut, land for an Ambulance Community Response Post Facility and land for either a 1FE primary school or care home. Provision of a primary vehicular access from Sefter Road and demolition of No. 80 Rose Green Road and creation of a pedestrian and emergency only access. Provision of Public Open Spaces including associated children's play areas, landscaping, drainage and earthworks. – Land north of Sefter Road.
- 1.9 **P/30/19/OUT** - Outline application with some matters reserved for the construction of up to 300 No. new homes, a care home of up to 80 beds, D1 uses of up to 4,000 sqm including a 2 form entry primary school, the formation of new means of access onto Hook Lane & Pagham Road, new pedestrian & cycle links, laying out of open space, new strategic landscaping, habitat creation, drainage features & associated ground works & infrastructure. – Land north of Hook Lane.



## **SUMMARY OF ISSUES**

- 1.10 As the statement at Appendix A indicates, once approved, the Council as the Local Planning Authority (LPA) has no power to simply withdraw a permission unilaterally without the payment of compensation. The power to revoke planning permissions comes in the form of Section 97 of the Town and Country Planning Act 1990 (as amended).
- 1.11 Subsection 1 requires the LPA to address the following:
- “If it appears to the local planning authority that it is expedient to revoke or modify any permission to develop land granted on an application made under this Part, the authority may by order revoke or modify the permission to such extent as they consider expedient.”*
- 1.12 In determining whether it is expedient to exercise this power subsection 2 requires that the decision maker undertake the following:
- “In exercising their functions under subsection (1) the authority shall have regard to the development plan and to any other material considerations.”*
- 1.13 If the LPA decides that in respect of Section 97(1) it is not expedient to revoke the referenced permissions then this process stops here. If, however, the Council decides that it is expedient to consider the revocation of the referenced permissions further then Full Council is invited to set out its reasons so this can be minuted and will form the basis of the Council’s position in any further proceedings. Given the potential significant financial implications of any decision to revoke any of the planning permissions listed the Council should have regard to the advice of the Interim S151 Officer on the financial implications before any final decision is made to make an order(s).
- 1.14 Section 98(1) of the same Act deals with cases where any order is objected to. In such a case "an order under section 97 shall not take effect unless it is confirmed by the Secretary of State".
- 1.15 Furthermore, the validity of an order made under Section 97 may be questioned by application to the High Court within six weeks of its confirmation by the Secretary of State, under section 288(3) of the 1990 Act.
- 1.16 In terms of the issue of compensation this is governed by section 107 of the Town and Country Planning Act 1990. The relevant sections state:
- (1) Subject to section 116, where planning permission is revoked or modified by an order under section 97, then if, on a claim made to the local planning authority within the prescribed time and in the prescribed manner, it is shown that a person interested in the land or in minerals in, on or under it -*
- (a) has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification; or*

*(b) has otherwise sustained loss or damage which is directly attributable to the revocation or modification,*

*the local planning authority shall pay that person compensation in respect of that expenditure, loss or damage.*

*(2) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any work, or upon other similar matters preparatory to it, shall be taken to be included in the expenditure incurred in carrying out that work.*

*(3) Subject to subsection (2), no compensation shall be paid under this section in respect—*

*(a) of any work carried out before the grant of the permission which is revoked or  
modified, or*

*(b) of any other loss or damage arising out of anything done or omitted to be done before the grant of that permission (other than loss or damage consisting of depreciation of the value of an interest in land).*

*(4) In calculating for the purposes of this section the amount of any loss or damage consisting of depreciation of the value of an interest in land, it shall be assumed that planning permission would be granted -*

*(a) subject to the condition set out in Schedule 10, for any development of the land of a class specified in paragraph 1 of Schedule 3;*

*(b) for any development of a class specified in paragraph 2 of Schedule 3.]*

*(5) In this Part any reference to an order under section 97 includes a reference to an order under the provisions of that section as applied by section 102(3) (or, subject to section 116, by paragraph [1(3)] of Schedule 9).*

1.17 The legal advice that officers have received on this matter confirms that the loss in the value of the land would be potentially included in determining the scale of any potential compensation. The petitioners' statement would appear to take a contrary view.

1.18 As the statement on behalf of the petitioners helpfully advises the Committee (and Full Council) are entitled to take into account the compensation the Council might have to pay. Lord Carnwath in the Supreme Court in case R. (Health and Safety Executive) v. Wolverhampton City Council [2012] 1 WLR 2264, said:

*“In simple terms, the question is whether a public authority, when deciding whether to exercise a discretionary power to achieve a public objective, is entitled to take into account the cost to the public of so doing. Posed in that way, the question answers itself. As custodian of public funds, the authority not only may, but generally must, have regard to the cost to the public of its actions, at least to the extent of considering any case whether the cost is proportionate to the aim to be achieved, and taking into account more economic ways of achieving the same objective.”*

### **THE CONSIDERATION OF THE CASE FOR REVOCATION**

- 1.19 The petitioners’ full case is set out in the document at Appendix A.
- 1.20 Statements from parties representing each of the four sites is appended at Appendix D. Whilst the underlying assessment required is very similar for all the permissions referred to, Councillors must consider each permission, the assessment relating to that permission and each recommendation separately.
- 1.21 In considering whether it is expedient to revoke any or all of the four planning permissions the Committee is invited to initially consider what the development plan says about these four sites.
- 1.22 Firstly, Policy H SP1 states that the Council’s housing requirement for the plan period of 2011 to 2031 is 20,000 new homes. The same policy goes on to state which sites are allocated as strategic housing sites and the number of units expected from each.
- 1.23 Site SD1 is described as Pagham South and should deliver 400 homes and SD2 is described as Pagham North and should deliver 800 homes.
- 1.24 Secondly, Policy H SP2 sets out the criteria by which each site allocation should be assessed to achieve a comprehensively planned form of development.
- 1.25 Thirdly, Policy H SP2a sets out a more detailed policy environment for both sites SD1 and SD2.
- 1.26 Fourthly, any other Local Plan references to these site allocations or the general locality are made in the context of delivering at least this quantum of development in these locations. None of the sites in question are shown as ‘green Infrastructure on any plans linked to policy GI SP1.
- 1.27 The Local Plan was never subject to legal challenge after it was adopted in July 2018 and, therefore, regardless of whether any party agrees or not with its content it remains until it is replaced in whole or in part as the development plan for this area and should therefore be afforded the legal status offered to adopted development plans in statute.
- 1.28 The revocation process is not the appropriate mechanism for seeking to amend the Local Plan.

- 1.29 Each of the four outline planning permissions were granted consent by this Committee pursuant to this policy context. One of these decisions was challenged in the courts but the challenge was rejected. Any further potential for challenge on either procedural matters or judgements made has long since passed.
- 1.30 One of the implications of revoking one or all of the permissions is that this will worsen the Council's five-year land supply position. The Council is already in a position where it does not enjoy a 5 year supply of housing as required by the National Planning Policy Framework and also is not delivering new homes at the required pace as per the Housing Delivery Test, and therefore as a result the LPA is required to consider any application that is submitted against the presumption in favour of sustainable development at NPPF 2019 Paragraph 11 and the policies in the Framework. Whilst, it is not automatic that planning permission would be granted for development on non-allocated sites there appears to be very little planning logic in making matters worse by seeking to revoke planning permission for a total of 1045 homes, plus two care homes, the former of which represents just over one year of the Council's total annual required housing supply<sup>1</sup>.
- 1.31 Furthermore, should the permissions be revoked it would not change the status of the Local Plan and so each proposal could be resubmitted for consideration and determination with the existing Local Plan and its policies as the basis for its determination plus the added the presumption in favour of sustainable development from the at NPPF Paragraph 11d. Any refusal of a resubmitted application would of course be subject to appeal and based on the above there is a very significant likelihood that planning permission(s) would be granted with potential for costs to be awarded against the Council for unreasonable behaviour. Also, there is no guarantee that the infrastructure secured through each of the permissions via a section 106 agreement would be of the same scale and value. It would all need to be considered afresh.
- 1.32 Therefore, even for those who are opposed to these developments in principle there is very little (if any) planning merit in pursuing the revocation of these permissions.
- 1.33 Any objection to the revocation of the permission(s) would trigger a requirement for the matter to be considered by the Secretary of State. What form that might take is unknown at this time, but should it be a Public Inquiry then there are cost implications associated with such a course of action.
- 1.34 Finally, in terms of paying compensation for any revocation the petitioners representative suggests that any compensation would be limited. However, based on the legal advice received it is considered that the loss in the value of the land should be taken into account. Based on an approximation of £50k per plot then a combined total of 1200 homes would potentially leave a compensation bill of £60million. The cost of individual planning permissions would be lower. In support of this position Members are invited to review the Alwick case study referred to on page 15 of the House of Commons Briefing Paper (appendix B).

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<sup>1</sup> Based on 1000 homes representing an average year of the required Local Plan delivery.

<b>2. PROPOSAL(S):</b>		
2.1 As the report has established there are many matters which are common to all the applications. Overall, the conclusion drawn is that there is no sound planning reason to revoke any of the planning permissions referred to, having regard to the development plan and other material considerations.		
<b>3. OPTIONS:</b>		
3.1 For Full Council to revoke any or all of the planning permissions referred to having regard to the development plan and other material considerations.		
3.2 For Full Council not to revoke any of the planning permissions referred to (this is the recommended option).		
<b>4. CONSULTATION:</b>		
Has consultation been undertaken with:	<b>YES</b>	<b>NO</b>
Relevant Town/Parish Council		<b>x</b>
Relevant District Ward Councillors		<b>x</b>
Other groups/persons (please specify) – owners/developers of sites	<b>x</b>	
<b>5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)</b>	<b>YES</b>	<b>NO</b>
Financial	x	
Legal	x	
Human Rights/Equality Impact Assessment		x
Community Safety including Section 17 of Crime & Disorder Act		x
Sustainability	x	
Asset Management/Property/Land		x
Technology		x
Other (please explain)		X
<b>6. IMPLICATIONS:</b>		
<b>Financial Implications:</b>		
Members are advised in the report that, it is not expedient to revoke or modify any of the 4 Planning Permissions. Additionally, the report advises Members that compensation to the landowners would be in the region of £60m (based on their own estimates set out in the appendices).		

Members must note as a material consideration that a decision to revoke any of the planning permissions carries a critical financial risk to the sustainability of the Council's finances. The Council does not have sufficient revenue resources to pay £60m or any other sum in compensation. To put the sum into context, the General Fund Balance is £7m and the Council Tax income for the District is £11.995m for 2021/22 and Council Tax increases are effectively capped at 2%. The Council has no other resources that can be used as capital resources, even if they were available, they cannot be used for this purpose. The action would make a Section 114 Notice inevitable.

**Legal Implications:**

This report adequately sets out the legal framework for the decision before Full Council. There are three steps in this framework based on the question "Does it appear expedient to revoke or modify any of the Planning permissions"?

To answer this question, Members have to have regard firstly to the Development Plan. The report sets out officer advice on why having regard to the Development Plan it is not expedient to revoke or modify the permissions.

Secondly, Members have to also consider if there are any other material considerations other than the development plan which make it expedient or not to revoke or modify the planning permissions. One material consideration is a financial consideration. For this Members have to be guided by the report (and its appendices) and the comments of the Section 151 Officer. It is clear from these that there will be a substantial claim for compensation and that in the absence of third-party contribution the Council does not have the resources to meet such compensation claims. Failure to take this into account would be challengeable as being unreasonable

Thirdly, a decision to revoke has to be conditional on the drafting of a Revocation Order for consultation with those interested in the sites before the Order can be confirmed at a subsequent Full Council meeting.

It is anticipated that further legal advice will be given to Members at the meeting.

**7. REASON FOR THE DECISION:**

That the Council resolves not to consider further the revocation of any planning permission as it does not appear to the Local Planning Authority that it is expedient to revoke or modify this permission to develop land.

**8. BACKGROUND PAPERS:**

- Appendix A - Statement "The case on behalf of the petitioners"
- Appendix B - Briefing Paper on Revocation produced by the House of Commons Library
- Appendix C - Plan indicating four sites
- Appendix D - Statements from parties representing each of the four sites

## **THE CASE ON BEHALF OF THE PETITIONERS**

### **Executive Summary**

The Petitioners have rights regarding their Petition enshrined in the Council's Petition Scheme and Constitution

The Petitioners have submitted a Petition containing 2000+ signatures in accordance with the due procedures which requests that the Full Council of Arun District Council give consideration to the revocation of the extant but unimplemented outline planning permissions P/25/17 OUT, P/140/16 OUT, P/134/16 OUT and P/30/19 OUT at its meeting on 17 March 2021.

Having regard to the relevant legislation, the circumstances of these OPPs, the development plan and all other material considerations (including the issue of compensation that may or may not become payable) the Petitioners consider that ADC is legally entitled to revoke the OPPs cited and that it would be expedient for Arun District Council to revoke some or all of the OPPs cited and the Petitioners reasoning for these conclusions are set out in the remainder of this report.

### **The Right to Petition and be heard by the Full Council of Arun District Council**

The Petitioners rights regarding their Petition are enshrined in the Council's Petition Scheme approved by Full Council on 8 January 2014

<https://www.arun.gov.uk/download.cfm?doc=docm93jjjm4n1035.pdf&ver=649> and

Section 7 of the Council's Constitution

<https://www.arun.gov.uk/download.cfm?doc=docm93jjjm4n15477.pdf&ver=15904>

*Paragraph 5.1: If a petition contains more than 1,500 signatures it will be debated by the Full Council unless it is a petition asking for a senior council officer to give evidence at a public meeting<sup>1</sup>. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting.*

This Petition contains 2000+ signatures and it was formally submitted to the Council in the prescribed form on 8 February 2021 and the scheduled Full Council meeting that meets the requirement in the Constitution is 17 March 2021.

### **What the Petition Seeks**

The purpose of the petition is to ensure that the Full Council of Arun District Council give consideration to the revocation of the extant but unimplemented outline planning permissions P/25/17 OUT, P/140/16 OUT, P/134/16 OUT and P/30/19 OUT.

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<sup>1</sup> This is not such a petition

## **What the Full Council must consider when considering Revocation**

Once approved, planning permission grants development rights on the land. The local planning authority has no power simply to withdraw a permission unilaterally without the payment of compensation.

In England and Wales the local planning authority has the power to revoke planning permission under section 97 of the Town and Country Planning Act 1990 (as amended) which states:

### **97 Power to revoke or modify planning permission**

*(1) If it appears to the local planning authority that it is expedient to revoke or modify any permission to develop land granted on an application made under this Part, the authority may by order revoke or modify the permission to such extent as they consider expedient.*

*(2) In exercising their functions under subsection (1) the authority shall have regard to the development plan and to any other material considerations.*

*(3) The power conferred by this section may be exercised—*

*(a) where the permission relates to the carrying out of building or other operations, at any time before those operations have been completed;*

*(b) where the permission relates to a change of the use of any land, at any time before the change has taken place.*

*(4) The revocation or modification of permission for the carrying out of building or other operations shall not affect so much of those operations as has been previously carried out.*

*(5) References in this section to the local planning authority are to be construed in relation to development consisting of the winning and working of minerals as references to the mineral planning authority.*

*(6) Part II of Schedule 5 shall have effect for the purpose of making special provision with respect to the conditions that may be imposed by an order under this section which revokes or modifies permission for development—*

*(a) consisting of the winning and working of minerals; or*

*(b) involving the depositing of refuse or waste materials.*

*Where there is an objection to a revocation order being made, section 98(1) states that "an order under section 97 shall not take effect unless it is confirmed by the Secretary of State".*

The validity of an order made under section 97 may be questioned by application to the High Court within six weeks of its confirmation by the Secretary of State, under section 288(3) of the 1990 Act.



In England and Wales the rules relating to compensation where planning permission has been revoked are set out in section 107 of the Town and Country Planning Act 1990. There is a liability for a local authority to pay compensation in respect of:

- Expenditure rendered abortive by the order (e.g. expenditure on preparation of plans for the purposes of works); and
- For any other loss or damage directly attributable to the revocation or modification.

Section 107(3) of the Act makes clear that compensation is not payable in relation to any works carried out before the planning permission (which is being revoked by the order) was granted.

Section 107 reads as follows:

***107 Compensation where planning permission revoked or modified***

*(1) Subject to section 116, where planning permission is revoked or modified by an order under section 97, then if, on a claim made to the local planning authority within the prescribed time and in the prescribed manner, it is shown that a person interested in the land or in minerals in, on or under it—*

*(a) has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification; or*

*(b) has otherwise sustained loss or damage which is directly attributable to the revocation or modification,*

*the local planning authority shall pay that person compensation in respect of that expenditure, loss or damage.*

*(2) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any work, or upon other similar matters preparatory to it, shall be taken to be included in the expenditure incurred in carrying out that work.*

*(3) Subject to subsection (2), no compensation shall be paid under this section in respect—*

*(a) of any work carried out before the grant of the permission which is revoked or modified, or*

*(b) of any other loss or damage arising out of anything done or omitted to be done before the grant of that permission (other than loss or damage consisting of depreciation of the value of an interest in land).*

*(4) In calculating for the purposes of this section the amount of any loss or damage consisting of depreciation of the value of an interest in land, it shall be assumed that planning permission would be granted [—*

*(a) subject to the condition set out in Schedule 10, for any development of the land of a class specified in paragraph 1 of Schedule 3;*

*(b) for any development of a class specified in paragraph 2 of Schedule 3.]*

*(5) In this Part any reference to an order under section 97 includes a reference to an order under the provisions of that section as applied by section 102(3) (or, subject to section 116, by paragraph [1(3)] of Schedule 9).*

In July 2012 the Supreme Court ruled that when local planning authorities are deciding whether or not to revoke or modify a planning permission they are entitled to take into account the compensation they could have to pay.

Lord Carnwath in the Supreme Court in case R. (Health and Safety Executive) v. Wolverhampton City Council [2012] 1 WLR 2264, said:

*In simple terms, the question is whether a public authority, when deciding whether to exercise a discretionary power to achieve a public objective, is entitled to take into account the cost to the public of so doing. Posed in that way, the question answers itself. As custodian of public funds, the authority not only may, but generally must, have regard to the cost to the public of its actions, at least to the extent of considering any case whether the cost is proportionate to the aim to be achieved, and taking into account more economic ways of achieving the same objective.*

## **The Case for Revocation on behalf of the Petitioners**

### **Meeting the Legal Requirement for Revocation**

All the subject outline planning permissions are extant, all involve building operations and changes of use which have not yet commenced on site (lawfully or otherwise) so that it is legally possible for Arun District Council to revoke or modify the permissions **under section 97 (1) of the Town and Country Planning Act 1990 (as amended)** and the Petitioners consider that it would be expedient for Arun District Council to do so for the following reasons.

### **The Relevant Development Plan Policies for the purposes of section 97 (2) of the Town and Country Planning Act 1990 (as amended)**

The Arun District Local Plan 2018 was adopted on 18 July 2018 and the policies of most relevance for these purpose are Policies GI SP1 Green Infrastructure and development, Policy H SP1 The Housing Requirement, Policy H SP2 Strategic Site Allocations, Policy H SP2a Greater Bognor Regis Urban Area, Policy ENV DM2 Pagham Harbour and Policy INF SP1 Infrastructure provision and implementation which can be viewed here <https://www.arun.gov.uk/adopted-local-plan>

The subject Outline Planning permissions were granted as departures from these relevant development plan policies for the reasons set out in the table overleaf:

Permission Reference	The departures
P/25/17 OUT & P/140/16 OUT	<ul style="list-style-type: none"> <li>• Both sites are allocated as Green Infrastructure for the purposes of Policy G1 SP1 and these proposals for 465 dwellings and related built development would (if implemented) result in the loss of circa 27 hectares of green infrastructure contrary to the intent of Policy GSP1</li> <li>• Policy HSP1 allocates the site of these permissions (SD1 Pagham South ) for 400 dwellings to be built/completed by 2025/26 with development commencing on site with 50 being built in 2018/19 whereas the permissions granted are for 465 dwellings with development commencement unknown but not predicted to commence until 2025/26 earliest and the housing not being completed until after the end date of the adopted Plan ( 2031)</li> <li>• Neither of the outline planning permissions granted accord with Policy HSP2 as neither demonstrate that they have been comprehensively planned or with regard to a masterplan endorsed by the Council (there is no such masterplan) and neither alone or in combination demonstrate that they will meet the key requirements specified in the Policy</li> <li>• Policy H SP2a Greater Bognor Regis Urban Area allocates the site the subject of these OPPs as SD1 Pagham South for 400 dwellings on the basis that it would <i>“Isupport the sustainable growth of Bognor Regis”</i> and goes on to describe how Development proposals will need to meet a number of specified key design and infrastructure requirements: but there is no evidence that the permissions granted would in fact support the sustainable growth of Bognor Regis or meet the specified key design and infrastructure requirements.</li> <li>• Policy ENV DM2 Pagham Harbour requires that all housing proposals in Zone B (which includes the sites of these OPPs) make developer contributions towards the agreed strategic approach to access management at Pagham Harbour <u>and</u> create easily accessible new green spaces for recreation within or adjacent to the development site and these OPPs would make the contributions but do not create accessible new green spaces over and above that required to meet the needs of the occupiers of the residential properties proposed.</li> <li>• The separate S106 Agreements relating to each of the OPPs do not make provision for infrastructure to be provided in accordance with the terms of Policy INF SP1 Infrastructure provision and implementation</li> </ul>
P/30/19 OUT & P/134/16 OUT	<ul style="list-style-type: none"> <li>• Both sites are allocated as Green Infrastructure for the purposes of Policy G1 SP1 and these proposals for 580 dwellings and related built development would (if implemented) result in the loss of circa 30.9 hectares of green infrastructure contrary to the intent of Policy GSP1</li> <li>• Policy HSP1 allocates the site of these permissions (SD2 Pagham North ) for 800 dwellings to be built completed by 2029 with development commencing on site with 50 being built in 2018/19 whereas the permissions granted are for 580 dwellings only with development commencement unknown but not predicted to commence until 2025/26 earliest and the housing not being completed until after the end date of the adopted Plan ( 2031)</li> <li>• Neither of the outline planning permissions granted accord with Policy HSP2 as neither demonstrate that they have been comprehensively planned or with regard to a masterplan</li> </ul>

	<p>endorsed by the Council (there is no such masterplan) and neither alone or in combination demonstrate that they will meet the key requirements specified in the Policy</p> <ul style="list-style-type: none"> <li>• Policy H SP2a Greater Bognor Regis Urban Area allocates the site the subject of these OPPs as SD1 Pagham South for 400 dwellings on the basis that it would “!support the sustainable growth of Bognor Regis” and goes on to describe how Development proposals will need to meet a number of specified key design and infrastructure requirements: but there is no evidence that the permissions granted would in fact support the sustainable growth of Bognor Regis or meet the specified key design and infrastructure requirements.</li> <li>• Policy ENV DM2 Pagham Harbour requires that all housing proposals in Zone B (which includes the sites of these OPPs) make developer contributions towards the agreed strategic approach to access management at Pagham Harbour and create easily accessible new green spaces for recreation within or adjacent to the development site and these OPPs would make the contributions but do not create accessible new green spaces over and above that required to meet the needs of the occupiers of the residential properties proposed.</li> <li>• The separate S106 Agreements relating to each of the OPPs do not make provision for infrastructure to be provided in accordance with the terms of Policy INF SP1 Infrastructure provision and implementation</li> </ul>
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A local planning authority may depart from development plan policy where material considerations indicate that the plan should not be followed, subject to any conditions prescribed by direction by the Secretary of State. This power to depart from development plan policy is confirmed in article 32 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

In cases where a local planning authority intends to depart from development plan policy, article 15(3) of the Development Management Procedure Order sets out the publicity requirements which must be followed before the decision is taken.

In these cases I can find no record of the material considerations that existed to justify the LPA departing from the development plan when these decisions were taken and no record that the LPA followed the publicity requirements which had to be followed before the decisions were taken.

**The Relevant material considerations for the purposes of section 97 (2) of the Town and Country Planning Act 1990 (as amended)**

**The Out of date development plan Policies**

Arun District Council has publically declared that the housing Policies HSP1, HSP2, and HSP2a on which these permissions relied when granted are out of date and that a review of the Arun local Plan 2018 has now commenced because the Plan has (as a whole) failed to demonstrate and will fail (as written) to maintain a 5 year Housing Land supply.

As a result all and any applications made pursuant to and seeking to implement these OPPs (including applications for approval of reserved matters) will be required to be considered and determined by ADC against the presumption in favour of sustainable development at NPPF 2019 Paragraph 11 d and the policies in the Framework rather than against the out of date development plan policies<sup>2</sup>.

Therefore it is material to consider that even if these sites could be developed in accordance with the relevant development plan policies cited and the terms of their respective OPPs and S106 Agreements ADC now has no ability to ensure that this is the case because applications made pursuant to the OPPs will have to be determined against different criteria and policies.

It is also material to consider that the existence of these unimplemented and undeliverable<sup>3</sup> OPPs will prejudice the ability of ADC to identify and provide a 5 year supply of deliverable sites as part of the ongoing Local Plan Review and/or review whether or not it remains appropriate to meet district wide housing needs in Pagham in the light of new and more up to date evidence now available.

### **New Evidence**

New evidence includes the changing policies of the neighbouring authority Chichester District Council (which now intends to meet its own housing requirements), the changing Policies of West Sussex County Council as the relevant Education and Highway Authority, new evidence provided by the relevant drainage authorities (EA, SWS and WSCC as the Lead Local Flood Authority) and the changing policies of Natural England regarding the protection of Pagham Harbour, the NPPF 2019<sup>4</sup> and the ongoing Pagham Neighbourhood Plan process.

In this regard it should be noted that the Petitioners do not say that a revocation of these OPPs will necessarily result in a change to the adopted Local Plan policies (as only a properly conducted Local Plan review can achieve that aim) but do say that such a revocation would enable the Local Plan review underway to proceed in a properly conducted manner.

The Petitioners also do not say that revocation is the only manner in which the principle of developing these sites in the manner proposed in these OPPs can be reconsidered as it is

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<sup>2</sup> <https://www.gov.uk/guidance/national-planning-policy-framework/2-achieving-sustainable-development> and footnotes 6 and 7.

<sup>3</sup> Deliverable sites are defined in the NPPF 2019, To be considered deliverable To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years. In particular:

a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within 5 years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).  
b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within 5 years.

<sup>4</sup> The Local Plan 2018 was prepared and adopted on the basis of Government Policy in the NPPF 2012 and not that in the NPPF 2019 which changed government policy significantly.

always open to the landowners and/or the site promoters to make fresh applications to be submitted for their sites so that such matters can be reconsidered but they currently show no alacrity to do so.

The Petitioners also acknowledge that revocation would not mean that the landowners and/or the site promoters could not make fresh applications for the development of their respective sites so that such reconsideration could take place but only that a revocation would mean that they have to do so if they wish to continue with their proposals.

### **Compensation issues**

The Petitioners acknowledge that the compensation payable is a material consideration when determining whether or not planning permissions should be revoked. (See above)

However it is considered important for the Council to note the following points when considering this matter.

Firstly the landowners would have a right of objection to any revocation orders issued and the Orders and those objections would then be heard by the Secretary of State who is then charged with confirming or not the orders made and if and only if the Secretary of State confirms the Orders is the issue of compensation then settled by ADC by way of any claim made.

In the case of these OPPs it is currently unknown whether or not the separate landowners involved would in fact object to any revocation orders agreed and made and if so which landowners and which OPPs would be affected by those objections. It is possible that some or all of the landowners may decide that a more beneficial and pragmatic course of action (from their point of view) would be to focus on making fresh applications for their sites so that they could then negotiate fresh planning permissions and S106 Agreements that would be more capable of lawful implementation and more quickly than those that currently exist.

In such circumstances no claims for compensation would arise from those that proceed in that way.

Therefore the Petitioners acknowledge that it would be right and proper for the Council to give consideration to individual revocation orders in respect of each of the OPPs cited and that the Council may consider it expedient to revoke some but not all of the OPPs cited.

In this regard it is important for the Council to note that Compensation is only payable where the claimant can demonstrate that they have (a) incurred expenditure in carrying out work which is rendered abortive by the revocation or modification; or (b) has otherwise sustained loss or damage which is directly attributable to the revocation or modification<sup>5</sup>.

In the case of P/25/17 OUT and P/140/16 OUT there is currently no evidence that the landowners have incurred any expenditure that could or would be subject to a claim.

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<sup>5</sup> Section 107 of the Town and Country Planning Act 1990 ( as amended)

In the case of P/30/19 Out and P/134/16 Out there is some evidence that the landowners may have incurred some limited expenditure that may or might be subject to a claim but this would need to be demonstrated and would be likely to be limited at this date and certainly not at levels that could not be entertained by Arun District Council within normal budgetary procedures.

In view of the compensation issues the Petitioners acknowledge that it is important and in everyone's interests that ADC determine whether or not they do intend to revoke the OPPs cited and if so the necessary action is taken quickly so that further abortive expenditure and therefore compensation claims are avoided.

**Paul Collins BA (Hons) Dip TP - 15 February 2021**

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**BRIEFING PAPER**

Number 00905, 4 July 2016

# Revocation of planning permission

By Louise Smith

**Contents:**

1. England and Wales
2. Scotland
3. Northern Ireland
4. Examples of revocation



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## Summary

This briefing paper describes the circumstances in which local authorities, the Secretary of State and devolved Government Ministers can revoke planning permission. Sections 1-4 apply to England and Wales. Section 5 sets out the law in Scotland and section 6 covers Northern Ireland. Section 7 provides examples of revocation across the UK countries.

The laws in each of the UK countries are very similar to each other. They all allow councils to revoke or modify a planning consent “to such extent as they consider expedient” with regard to the Development Plan and other material considerations. The powers can only be used before the development, or the change of use given permission for, is complete. In each country there is a liability for the local authority to pay compensation for abortive expenditure and for any other loss or damage directly attributable to the revocation. If the revocation orders are opposed then they must be confirmed by either the Secretary of State in England and Wales, Scottish Ministers in Scotland or the Department of Environment in Northern Ireland.

In England and Wales the power to revoke planning permission stems from section 97 of the Town and Country Planning Act 1990. The rules relating to compensation stem from [section 107](#) of the 1990 Act. The Secretary of State also has the power to revoke planning permission under section 100 of the 1990 Act. If this is done the liability to pay compensation still falls on the local planning authority, as though it had made the revocation order. There is a right to challenge an order confirmed by the Secretary of State in the High Court, within six weeks of it being made.

The law in Scotland stems from section 65 of the Town and Country Planning (Scotland) Act 1997. Under section 66 of the 1997 Act, if the revocation order is opposed then it must be confirmed by Scottish Ministers. Scottish Ministers also have powers to make a revocation order if they consider it “expedient” to do so. Compensation for where planning permission is revoked or modified is set out in section 76 of the 1997 Act.

In Northern Ireland the law allowing a council to make a revocation order is contained in section 68 of the Planning Act (Northern Ireland) 2011. The Department of Environment also has powers, under section 72 of the 2011 Act to serve a revocation order itself. The right to compensation where a revocation order is made is set out in section 179 of the 2011 Act. It makes reference to the relevant provisions in the Land Development Values (Compensation) Act (Northern Ireland) 1965, as amended. The main provisions are in section 26 of the 1965 Act.

Powers to revoke planning permission are very rarely used. Where they are used they are often uncontested and unopposed. Since 2009 only 3 revocation orders issued under section 97 of the Town and Country Planning Act 1990 have been submitted to the Secretary of State for confirmation.

# 1. England and Wales

## 1.1 Local authority powers

Once approved, planning permission grants development rights in the land. The local planning authority has no power simply to withdraw a permission unilaterally without the payment of compensation.

In England and Wales the local planning authority has the power to revoke planning permission under section 97 of the *Town and Country Planning Act 1990* (as amended). The wording of the section suggests considerable freedom for the local planning authority, but it is in practice strictly constrained:

### **97 Power to revoke or modify planning permission**

(1) If it appears to the local planning authority that it is expedient to revoke or modify any permission to develop land granted on an application made under this Part, the authority may by order revoke or modify the permission to such extent as they consider expedient.

(2) In exercising their functions under subsection (1) the authority shall have regard to the development plan and to any other material considerations.

(3) The power conferred by this section may be exercised—

(a) where the permission relates to the carrying out of building or other operations, at any time before those operations have been completed;

(b) where the permission relates to a change of the use of any land, at any time before the change has taken place.

(4) The revocation or modification of permission for the carrying out of building or other operations shall not affect so much of those operations as has been previously carried out.

(5) References in this section to the local planning authority are to be construed in relation to development consisting of the winning and working of minerals as references to the mineral planning authority.

(6) Part II of Schedule 5 shall have effect for the purpose of making special provision with respect to the conditions that may be imposed by an order under this section which revokes or modifies permission for development—

(a) consisting of the winning and working of minerals; or

(b) involving the depositing of refuse or waste materials.

Where there is an objection to a revocation order being made, section 98(1) states that "an order under section 97 shall not take effect unless it is confirmed by the Secretary of State".

A [written question](#) answered on 2 March 2016 show how rarely revocation orders are submitted to the Secretary of State for confirmation:<sup>1</sup>

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<sup>1</sup> Planning Permission: [Commons Written question – 28113](#) Answered on: 02 March 2016

Planning Permission 28113

**Asked by Tulip Siddiq** (Hampstead and Kilburn)

Asked on: 23 February 2016

To ask the Secretary of State for Communities and Local Government, on how many occasions in each year since 2009-10 he has been asked to confirm a local planning authority's decision to revoke planning permission under Section 97 of the Town and Country Planning Act 1990; and on how many such occasions he (a) confirmed and (b) overturned that decision.

**Answered by: Brandon Lewis**

Answered on: 02 March 2016

Section 97 of the Town and Country Planning Act 1990 means that if it appears to the local planning authority that it is expedient to do so, it may make an order revoking any planning permission to develop land. When an order is opposed by the owner and occupier of the land or by other persons who in the authority's opinion will be affected, the order has to be submitted to the Secretary of State and shall not take effect unless it is confirmed by him.

For each year since 2009/10:

Year	Number submitted for confirmation	Confirmed	Overtured (declined to confirm)
2009/10	1	1	None
2010/11	1	None	None
2011/12	None	None	None
2012/13	1	None	None (withdrawn by authority)
2013/14	None	None	None
2014/15	None	None	None
2015/16	None	None	None

The validity of an order made under section 97 may be questioned by application to the High Court within six weeks of its confirmation by the Secretary of State, under section 288(3) of the 1990 Act.

The power to revoke planning permission exists only up until the time any building works or change of use has been completed. Where it is too late to revoke planning permission, the local planning authority may want to consider the use of powers to make a discontinuance order.

## 1.2 Discontinuance orders

The power in section 97 of the 1990 Act can only be used before the development is complete. After that date, a local planning authority in England and Wales can use a power to order discontinuance under section 102 of the Act. Section 102(1) provides the main power:

### **102 Orders requiring discontinuance of use or alteration or removal of buildings or works**

(1) If, having regard to the development plan and to any other material considerations, it appears to a local planning authority that it is expedient in the interests of the proper planning of their area (including the interests of amenity)—

(a) that any use of land should be discontinued or that any conditions should be imposed on the continuance of a use of land; or

(b) that any buildings or works should be altered or removed,

they may by order—

(i) require the discontinuance of that use, or

(ii) impose such conditions as may be specified in the order on the continuance of it, or

(iii) require such steps as may be so specified to be taken for the alteration or removal of the buildings or works,

as the case may be.

Confirmation by the Secretary of State is required under section 103. Again, there is a liability to pay compensation under section 115. Section 115(2) and (3) sets out what compensation is payable for:

(2) If, on a claim made to the local planning authority within the prescribed time and in the prescribed manner, it is shown that any person has suffered damage in consequence of the order—

(a) by depreciation of the value of an interest to which he is entitled in the land or in minerals in, on or under it, or

(b) by being disturbed in his enjoyment of the land or of such minerals,

that authority shall pay to that person compensation in respect of that damage.

(3) Without prejudice to subsection (2), any person who carries out any works in compliance with the order shall be entitled, on a claim made as mentioned in that subsection, to recover from the local planning authority compensation in respect of any expenses reasonably incurred by him in that behalf.

## 1.3 Compensation

In England and Wales the rules relating to compensation where planning permission has been revoked are set out in [section 107](#) of the *Town and Country Planning Act 1990*. There is a liability for a local authority to pay compensation in respect of:

- expenditure rendered abortive by the order (e.g. expenditure on preparation of plans for the purposes of works); and

- for any other loss or damage directly attributable to the revocation or modification.

Section 107(3) of the Act makes clear that compensation is *not* payable in relation to any works carried out before the planning permission (which is being revoked by the order) was granted.

[Section 107](#) reads as follows:

**107 Compensation where planning permission revoked or modified**

(1) Subject to section 116, where planning permission is revoked or modified by an order under section 97, then if, on a claim made to the local planning authority within the prescribed time and in the prescribed manner, it is shown that a person interested in the land or in minerals in, on or under it—

- (a) has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification; or
- (b) has otherwise sustained loss or damage which is directly attributable to the revocation or modification,

the local planning authority shall pay that person compensation in respect of that expenditure, loss or damage.

(2) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any work, or upon other similar matters preparatory to it, shall be taken to be included in the expenditure incurred in carrying out that work.

(3) Subject to subsection (2), no compensation shall be paid under this section in respect—

- (a) of any work carried out before the grant of the permission which is revoked or modified, or
- (b) of any other loss or damage arising out of anything done or omitted to be done before the grant of that permission (other than loss or damage consisting of depreciation of the value of an interest in land).

(4) In calculating for the purposes of this section the amount of any loss or damage consisting of depreciation of the value of an interest in land, it shall be assumed that planning permission would be granted [—

- (a) subject to the condition set out in Schedule 10, for any development of the land of a class specified in paragraph 1 of Schedule 3;
- (b) for any development of a class specified in paragraph 2 of Schedule 3.]

(5) In this Part any reference to an order under section 97 includes a reference to an order under the provisions of that section as applied by section 102(3) (or, subject to section 116, by paragraph [1(3)] of Schedule 9).

In July 2012 the Supreme Court ruled that when local planning authorities are deciding whether or not to revoke or modify a planning permission they are entitled to take into account the compensation they could have to pay.<sup>2</sup> Lord Carnwath in the Supreme Court in case [R.](#)

<sup>2</sup> For more information see Planning Portal, [Key ruling on revocation of planning permissions and costs](#), 2 August 2012 and [Supreme Court press summary](#), The

*(Health and Safety Executive) v. Wolverhampton City Council* [2012] 1 WLR 2264, said:

In simple terms, the question is whether a public authority, when deciding whether to exercise a discretionary power to achieve a public objective, is entitled to take into account the cost to the public of so doing. Posed in that way, the question answers itself. As custodian of public funds, the authority not only may, but generally must, have regard to the cost to the public of its actions, at least to the extent of considering any case whether the cost is proportionate to the aim to be achieved, and taking into account more economic ways of achieving the same objective.

## 1.4 Withdrawal of planning permission granted by a development order

Local Development Orders are made by local planning authorities and give a grant of planning permission to specific types of development within a defined area. A local planning authority can revoke a Local Development Order at any time.<sup>3</sup>

Section 189 of the *Planning Act 2008* made changes to the 1990 Act in respect of entitlement to compensation in circumstances where planning permission granted by a Local Development Order or a Development Order (e.g. a permitted development orders) is withdrawn.

The explanatory notes to the *2008 Act* set out the changes and how the system works:

300. [Section 189](#) inserts new subsections (2A) (3B), (3C), (3D), (5) and (6) into section 108 of TCPA 1990. Section 107 of TCPA 1990 sets out the entitlement to compensation where planning permission is revoked or modified. Section 108 extends this entitlement to compensation to circumstances where planning permission granted by a development order or a local development order is withdrawn. New subsection (2A) provides that where planning permission of a prescribed description granted by a development order or local development order is withdrawn by the issue of directions under powers conferred by that order, compensation would be payable only if an application for planning permission for development formerly permitted by that order is made within 12 months of the directions taking effect.

301. The effect of new subsections (3B) and (3C) is that, where planning permission granted by a development order is withdrawn, there will be no entitlement to compensation where the permission was granted for development of a prescribed description and is withdrawn in the prescribed manner, and notice of the withdrawal is published not less than 12 months or more than the prescribed period before the withdrawal takes effect. If development is started before the notice is published, compensation will be available unless the order in question contains provision permitting the completion of development.

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Health and Safety Executive (Appellant) v Wolverhampton City Council (Respondent) [2012] UKSC 34, 18 July 2012

<sup>3</sup> HM Government, Planning Practice Guidance, [Can Local Development Orders be revoked and modified?](#), Paragraph: 082 Reference ID: 13-082-20140306, 6 March 2014



302. Where planning permission granted by local development order is withdrawn, subsections (3B) and (3D) provide that there will be no entitlement to compensation where notice of the withdrawal is published not less than 12 months or more than the prescribed period before the withdrawal takes effect. If development is started before the notice is published, compensation will be available unless the order in question contains provision permitting the completion of development.<sup>4</sup>

## 1.5 The position when planning permission was improperly granted

The Sweet & Maxwell Planning Encyclopaedia notes that in cases where the planning permission may not have been properly granted in terms of procedure, it may be better financially for the local council to have the planning permission quashed at judicial review, rather than revoke the planning permission and have to pay compensation:

However, if a planning permission has been granted in a way that was improper and invalid, it may not be “expedient” for the local planning authority to commence revocation proceedings under this section and to pay compensation. The court may instead quash the permission on an application for judicial review, without liability to compensation. Such an application may be made by a person supported by the council, though the Court will in such a case have particular regard to the effect on third parties.<sup>5</sup>

The rules about bringing a judicial review are strict however and a claim must be made within legal time limits. In January 2013 it was reported that a leader of a council in Devon was refused a judicial review of planning permission granted by mistake after the application was lodged too late for judicial review proceedings. The council was left with a choice of paying an estimated £500,000 in compensation to formally revoke the planning consent it had granted, or to allow a supermarket to move into a retail park even though it was not considered to be needed in the area.<sup>6</sup>

## 1.6 Secretary of State powers

The local planning authority has the power to revoke planning permissions under section 97 of the 1990 Act, but this has to be confirmed by the Secretary of State. In England and Wales the Secretary of State also has the power to revoke planning permission under section 100 of the 1990 Act. If this is done the liability to pay compensation still falls on the local planning authority, as though it had made the revocation order. In March 2006, the then Planning Minister described the use of these powers:

**Yvette Cooper:** Local planning authorities have power under s97 of the Town and Country Planning Act 1990 to make an order revoking or modifying a planning permission, prior to it being implemented, where they consider it expedient to do so. They should have regard to the development plan and to any other

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<sup>4</sup> *Planning Act 2008*, [Explanatory Notes](#)

<sup>5</sup> *Sweet & Maxwell Encyclopaedia of Planning Law and Practice*, P97.04

<sup>6</sup> “Planning blunder leaves council facing stark choice”, [Planning](#), 24 January 2013

## 10 Revocation of planning permission

material consideration. This is not a routine justification since the fact that planning permission was granted indicates that the development was considered acceptable at the time. If an order is opposed, it has to be confirmed by the Secretary of State before it can take effect.

The Secretary of State has power, under s100 of the Town and Country Planning Act 1990, to revoke or modify a planning permission granted by a local planning authority. Revocation or modification can only be made before a planning permission is implemented. The Secretary of State can use these powers as he thinks fit, after consultation with the local planning authority. Such intervention by the Secretary of State can only be justified in exceptional circumstances. However, the Secretary of State will generally use this power only if the original decision is judged to be grossly wrong, so that damage is likely to be done to the wider public interest.

Where orders come before the Secretary of State the decision will be taken only after considering the evidence by way of written representations, a hearing or a public local inquiry. The more controversial cases will almost inevitably go to inquiry.

Since 1997 the Secretary of State has used this power on 5 March 1998 to make a modification order to remove A1 retail use from outline planning permission for an industrial site granted by Alnwick district council and on 9 March 2000 to make a revocation and a modification order in respect of proposals for a factory outlet shopping village in an isolated location in Restormel, Cornwall.

The Office does not record representations received about the powers of the Secretary of State to revoke planning permissions.<sup>7</sup>

The revocation of a planning consent by the Secretary of State is most unusual. The Secretary of State already has a power for preventing consent being granted to major, controversial proposals with effects spreading beyond the local planning authority. That is the Secretary of State's power to call in an application to determine it himself. He is also able to recover to himself an appeal against rejection of a planning application. For further information about the Secretary of States' call-in and recovery powers see Library briefing paper, [Calling in a planning application](#).

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<sup>7</sup> HC Deb 16 March 2006 c2444W

## 2. Scotland

In Scotland section 65 of the [Town and Country Planning \(Scotland\) Act 1997](#) (the 1997 Act) allows a planning authority to revoke or modify a planning consent “to such extent as they consider expedient” and in doing so shall have regard to the Development Plan and other material considerations:

### **65 Power to revoke or modify planning permission.**

(1) If it appears to the planning authority that it is expedient to revoke or modify any permission to develop land granted on an application made under this Part, the authority may by order revoke or modify the permission to such extent as they consider expedient.

(2) In exercising their functions under subsection (1) the authority shall have regard to the development plan and to any other material considerations.

(3) The power conferred by this section may be exercised—

(a) where the permission relates to the carrying out of building or other operations, at any time before those operations have been completed;

(b) where the permission relates to a change of the use of any land, at any time before the change has taken place.

(4) The revocation or modification of permission for the carrying out of building or other operations shall not affect so much of those operations as has previously been carried out.

(5) Part II of Schedule 3 shall have effect for the purpose of making special provision with respect to the conditions which may be imposed by an order under this section revoking or modifying permission for development consisting of the winning and working of minerals or involving the depositing of refuse or waste materials

As with the law in England and Wales and in Northern Ireland, the power can only be used before the development, or the change of use given permission for, is complete. Under section 66 of the 1997 Act, if the revocation order is opposed then it must be confirmed by Scottish Ministers.

Section 68 of the 1997 Act provides a power for Scottish Ministers to make a revocation order under section 65 if they consider it “expedient” to do so.

Compensation for where planning permission is revoked or modified is set out in section 76 of the 1997 Act. Again, the wording is very similar to the provision in England and Wales:

76 Compensation where planning permission revoked or modified.

(1) Where planning permission is revoked or modified by an order under section 65, then if, on a claim made to the planning authority within the prescribed time and in the prescribed manner, it is shown that a person interested in the land—

## 12 Revocation of planning permission

(a) has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification, or

(b) has otherwise sustained loss or damage which is directly attributable to the revocation or modification,

the planning authority shall pay that person compensation in respect of that expenditure, loss or damage.

(2) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any work, or upon other similar matters preparatory to it, shall be taken to be included in the expenditure incurred in carrying out that work.

(3) Subject to subsection (2), no compensation shall be paid under this section in respect of—

(a) any work carried out before the grant of the permission which is revoked or modified, or

(b) any other loss or damage arising out of anything done or omitted to be done before the grant of that permission (other than loss or damage consisting of depreciation of the value of an interest in land).

(4) In calculating for the purposes of this section the amount of any loss or damage consisting of depreciation of the value of an interest in land, it shall be assumed that planning permission would be granted—

(a) subject to the condition set out in Schedule 12, for any development of a class specified in paragraph 1 of Schedule 11;

(b) for any development of a class specified in paragraph 2 of Schedule 11.

(5) In this Part any reference to an order under section 65 includes a reference to an order under the provisions of that section as applied by section 71(3) and paragraph 1(2) of Schedule 8.

### 3. Northern Ireland

In Northern Ireland section 68 of the [Planning Act \(Northern Ireland\) 2011](#) (the 2011 Act) grants councils the power to revoke planning permission:

**Revocation or modification of planning permission by council**

68—(1) If it appears to a council, having regard to the local development plan and to any other material considerations, that it is expedient to revoke or modify any permission to develop land granted on an application made under this Part or on an appeal under section 143, the council may, subject to subsections (2) to (4), by order revoke or modify the permission to such extent as (having regard to those matters) it considers expedient.

(2) The power conferred by this section to revoke or modify permission to develop land may be exercised—

(a) where the permission relates to the carrying out of building or other operations, at any time before those operations have been completed;

(b) where the permission relates to a change of use of any land, at any time before the change has taken place;

except that the revocation or modification of permission for the carrying out of building or other operations shall not affect so much of those operations as has been previously carried out.

(3) An order made under this section in respect of mining operations by surface working shall not prevent the continuation of those operations on any land in use for the purpose of those operations at the date on which the order comes into operation.

(4) Where the council makes an order under this section it must serve a notice on the owner and occupier of the land affected and on any other person who in its opinion would be affected by the order.

As with the law in England and Wales and in Scotland, the power can only be used before the development, or the change of use given permission for, is complete.

Under section 70 of the 2011 Act if the revocation order is opposed then it must be confirmed by the Department of Environment. The Department of Environment also has powers itself, under section 72 of the 2011 Act to serve a revocation order.

The right to compensation where a revocation order is made is set out in section 179 of the 2011 Act. It makes reference to the relevant provisions in the [Land Development Values \(Compensation\) Act \(Northern Ireland\) 1965](#), as amended. The main provisions are in section 26 of the 1965 Act. Again, the provisions are very similar to those in England and Wales and in Scotland.

## 4. Examples of revocation

When planning permission is revoked it more commonly relates to an old planning consent that has been started but not completed. There may be some good reason why the proposal that gained planning consent would now never be carried out. The local planning authority will have to pay some compensation but it may be worthwhile, in order to enable them to develop derelict land. Unopposed cases are normally approved, but opposed cases require a public inquiry.

Some examples of where planning permission has been revoked include:

- In January 2016 Ards and North Down Borough Council issued two revocation notices under section 68 of the Planning Act (Northern Ireland) 2011. One revoking planning permission for a farm dwelling and detached garage near Ballyglishorn Road Comber and the other revoking planning permission for a dwelling and garage Portavogie. Both orders were unopposed.<sup>8</sup>
- On 27 February 2015 North Lanarkshire Council published a revocation notice in The Gazette, under section 65 of the [Town and Country Planning \(Scotland\) Act 1997](#), to revoke planning permission for a wind turbine.<sup>9</sup> After planning permission was granted for a wind turbine on one particular site, the developer advised that it was not feasible to construct the turbine in that location and submitted another application for a site 45 metres away from the original site with planning permission. It was considered by the council that the impact of 2 turbines side by side in this location would be unacceptable. Whilst the developer has advised that for technical and financial reasons it was highly unlikely that both turbines would be erected alongside each other, on balance it is felt that the best interests of the council and the local environment would be served if the first planning permission was revoked.<sup>10</sup>
- In January 2009 the Department for Communities and Local Government has confirmed a revocation order withdrawing planning permission for Lees Cross and Endcliffe quarries near Matlock in the Peak District.<sup>11</sup>
- In May 2008 planning permission was revoked for eleven dormant quarries in the Brecon Beacons national park.<sup>12</sup>
- In 2007 the Peak District National Park Authority was allowed to revoke planning permission at two quarries without compensation for the operator or landowner.<sup>13</sup>

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<sup>8</sup> Ards and North Down Borough Council, [Planning Applications](#), January 2016

<sup>9</sup> The Edinburgh Gazette, [Notice ID:2294792](#), 27 February 2015

<sup>10</sup> North Lanarkshire Council, Planning and transportation committee report, 20 November 2014

<sup>11</sup> Peak District National Park, [Long-running quarry dispute ends](#), 16 January 2009

<sup>12</sup> "Park quarries lose permits" [Planning](#), 30 May 2008

<sup>13</sup> "National Park Authority allowed to revoke planning permission" [Planning](#), 7 September 2007

- In 1993 Alnwick District Council granted planning permission to Northumberland Estates for a supermarket near Alnwick. A protest campaign was launched two years later when it emerged that Safeway had bought the land. Protestors feared that Safeway would close its existing branch in Alnwick and consolidate operations on the new site. The Secretary of State in 1997 (John Gummer) revealed that he proposed to revoke the permission. The council challenged the decision in the High Court but lost. Safeway submitted a claim for £4.6 million in compensation for the loss of its planning consent. The council feared that it might be bankrupted. However, in the end it was all settled amicably with the Duke of Northumberland buying back the land that he had sold to Safeway. Safeway agreed to forego £2.6 million of their compensation claim and accepted £2 million, which was paid by the council's insurers, Zurich Municipal.<sup>14</sup>

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<sup>14</sup> "Alnwick Relief as Safeway Settles Case", *Daily Telegraph*, 10 February 2000

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## REPORT UPDATE

Application No: P/134/16/OUT

### Reason for the Update / Changes

Reason for Update/Changes:

#### 1. Clarification on position of WSCC in relation to the Secondary School Contribution;

The Local Education Authority in their consultation response to this application identified that the secondary contributions should be directed towards Felpham Community College for expansion. The Local Planning Authority (LPA) are instead seeking for these contributions to be directed towards the provision of the new secondary school in the centre of the District in accordance with the Infrastructure Delivery Plan 2017 (IDP).

WSCC have raised concerns with the proposed diversions of the financial contributions towards the 'new secondary school' and have stated that they were not consulted on this change.

On the 18th September the LPA requested that WSCC provide a statement which clearly sets out for each of the strategic sites an indicative figure of how much each will be contributing and whether the site will be contributing to the new secondary school or the expansion of an existing secondary school. However, to date this document has not been provided by WSCC.

#### 2. Provision of the primary school land;

Two potential options for inclusion in the s106 agreement are currently being considered by the LPA, either that;

(a) The primary school land will now be available to WSCC from the grant of planning permission as opposed to the commencement of development. Therefore, the Hook Lane primary school land is no longer required as there is certainty that the Summer Lane site can be secured, or

(b) The Hook Lane primary school site will be secured (as a potential fall back site) and relevant and proportional financial contributions will be provided by each of the developers towards the provision of the primary school in the instance that Summer Lane doesn't come forward.

In either scenario (a) or (b) above the primary school land will be secured and IDP compliant financial contributions will be secured.

#### 3. Additional section incorporated in relation to the Open Space and Play Provision.

The planning application incorporates 4.8ha of open space which exceeds the 2.24ha requirement identified through the Fields in Trust standard. Therefore, the open space provision at the site is considered sufficient in accordance with policy OSR DM1 of the Arun Local Plan.

The design and siting of the on-site play facilities will be secured at reserved matters stage. However, the s106 agreement requires the submission of a Public Open Space Scheme which will incorporate the location and specification of any children's play areas and that these facilities shall be completed prior to the occupation of 75% of dwellings within a phase. The public Open Space Scheme will also secure details of the play provision on site and details of how 1 no. LEAP (containing 6 'play experiences') will

be accommodated on site. A proportional financial contributions towards providing fencing around the existing Multi Use Games Area (MUGA) at Avisford Recreation Ground will also be secured.

In lieu of on-site playing pitch provision a financial contribution has been secured towards the enhancement of existing playing fields and changing facilities at Avisford recreation ground, Westmeads recreation ground and Hawthorn Road recreation ground. This contribution is considered to accord with policy OSR DM1 (2) (b) of the Arun Local Plan.

Financial contributions have also been secured towards leisure provision within the district with contributions towards Swimming, Sports Halls and 3G Pitches being secured. The swimming and sports halls contributions will be directed towards the Arun Leisure Centre (Felpham Way, Bognor Regis). The Arun Leisure Centre is situated within 10 minutes' drive time of the development site which accords with Sports England recommendations on travel times for leisure facilities. The 3G pitch contribution will be directed towards the provision of a new 3G pitch to serve the western half of the district (within the catchment of Pagham) specifically to provide the base layer and pitch surface. Given the contributions which have been secured it is considered that the proposed development accords with policy OSR DM1 and HWB SP1 of the Arun Local Plan.

4. Condition 6 has been amended to require the submission of the design code masterplan alongside the first reserved matters application.

5. Amendments made to the s106 heads of terms to reflect agreed triggers and financial contributions. These amendments will be highlighted in bold on the amended heads of terms summary document.

6. Additional representations received from Pagham Parish Council. Summaries of these letters are provided below:

Comments received 27th September 2018;

- Allocations SD1 and SD2 will not help achieve sustainable development or deliver net gains across economic, social or environmental objectives and do not benefit from the presumption in favour of sustainable development contrary to the NPPF
- Applicants have failed to demonstrate that the presumption in favour of sustainable development applies
- The development proposed is premature
- Proposals are not in accordance with the development plan policies
- Failure to demonstrate how development can meet the requirements of policies SD SP1a, GI SP1, H SP2, ENV DM2 and H SP2a of the Local Plan
- Failure to demonstrate that the proposals would provide for the relevant infrastructure requirements specified in policies INF 1 and INF 2 and the Infrastructure Delivery Plan and have not provided a CIL compliant S106 Agreement.

Comments received 22nd October 2018;

- Reports include inaccuracies, imprecise and confusing statements regarding material information and fail to properly assess proposals against relevant development plan policies and fails to assess material considerations.
- Failure to resolve many issues relating to viability, deliverability and impact mitigation
- Lack of surety in reports over securing delivery of the development quantum or components
- Currently no lawful or enforcement means by which the contributions towards infrastructure would be collected or commitment to spending

7. Representations made by Pagham Parish Council, Aldwick Parish Council and Oving Parish Council

have been reported separately in the representation section of the report. Consultation responses from Bognor Regis Town Council and North Mundham Parish Council were also received but were incorporated within the representation summary rather than being reported separately. Below is a summary of the specific comments submitted by each of the Parish Council's who were not reported individually;

**NORTH MUNDHAM PARISH COUNCIL:**

Comments received 10.02.2017:

We are specifically concerned that none of the applications address the effects of these proposed developments on local traffic in our parish, pedestrian safety and traffic pollution (atmospheric and noise).

- Remedial works to local road network insufficient to deal with cumulative impacts of traffic.

**BOGNOR REGIS TOWN COUNCIL:**

Comments received 09.04.2018

Objection - Development will impact significantly on the infrastructure of Bognor Regis and exacerbate problems regarding the weight of traffic.

8. An additional 10 letters of objection have been received raising the following points:

- Adverse impact and disturbance of habitats and wildlife, including bats.
- Lose of productive farmland.
- Increase risk of sewerage discharge into Pagham Harbour, Pagham Treatment Works already at capacity.
- Pagham Road and other roads in area inadequate for additional traffic.
- Traffic levels dangerous for vehicles and cyclists.
- Essential services may be unable to cope with additional demand.
- Public transport improvements needed.
- Parking improvements required at shopping, leisure and other destinations.
- Traffic volumes unacceptable alone and in combination with other development.
- Flooding of roads would increase.
- Negative impact on local economy.
- Will there be sufficient employment.
- Unsustainable development.
- Other sites preferable e.g. Ford Airfield.
- Air pollution concerns.
- Existing surface water flooding at southern end and rear of Lincoln Avenue could flood
- Responsibility for road repairs and timing of work to improve roads
- Query over provision for cyclists
- Traffic worsened since opening of Free School

9. The recommendation is amended and it is requested that authority be delegated to the Group Head of Planning in association with the Chair and Vice-Chair of Development Control Committee to allow for minor amendments to be made to the heads of terms.

**Officers Comment:**

1. The financial contribution will be in line with the request of WSCC but the project is yet to be agreed with the LPA disagreeing with the conclusions of WSCC.

2. Both options will generate appropriate financial contributions from the developer as well as secure sufficient land to provide the primary education provision in accordance with policy H SP2a of the Arun

Local Plan and the IDP 2017.

3. The additional section on Open Space and Recreation confirms compliance of the proposal with relevant development plan policies.

4. This amendment has been made following the applicants non-agreement to the proposed pre-commencement condition in accordance with The Town and Country Planning (Pre-commencement Conditions) Regulations 2018. Therefore, the wording of the condition has been amended.

5. The amendments include;

- Update of the financial contributions towards police infrastructure in line with the most recent consultation response.
- Additional contribution towards the existing Neighbourhood Equipped Area of Play.
- Additional detail concerning the Primary School Land and options (a) and (b) identified above.
- Update to the triggers for some WSCC contributions.

6. The sustainability of the allocations was considered through the Local Plan process which included a sustainability appraisal of all of the strategic allocations. The presumption in favour of sustainable development states that for decision taking it means 'approving development proposals that accord with an up-to-date development plan without delay'. Paragraph 11d i) and ii) is not being applied in this instance because there are relevant development plan policies.

The Reports set out how the proposals accord with the up-to-date Local Plan and that there are no material considerations which indicate that a different decision should be reached.

The proposals are not considered to be premature as the Local Plan has now been adopted and therefore decisions would not undermine the plan-making process.

The Reports include specific reference to consideration of the proposals against policies H SP2, ENV DM2 and H SP2a of the Local Plan. Policy SD SP1a is listed in the policy context for each application and is a high level policy setting out the strategic approach to sustainable growth in the District. Therefore, whilst not specifically referenced within the report the proposed development accords with the relevant parts of policy SD SP1a which are deemed to be (a), (c), (e), (h), (i), (j) and (k) and have been considered in the conclusion to this report.

Policy GI SP1 is not listed in the Policy Context section for P/6/17/OUT and P/134/16/OUT but is relevant to the determination of this application. It is listed in the Policy Context for P/140/16/OUT. Policy GI SP1 relates to green infrastructure and development, identifying that major development must be designed to protect and enhance existing Green Infrastructure assets, and the connections between them, in order to ensure a joined up Green Infrastructure Network.

Paragraph 7.3.6 of the Arun Local Plan identifies Green Infrastructure assets in the district as;

- Parks and gardens;
- Natural and semi-natural urban green spaces;
- Grassland, wetlands, flood plains, open and running water, wastelands, derelict open land and the coast.
- Public rights of way;
- Twittens; and
- Outdoor sports facilities.

It is considered that the conclusion to this report has considered the impact of the development upon the

green infrastructure network and found it to be acceptable. Financial contributions have been secured towards off-site enhancements as well as onsite provision of open space. Therefore, the proposed development is deemed to accord with policy GI SP1 of the Arun Local Plan.

7. The representations from Parish and Town Council's have already been taken into considered in the conclusion to this report.

8. These comments are considered to have already been taken into consideration in the determination of the planning application.

9. This will allow for finalisation of triggers points and other minor amendments in the drafting of the s106 as necessary.

Note: The changes to conditions are attached on the amended replacement recommendation sheet.

Please note that this report update only covers matters up until the 22nd October 2018 at 12pm. Any additional matters or representations submitted after this time and date will be presented to members as a verbal update.

**Notes: Changes to recommendations, conditions and / or reasons for refusal will always be reflected in the recommendation section of the attached Officer's Report.**

**Recommendation Report for Outline Consent**

**REF NO:** P/134/16/OUT

**LOCATION:** Land North of Sefter Road & 80 Rose Green Road  
Pagham

**PROPOSAL:** Outline application for the development of up to 280 dwellings (including affordable homes), land for a replacement scout hut, land for an Ambulance Community Response Post Facility and land for either a 1FE primary school or care home. Provision of a primary vehicular access from Sefter Road and demolition of No. 80 Rose Green Road and creation of a pedestrian and emergency only access. Provision of Public Open Spaces including associated children's play areas, landscaping, drainage and earthworks. This application also falls within the parish of Aldwick

**SITE AND SURROUNDINGS**

**DESCRIPTION OF APPLICATION**

Outline application for the development of up to 280 dwellings (including affordable homes), land for a replacement scout hut, land for an Ambulance Community Response Post Facility and land for either a 1FE primary school or care home. Provision of a primary vehicular access from Sefter Road and demolition of No. 80 Rose Green Road and creation of a pedestrian and emergency only access. Provision of Public Open Spaces including associated children's play areas, landscaping, drainage and earthworks.

SITE AREA	Approximately 13.34 hectares.
RESIDENTIAL DEVELOPMENT DENSITY	Approximately 18.74 dwellings per hectare.
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	The boundary of the site where it meets Sefter Road consists of trees measuring up to 6m in height. The western most boundary of the site consists of mature hedgerow and tree planting of up to 6m in height. The northern boundary of the site consists of sporadic tree planting and hedgerows with the southern boundary of the site where it runs to the north of Osbourne Way is open in sections but also features mature planting and close boarded fencing. The eastern boundary of the site features limited planting and rear boundary treatments of properties to the west of Lincoln Avenue.
SITE CHARACTERISTICS	The application site is classified as grade 2 agricultural land and is currently in agricultural use. The site wraps around the Osborne refrigeration site with the main portion of the site somewhat square in shape and bordered to the east by Lincoln Avenue and Osbourne Way to the south. To the west the site wraps around Osborne Refrigeration and extends to the south where it abuts Sefter Road.
CHARACTER OF LOCALITY	The character of the immediate locality is rural with open countryside situated to the north and west. Residential development is situated immediate to the east and south of the application site. To the east is Lincoln Avenue which features single storey bungalows and chalet bungalows set within small plots, whilst to the south is Osbourne Way a new residential development featuring 2 and 2.5 storey dwellings. Also to the south is Osborne Refrigerators who occupy a large industrial building which is situated to the north of Sefter Road and the existing residential development.

<b>REPRESENTATIONS</b>
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**REPRESENTATIONS RECEIVED:**

- Pagham Parish Council
- Aldwick Parish Council
- Pagham Parish Council
- Pagham Parish Council

**OBJECTION**

1. Building a strong, competitive economy:
  - The only tangible long term benefit relates to employment at the new school. There is no committed funding from WSCC for such a development and during previous discussions with WSCC they indicated that they do not consider this site a suitable location as it is too close to the existing Rose Green primary school.

- There would be a significant impact on the two major local industries in Pagham - tourism and farming. As well as the loss of agricultural land and a major negative impact on the attractiveness of the area for tourism. The proposal will have a significantly detrimental impact on the semi-rural character of the village.

- There is limited employment in Pagham and the proposed future residents will be required to commute.
- The potential economic benefits during construction phase would be short live and in no way can these be seen as supporting sustainable economic growth in Pagham.

## 2. Supporting a prosperous rural economy;

- Removal of grade 1 and 2 agricultural land from production to build houses inappropriate.
- Redundant and obsolete building not investigated for the opportunities they could provide.
- Type of housing proposed is not affordable to agricultural workers who are often low paid.
- Businesses which service existing large agri-businesses should be encouraged to develop and expand in the Parish.
- Destruction of qualities which attract tourists will damage tourism opportunities and economy.

## 3. Promoting sustainable transport;

- Pagham Road is the single access for the community to the strategic road network.
- Drainage of the road has always been a problem.
- Dangerous as vehicles leave the road and proximity of farm works in field is a concern.
- Significant number of HGV transit journeys upon Pagham Road, together with massive tractor/trailer loads of crop waste to serve the generating system. Consent has been granted for expansion of this business.
- Cyclists - road is unsafe.
- Concern over safety of junction Lower Bognor Road and Pagham Road.

## Key findings from Traffic Survey Commissioned by Pagham Parish Council:

- Although the main access road from the village is relatively uncongested where it leaves the village, at peak times the volumes are swelled by traffic coming from west Bognor and joining by junctions with Sefter Road and the Lower Bognor Road. Resulting in tailbacks, both for joining traffic and then for all traffic.
- Only some 40% of the measured peak hour traffic attempting to reach Chichester and the A27 comes from Pagham village itself. Proposed developments would result in a disproportionate increase in peak traffic volumes.
- Westbound traffic on the B1266 approaching the junction with the B1245 was also significantly congested in peak hours with slow and queueing traffic measured.
- The consultants have concluded that the proposed development sites will have a substantial impact on the wider local road network and strategic road network.

## 4. Delivering a wide choice of high quality homes;

- The type and density of housing proposed in this application is completely at odds with the existing character of the area and does not reflect local needs.
- The significant amount of noise emanating from the Osborne refrigeration factory situated adjacent to the application site would significantly affect many of the proposed homes, especially those near to the factory.

## 5. Requiring good design

- The proposed development density would be out of character with the locality and would contribute to a significant degradation of the streetscape.
- The Pagham Village Design Statement 2007 is a material consideration.

## 6. Healthy communities

- We believe that the loss of the existing scout hut together with the surrounding land that has been utilised for community activities (e.g. firework displays) has not been adequately compensated for in the proposed development.

#### 7. Climate Change

- It is considered that the FRA is seriously flawed as there are several parts which are either incorrect or misleading.
- The report fails to fully consider the potential groundwater levels by taking only a snap shot in January 2014. An assessment during wet winter periods needs to be undertaken and cross reference to the groundwater levels at Chilgrove monitored by the Environment Agency.
- The report places heavy reliance on culverts and downstream being cleaned out but has not been considered the extent of these works or who will undertake and pay for this or the impact upon Pagham Harbour SPA.
- Historical flooding problems on and off site have not been fully considered.
- Further work is required to substantiate the conclusions reached in the FRA.

#### 8. Natural Environment

- For the following environmental reasons the application should be refused: damage to trees and hedgerows; dismissal of the qualities of existing trees; disturbance to ditches and streams; loss of grade 1 agricultural land; lack of provision for protected root zone around trees; lack of appreciation of characteristics of soil type.
- Cumulative effects of development will have a serious negative impact on wildlife and biodiversity.
- Until the Summer Lane WwTW has improvements undertaken no new development should be granted planning permission.

#### 9. Historic Environment

- The proposed treatment of the historic WWII pill box located on site does not accord with the NPPF requirements.

#### ALDWICK PARISH COUNCIL

##### OBJECTION

- Members strongly oppose the application on the grounds that the development does not promote sustainable development and would have unacceptably adverse impacts on adjoining occupiers and land uses.
- The development does not retain significant open or wooded areas which make a contribution to the local environment.
- The proposal does not allow for the safe movement of pedestrians and vehicles.
- The development is in conflict with policy GEN7(iii), (iv), (v), (vi) and (vii) of the Arun District Local Plan 2003.
- The development is outside of the built up area boundary in conflict with policy GEN3 of the Arun District Local Plan 2003.
- Proposal will exacerbate flooding in conflict with policy GEN11 of the Arun District Local Plan 2003.

##### OBJECTION

Comments received 9th April 2018

Additional comments beyond those raised in original consultation response;

- Members expressed concerns that surface water could drain into Pagham Rife which is already prone to flooding.
- Development would result in the destruction of one or more trees protected by a tree preservation order.
- Development would result in the loss of biodiversity and habitats for bats and other animals.
- Site access is insufficient to serve the development as there is only one access.



- Since 1980 77 species of birds have been recorded at the site.
- Proposed development would present a severe challenge to transport and they noted that three separate cumulative transport assessments have been undertaken and are totally flawed and require review.

#### OVING PARISH COUNCIL

#### OBJECTION

- Development will add significant additional traffic on the Pagham Road which in turn will affect Marsh Lane and Vinnetrov Road, exacerbating the existing rat runs that are already a problem for these roads.

906 letters of objections received and below is a summary of the main points raised.

#### Sustainability

- Development is unsustainable.
- Proposed development results in a loss of tourism.

#### Agricultural land

- Development will result in a loss of high grade agricultural land.
- Land should be retained for agricultural purposes.
- Farmland is required for food production.

#### Design and visual amenity

- Development will adversely impact upon existing character of the locality.
- Development will adversely impact upon the strategic gap.
- Development will adversely impact upon rural character.
- Development will have a detrimental effect on the community.

#### Surface water and drainage

- Site is vulnerable to flooding.
- Fields and roads flood regularly.
- Existing drainage will not cope.
- Pumping station cannot facilitate the development.
- Lack of sewage treatment provision.

#### Highways

- Roads are heavily trafficked and congested.
- Roads are overloaded in peak hours.
- Lack of jobs in Pagham result in high levels of commuting.
- Roads are inadequate and dangerous.
- HGV lorries make using the roads difficult.
- Pagham Road does not feature any pavements.
- The development will cause more accidents on Pagham road.
- Currents road are dangerous for cyclists.
- Development will rely on a single point of access which is insufficient to cope.

#### Infrastructure

- School is currently oversubscribed.
- Doctors' surgery is not able to accommodate existing demand.
- Internet connection in Pagham is poor.
- Insufficient infrastructure to cope with proposed development.
- Result in a loss of facilities such as the scout hut.
- Lack of local employment opportunities to support the development.
- Inadequate provision to deal with Increase in household refuse and recycling waste.

- Inadequate water pressure.

#### Biodiversity and Ecology

- Development will result in loss of ecology.
- Development will adversely impact upon SSSI.
- Development will bring more noise and air pollution.
- The farmland is a feeding ground for Geese in the winter.
- The area provides excellent habitats for a variety of animals.
- Impact on the local history of the area.

#### Neighbourhood Plan:

- Contrary to the Neighbourhood Plan.

#### Non-material

- Loss of views.
- After Brexit the number of immigrants will decrease making more homes available.
- Previous application was refused on this site.
- Development should be on brownfield sites.

#### COMMENTS ON REPRESENTATIONS RECEIVED:

Comments are noted and will be considered in the conclusion to this report.

<b>CONSULTATIONS</b>
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Highways England

WSCC Strategic Planning

Environment Agency

Surface Water Drainage Team

Southern Water Planning

Parks and Landscapes

Economic Regeneration

Sussex Police-Community Safety

Engineering Services Manager

Engineers (Drainage)

NHS Coastal West Sussex CCG

Environmental Health

Ecology Advisor

Archaeology Advisor

Arboriculturist

Natural England

Southern Water Planning

Highways England

Planning and Housing Strategy

Ecology Advisor

Chichester District Council

Natural England

## CONSULTATION RESPONSES RECEIVED:

### ECONOMIC DEVELOPMENT

Comments received 3rd January 2017

No objection - would ask that the developer signs the Arun Developer and Partner Charter as well as producing and implementing a Work and Skills Plan.

### ECOLOGY

Comments received 4th January 2017

· The mitigation proposed within Section 6 of the Ecological Appraisal for the site is generally acceptable and it should be conditioned that a detailed mitigation and enhancements strategy should be submitted for approval prior to commencement of any works on site.

· Ecological enhancements should include native planting to infill the gaps in hedgerows and scrub; The inclusion of an area of wildflower grassland; the inclusion of wetlands/SUDS features; bat boxes, bird boxes and log/habitat piles.

· As indicated in the habitats regualtions assessment report, as well as the provision of SANGS on-site, a contribution to the Solent Recreation Mitigation Project will be required.

Comments received 30th March 2017

· Arun District Council and Chichester District Council have developed a joint strategic scheme of avoidance and mitigation measures along the lines of which exist for the Solent Maritime SAC. This involves a jointly agreed uniform level of developer contribution in the two zones of influence, set at a level to fund the measures in perpetuity. The preferred method would be to collect a contribution towards the implementation of the joint project. Such a contribution should be payable at commencement in order to ensure that avoidance measures are in place before first occupation.

### ENVIRONMENTAL HEALTH

Comments received 9th January 2017 (contaminated land)

Although the site is mainly greenfield please apply the below conditions as much of the proposed site is adjacent to industrially developed land ( factory and electrical sub-station).

·Conditions requested - ENV3, ENV5 and ENV6

Comments received 3rd March 2017

· I have concerns that noise may adversely affect future residents of this site. The noise report has assessed the current noise generated by the Osborne Refrigeration Site (B2 Use) but has not take into account the worst case scenario. Should Osborne leave the site and a particularly noisy B2 use replace them (such as sheet metal fabrication), the noise assessment has not taken this into account and therefore future residents would not be adequately protected.

· The applicants are suggesting that a 4m acoustic fence would provide part of the mitigation. A 4m acoustic fence is a huge undertaking and I have concerns that it would not be practical. Acoustic fences work best with steady state noises and are most effective when either the noise source or the receptors are close to the fence/barrier. In both cases, the noise source and the receptors are likely by their very nature to move around, thereby reducing the effectiveness of the acoustic barrier. The noise (or potential noises depending upon future use) is unlikely to be steady state noises.

· At present, I would recommend refusal of this application based on the potential noise issues which may affect future residents.

### WSCC FLOOD RISK MANAGEMENT

Comments received 12th January 2017

· Mapping shows to the site to be at a low risk of surface water flooding. However, existing watercourses

that run across the proposed development area are shown to be at higher risk. Any existing water flow paths on site must be maintained.

- The proposed development is shown to be at both high and low risk from ground water flooding based on current ESI maps. The southern part of the site is at lower risk whilst the northern section is at higher risk. Where the intention is to dispose of surface water via infiltration/soakaway, these should be shown to work through an Appropriate Assessment carried out under BRE Digest 365.

#### HIGHWAYS ENGLAND

Comments received 12th January 2017

Highways England respectfully request that your authority refrains from determination of this application until such time as we are satisfied that the impacts of strategic development at Pagham have been robustly considered and resolved.

Comments received 19th April 2018:

- Following our liaison with the applicant, we have now received confirmation that the applicant has agreed to contribute £238,000 towards the proposed mitigation improvements at the A27 Whyke Hill junction.

- Highways England is now satisfied that the development proposals can be achieved, subject to certain necessary s106 conditions, without detriment to the safe and efficient operation of the Strategic Road Network.

- Arun District Council will enter into a Section 106 Agreement with the applicant to the effect that prior to the commencement of the development hereby permitted the applicant will enter into a s278 Highways Agreement with Highways England.

Comments received 27th January 2017

This application site forms part of the strategic housing allocation for Pagham as identified in the Council's emerging local plan. The cumulative traffic impacts of these sites on the A27 junctions of Whyke and Bognor Road have yet to be determined. We are now working closely with all applicants consultants but have some way to go before we understand the implications and hence required mitigation at both junctions. Accordingly, we would respectfully request that you refrain from determining this application until such time as we can agree with the applicants the impacts and mitigations required.

Comments received 21st February 2018;

A contribution is requested towards improvements at the A27 Whyke junction, with the works to be undertaken by Highways England. A contribution of £850 per dwelling is requested which totals £883,150 based on the 1,039 dwellings proposed. In terms of individual sites Highways England is looking to secure the following amounts;

- P/134/16/OUT - £212,500
- P/140/16/OUT - £340,000
- P/6/17/OUT - £255,000
- P/25/17/OUT - £75,650

#### ARCHAEOLOGY ADVISOR

Comments received 24th January 2017

- I agree that the potential of the proposed development to impact upon unknown remains of archaeological importance would justify an investigation of the site ahead of construction. This process, and any subsequent measures to mitigate that impacts, would be best secured following a standard archaeological condition, in this case a version of ARC1 excluding the works 'within the area indicated'.

- The WW2 infantry section post, which should be considered to be a non-designated heritage asset, is of at least local significance. It seems that it is 'to be removed prior to development' despite being 'within

an area not intended for residential development but to be retained as a natural green space, with a road crossing through it.' In the circumstances its demolition should only be considered if its loss is outweighed by some benefit - and it isn't clear what this might be. If demolition proves necessary a full record should be made as part of the programme of archaeological work.

#### GREENSPACE

Comments received 24th January 2017;

- The Council's SPG guidelines are based on the National Playing Fields Associations 'six acre standard'. Developments of 10 dwellings or more are expected to provide open space on site. We would require confirmation of public open space being proposed within the development and commuted sum payments towards the maintenance of open space where these are provided on site. S106 contributions towards infrastructure/leisure would need to be secured.

- Before construction a tree protection scheme must be in place for any retained trees including trees whose root protection areas would fall within the construction zone from neighbouring land. Any removed trees should be mitigated through the inclusion of native species planting.

Additional comments 15 May 2018:

Advice on location of open space provision and relationship to SUDs features. Increase to 280 dwellings would require additional open space.

#### WSSC STRATEGIC PLANNING (HIGHWAYS)

Comments received 30th January 2017

Additional information is required to enable further consideration of the application. What is required is summarised below;

- Revised junction assessments using cumulative assessments.
- More evidence in support of recorded wet weather speeds on Sefter Road.
- Consideration of access/walking improvements along Sefter Road to junction with Pagham Road and bus stop improvements (N and S).
- Include consideration of street lighting at site access and junction of Sefter Road/Pagham Road.
- Updated framework Travel Plan.
- Response to PROW comments.
- Plan showing Fire and Rescue service emergency access requirements and access point.
- Revised plan showing further alterations to junctions 4 and 9.
- Revised tracking plan of 12m bus at J4.

Comments received 27th September 2017

- The LHA has reviewed the three Cumulative Transport Assessments (CTA) submitted in support of the current planning applications in Pagham. The CTA's have been prepared in accordance with current best practice and the scope has been agreed with the LHA. Whilst the majority of the conclusions within the CTA's are broadly comparable, there are still in certain places quite notable differences as to the anticipated future operations of the junctions. The most notable of these is the Pagham Road/Sefter Road. A further review of the operation of this junction by the developers is necessary.

- For those junctions where mitigation is required, the proposed works or contributions are considered acceptable in mitigating the severe residual cumulative impacts of the development.

Comments received 27th March 2018:

The submitted cumulative assessments have tested the capacity impacts of a development of up to 980 dwellings as jointly proposed at applications at Sefter Road, Hook Lane, and Summer Lane. The assessments also incorporate additional background traffic from permitted developments in the local area along with that from other potential developments including that at Church Barton Farm and West of Bersted. Viewed against the information presented and the National Planning Policy Framework, the LHA are satisfied that the combined impacts of the development would not give rise to residual severe highway impact. There are certain matters that will need to be concluded as part of the individual

planning applications and associated s106 agreements.

Comments received 1st May 2018

- All matters in connection with the proposed vehicular and pedestrian access arrangements have now been addressed.
- In summary and notwithstanding the cumulative impacts of the four Pagham planning applications presently under consideration, based on the details and supporting information submitted for the current application, WSCC are satisfied with the arrangements as shown. On this basis, no severe impact is anticipated to arise from this proposal when viewed in isolation.
- In conclusion, the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impact of the development are severe. Based upon the information submitted, the LHA are satisfied that the proposed development would not result in severe highways impacts. As such, no highways objection is raised.
- If the LPA are minded to approve the application, the following s106 obligations, conditions and informatives should be attached to any consent granted.

SUSSEX POLICE

Comments received 1st February 2017

- Various advice and comments provided concerning design and security.

Comments received 22nd March 2017

- Additional comments provided concerning design and security.

ENGINEERS (DRAINAGE)

Comments received 1st February 2017

- Detailed design for SUDs should following the options as stated in the FRA.
- Additional groundwater monitoring and percolation testing is required to inform the option pursued.
- As much infiltration as possible should be utilised, however the main route for surface water is likely to be the culverted anti-tank ditch/surface water sewers/ditches.
- Please apply conditions ENGD2A, ENGD3A, ENGD4A, ENGD5A, ENGD5B and ENGD6A.

SOUTHERN WATER

Comments received 31st January 2017

- We request that should this application receive planning approval, the following condition is attached to the consent; "Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water."

Comments received 13th April 2018

- A desk based study has been undertaken which indicates that with connection at the 'practical point of connection' as defined in the new connections services implemented from the 1st April 2018 that there is an increased risk of flooding unless network reinforcement is undertaken.
- The reinforcement will be provided through the new infrastructure charge but Southern Water will need to work with and understand the development program and review if the delivery of network reinforcement aligns with the occupation of the development.
- Southern water requests the following condition; "Occupation of the development to be phased to align with the delivery of sewerage infrastructure to prevent the increased risk of flooding".
- Alternatively, the developer can discharge foul flow no greater than existing levels if proven to be connected and it is ensured that there is no overall increase in flows into the sewerage system.
- Our initial investigations show that Southern Water can provide surface water disposal to service the proposed development. Southern Water required a formal application for connection to the public sewer to be made by the applicant or developer.

· We request that should this application receive planning approval, the following condition is attached to the consent: "Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to and approved in writing by the LPA in consultation with Southern Water."

#### COUNCIL'S TREE OFFICER

Comments received 31st January 2017

· The accuracy of the base data submitted in support of the outline application is acceptable.  
· However, it will not be sufficient for them to rely on the Arb Impact Statement alone at the detail stage submission and for this stage of the application process it will have to be supported by an Arboricultural Method Statement report and Tree Protection Plan to show how retained trees will be respected and fully protected during the construction works on the site.

#### SUSSEX POLICE - COMMERCIAL PLANNING MANAGER

Comments received 7th February 2017 updated 12 April 2018

· Financial contribution of £40,726.71 requested towards associated policing costs.

#### NATURAL ENGLAND

Comments received 7th February 2017

· Internationally and nationally designated sites - no objection.  
· In considering the European site interest, Natural England advises that you, as a competent authority under the provision of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have.  
· In advising your authority on the requirements relating to the Habitats Regulations Assessment, and to assist in screening for the likelihood of significant effects, based upon the information provided; The proposals are not necessary for the management of the European site; and subject to appropriate financial contributions being secured for strategic mitigations, the proposals are unlikely to have a significant effect of Pagham Harbour Spa/Ramsar, and can therefore be screened out from any requirement for further assessment.

Comments received 9th April 2018

Natural England has previously commented on this application. The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

Comments received 4th October 2018

In relation to the Habitat Regulations Assessment (Regulation 63 of the Conservation of Species and Habitats Regulations):

Natural England concurs with the HRA Report (EPR, September 2018) that the proposal is likely to have a significant effect on Pagham Harbour SPA/Ramsar through increased recreational disturbance and water quality impacts, in combination with other plans or projects.

We agree with the conclusions of the Appropriate Assessment, that mitigation measures are required to avoid an adverse effect on the integrity of the SPA/Ramsar. Therefore, the following mitigation measures should be secured:

· Financial contribution to the Pagham Harbour SAMM Strategy;  
· Greenspace totalling 4.45ha within the development site, managed to provide recreational space for people and their dogs. A costed 25 year management plan should be produced, with a suitable management company identified.  
· Development should be phased to align with Southern Water's deliver of sewerage network reinforcement.

We advise that an appropriate planning condition or obligation is attached to any planning permission to

secure these measures.

#### HOUSING STRATEGY AND ENABLING MANAGER

Comments received 21st March 2017

- At this planning outline stage there is no objection in principle but an Affordable Housing Statement is required in order to understand the detail of the 30% affordable housing on the site.
- Support is reserved as it is unclear what the tenure form of the affordable housing will be, where it will be located and its mix. Also at this stage, there is no statement about self build plots as mentioned in the pre-application advice.

Comments received 26th March 2018

- The applicants proposed to provide 30% affordable housing on-site which comprises up to 85 units which is acceptable and meets the Council's Affordable Housing policy requirements.
- The applicants proposed to provide a tenure split for the affordable housing comprising of 61 rented and 24 intermediate housing units which is acceptable. It is noted that the rented quota will comprise of Affordable Rent dwellings only with no social rented properties provided. The inclusion of social rented housing is a preference for the Council to meet local housing needs, but it is recognised this is not a prescribed policy requirement.
- The dwelling types of flats and houses for the affordable housing offer are acceptable.
- The dwelling mix of unit sizes for the affordable housing offer is acceptable.
- The affordable housing must be acquired by an affordable housing provider approved by the Council, which includes non-registered providers and the Council itself.

#### LEISURE SERVICES

Comments received 6th July 2017

- The Council would be looking for the following contributions for the development in Pagham.
- Pools - £125,720
- Sports Halls - £102,710
- 3G Pitches - £12,690

#### CHICHESTER DISTRICT COUNCIL

Comments received 8th August 2017

- The traffic generated by the development proposed would, without effective mitigation, result in a severe impact on the roads and junctions within Chichester District, particularly the A27/B2145 junction (Whyke Roundabout) and the A27/A259 junction (Bognor Road Roundabout) on the trunk road network, and the Runction and North Mundham/Hunston roundabouts on the WSCC road network. Mitigation should be secured through the local plan or on a bespoke basis for additional development. Chichester District Council would expect Arun District Council to adopt the same approach in partnership with WSCC and Highways England.
- CDC preference would be for a comprehensive assessment and mitigation strategy for all development allocated at both strategic and neighbourhood level within the emerging Local Plan (as modified).

Comments received 18th April 2018

- It is imperative that the impacts of this development beyond Arun District boundaries are fully and robustly assessed with conclusions agreed by Highways England and West Sussex County Council. CDC wishes to stress that the necessary mitigation required by WSCC and HE for all affected roads and junctions on the network must be properly secured, paid for and phased appropriately to ensure that the necessary mitigation on both WSCC and HE Roads is in place at the required time. ADC should ensure they are confident that the appropriate legally sound mechanisms to achieve this are in place before recommending approval.

NHS CCG



Comments received 28th July 2017

· Financial contribution of £273,965 sought towards 'Grove House GP Surgery' for the infrastructure needs of managing GP consultant health care.

#### WSCC LOCAL DEVELOPMENT DIVISION: S106 CONSULTATION RESPONSE

· We will require £438,900 towards a new early years facility serving Pagham, based on the provision of 280 dwellings.

· We will require £1,566,600 towards a new primary school serving Pagham, based on the provision of 280 dwellings.

· Secondary and further education contributions to be secured on the WSCC formulae. Contributions to be spent on expansion at Felpham Community College and Felpham Community College Sixth Form.

· Financial contribution of £23,333 towards the provision of a new tier 7 library facility to serve Pagham.

· Fire and rescue contributions to be paid in line with proposed formula towards the redevelopment of Bognor Regis Fire Station.

#### COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

#### POLICY CONTEXT

Designation applicable to site:

Policy H SP2a Site SD2 Pagham North

#### DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

AHSP2	AH SP2 Affordable Housing
DDM1	D DM1 Aspects of form and design quality
ECCDM1	ECC DM1 Renewable Energy
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM2	ENV DM2 Pagham Harbour
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
ENVSP1	ENV SP1 Natural Environment
HDM1	H DM1 Housing mix
HDM2	H DM2 Independent living and care homes
HERDM1	HER DM1 Listed Buildings
HERDM2	HER DM2 Locally Listed Buildings or Structures of Character
HERDM3	HER DM3 Conservation Areas
HERDM4	HER DM4 Areas of Special Character
HERSP1	HER SP1 The Historic Environment
HSP1	HSP1 Housing allocation the housing requirement
HSP2	H SP2 Strategic Site Allocations
HSP2A	HSP2a Greater Bognor Regis Urban Area

HWBSP1	HWB SP1 Health and Wellbeing
INFSP1	INF SP1 Infrastructure provision and implementation
INFSP2	INF SP2 New Secondary School
LANDM1	LAN DM1 Protection of landscape character
OSRDM1	Protection of open space, outdoor sport, comm & rec facilities
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP1A	SD SP1a Strategic Approach
SDSP2	SD SP2 Built-up Area Boundary
SKILLSSP1	SKILLS SP1 Employment and Skills
1	
SODM1	SO DM1 Soils
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TDM2	T DM2 Public Parking
TSP1	T SP1 Transport and Development
TSP3	T SP3 Safeguarding to Main Road Network
WDM1	W DM1 Water supply and quality
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
WMDM1	WM DM1 Waste Management
WSP1	W SP1 Water

**PLANNING POLICY GUIDANCE:**

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

**SUPPLEMENTARY POLICY GUIDANCE:**

SPD1	Open Space & Recreation Standards
SPD2	Conservation Areas
SPD8	Areas of Special Character

**POLICY COMMENTARY**

The Development Plan consists of the Arun Local Plan 2011-2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan.

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton.

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Regulation 14).

In December 2014, the Pagham Neighbourhood Plan was withdrawn from the examination process in order to produce further studies in respect of the impact on the Pagham Harbour SPA/Ramsar Site. This work has been completed and the Regulation 14 'pre-submission consultation & publicity' stage was undertaken between 02/10/15 and 13/11/15. It is therefore necessary, in accordance with paragraph 48 of the NPPF, to have regard to the Draft Neighbourhood Plan as a material planning consideration. Therefore, policies 1, 3, 8 and 9 are considered relevant to the proposed development.

However, it must be considered that the policies contained within the draft Pagham Neighbourhood Plan cannot be attributed any weight by virtue of the lack of progress on the plan since consultation took place in 2015 and the adoption of the Arun Local Plan (2011-2031).

#### **DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

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

The proposal is considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area. The proposal is also located in a strategic allocation within the built-up area boundary and accords with policy H SP2 and will cumulatively meet the requirements of H SP2a in conjunction with other strategic allocation applications in Pagham.

The proposal also makes adequate contributions towards necessary infrastructure in accordance with policy INF SP1 of the Arun Local Plan (2011-2031).

#### **OTHER MATERIAL CONSIDERATIONS**

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

#### **CONCLUSIONS**

Principle

The application site falls within the parish of Pagham and the development plan for the determination of this application comprises the Arun Local Plan (2011-2031). The Pagham Neighbourhood Plan (PNP) is currently under preparation and has reached Reg. 14 stage with the consultation period running from the 2nd October 2015 to the 13th November 2015. The PNP has not been made and as such does not form part of the development plan as defined by section 38 of the Planning and Compulsory Purchase Act 2004.

Arun Local Plan (2011-2031)

The key policy considerations in the determination of this application are considered to be;

Policy H SP1 - establishes the housing requirement within the plan period (2011-2031) of at least 20,000 new homes within the Arun District. This includes SD2 Pagham north (at least 800 dwellings) and SD1 Pagham south (at least 400 dwellings).

Policy H SP2 - identifies that development proposals within the Strategic Site Allocations must be comprehensively planned and should have regard to a masterplan endorsed by the Council for the respective areas which incorporates high quality imaginative design which gives a sense of place.

It is identified that the comprehensive development of the allocation will need to meet the following key requirements;

- a. Integrate appropriately with surrounding communities through an appropriate design particularly where they adjoin by providing for public realm improvements, shared community uses, and connectivity of transport modes including walking, cycling and public transport.
- b. Ensure a clear and harmonious relationship between town and country including clearly defined boundaries, using physical features that are readily recognisable and likely to be permanent.
- c. Protects, conserves or enhances the natural environment, landscapes and biodiversity.
- d. Incorporate high quality, well connected green spaces, planting within main streets and biodiversity rich open spaces.
- e. Extend, enhance and reinforce strategic green infrastructure and publically accessible open space.
- f. New community hubs where required to be provided, shall be well located taking account of the permeable layout to all transport modes and shall as far as possible cluster retail, commercial and community uses.
- g. Where existing village centres are within or will serve the needs of strategic development sites their improvement as sustainable centres will be required.
- h. Where community buildings are provided these shall be designed and provide for a range of uses such as healthcare, police, faith and community groups.
- i. Integration of community hubs and local centres of an appropriate form and scale into the design and layout of development proposals where identified in the specific allocations policies in H SP2 a-c.
- j. Ensure walkable access to local community, recreational and shopping facilities, jobs and accessible transport.
- k. Address the off-site capacity requirements, that related to that particular allocation, identified in the Arun Transport Assessment (2016 and update 2017 and taking into account subsequent relevant assessments) and the local highway network.
- l. Positively respond to sustainable water management taking particular account of the coastal plain topography which may require strategic surface water solutions.
- m. Maintain and enhance any important features, characteristics and assets of the local area.
- n. Provide for the required infrastructure, which relate to that particular allocation, in accordance with Policy INF SP1 and the Infrastructure Delivery Plan.
- o. Enable strategic District wide infrastructure to be delivered at strategic sites if the location is appropriate for the District.
- p. Consider inclusion of an area of the sites for self-build and custom build.
- q. Consider the delivery of an area as a site for Gypsy and Traveller accommodation.

Policy H SP2a - identifies the strategic allocation of at least 1,200 dwellings in Pagham over the plan period. This includes allocation SD1 (Pagham South) for at least 400 dwellings and allocation SD2 (Pagham North) for the provision of at least 800 dwellings. The policy requires development proposals to meet the following key design and infrastructure requirements;

- a. Ensure no detrimental impact to Pagham Harbour SPA.
- b. Take into account nearby heritage assets.
- c. Provide a new one-form (expandable to two-form) primary school and nursery places.
- d. Provide a care home facility.
- e. Provide a community hub which includes.
  - shops and complimentary uses.
  - community building (Tier 7 library, D1/sui generis floor space)
  - provision of land for scout hut, and
  - land for an ambulance community response post
- f. Provision of public open space to include children's play areas, landscaping, drainage, and earthworks.
- g. Contribute to the provision of an enhanced local cycle network by making on site provision and appropriate off site financial contributions
- h. Where possible, provide pedestrian and cycle routes to Bognor Regis town centre in order to enhance the sustainability of the site.

In order to establish the principle of the proposed development it will be necessary to assess the proposed development against the policy requirements of H SP1, H SP2 and H SP2a. Whilst, policies within the PNP have been identified as material considerations in accordance with paragraph 48 of the National Planning Policy Framework they cannot be attributed any weight in the determination of this application by virtue of the lack of progress and the adoption of the Arun Local Plan (2011-2031).

The application site is located within the built-up area boundary (BUAB) as defined by policy SD SP2 and forms part of strategic allocation SD2 (Pagham North) and seeks outline planning permission for up to 280 dwellings. Therefore, this application in conjunction with P/6/17/OUT will equate to a total of 580 dwellings of the 800 identified by strategic allocation SD2 (H SP2a) and is deemed to accord with Policy H SP1 of the Arun Local Plan (2011-2031).

The proposal includes land for the provision of an ambulance community response post, a replacement scout hut and land for either a 1FE primary school or a care home. Therefore, the proposed development would meet the policy requirements of H SP2a (e) (iii) and (iv) of the Arun Local Plan. The proposed 1FE school site would fail to accord with H SP2 (c) however the preferred location for the primary school has been identified as Summer Lane (P/140/16/OUT) by West Sussex County Council (WSCC) as this would provide a primary school facility closer to the centre of Pagham.

Planning application P/140/16/OUT has incorporated 2,000sqm of A1/A2/A3/D1/sui generis floor space which would provide a community hub and address the requirements of H SP2 (i) and (f) and H SP2a (e. i) of the Arun Local Plan. Therefore, there is no requirement for the inclusion of a local centre as part of this application although it will be necessary for the development to provide walkable access to local centres and facilities in accordance with policy H SP2 (j) of the Arun Local Plan. The proposal incorporates pedestrian access to Seftor Road and Rose Green Road and will provide suitable pedestrian access to existing facilities. Therefore, it is considered that the proposed development will enhance integration with existing communities and provide opportunities for walking to nearby facilities and services in accordance with policy H SP2 (g).

The proposed development will have a limited presence within the street scene when viewed from Rose Green Road and Lincoln Road by virtue of the existing residential development. Views of the site from the west will be restricted by existing field boundary planting, whilst to the north views from Lower Bognor Road are possible, the existing residential development to the north of Rose Green Road (south of the application site) has an extremely limited presence. The application was accompanied by a Heritage Assessment and the impact of the proposals upon the setting of nearby heritage assets has been considered as part of this application. It has been concluded later in the report that the proposals will not

result in any significant impact upon nearby heritage assets. Thus, the proposed development is deemed to accord with policies H SP2 (c), (m) and H SP2a (b) of the Arun Local Plan.

The Council's Ecological Advisor has advised that subject to appropriate conditions the proposed development would not result in an unacceptably adverse impact upon biodiversity or ecology at the site. The application site is situated approximately 2.2km to the north-east of the Pagham Harbour SPA/Ramsar and as such it is necessary, in accordance with the Birds and Habitats Directives, to consider the impact of the proposal upon the integrity of the SPA/Ramsar site. The Local Authority instructed Ecological Planning & Research Ltd (EPR) to undertake a Habitat Regulations Assessment on behalf of the LPA. The Appropriate Assessment has concluded that, providing that the avoidance and mitigation measures are secured and implemented, the development would result in no adverse effect upon the integrity of Pagham Harbour SPA/Ramsar. As such the development is deemed to accord with policy H SP2a (a) of the Arun Local Plan. The proposals compliance with Policy ENV DM2 is considered in detail later in the conclusion to this report.

The development framework plan has demonstrates how green space has been incorporated throughout the development, with footpaths and cycleways running around the development site. The design code masterplan (which will be secured via condition) will need to demonstrate how planting will be incorporated throughout the site and within the main streets and open spaces. Financial contributions have been secured as part of the S106 agreement towards the enhancement of footpaths 101, 104 and 106 to create an off-road cycle route towards Chichester (via south Mundham). Therefore, it is considered that the proposal will accord with policy H SP2 (d) and (e) as well as policy H SP2a (f) and (g) of the Arun Local Plan.

A Sustainability Appraisal was undertaken in support of the Arun Local Plan with the site being considered sustainably located. The site is located within acceptable walking distance of existing facilities and those proposed by nearby developments (incorporating a scout hut, primary school and community hub). Bus stops are situated to the south of the application site Rose Green Road within suitable walking distances. Therefore, the proposal accords with policy H SP2 (j) of the Arun Local Plan.

The highway infrastructure improvements, to be secured via the s106 agreement, are considered sufficient and adequate to mitigate against the highways impacts of the proposed development in accordance with policy H SP2 (k) of the Arun Local Plan. This has been considered in greater detail later in the conclusion to this report.

The Council's Drainage Engineers have been consulted in relation to the proposed drainage strategy and no objection has been raised. A total of 6 conditions have been requested and these have been included in the recommendation. This has included the requirement for winter groundwater monitoring to be undertaken prior to the commencement of development. This work will ensure that the detailed drainage design takes account of site specific considerations. Therefore, subject to the inclusion of these conditions it is considered that the proposed development will accord with policy H SP2 (l) of the Arun Local Plan.

A number of financial contributions will be secured towards infrastructure provision via the S106 agreement. These contributions are detailed in the attached Heads of Terms and considered in detail later in the conclusion to this report. However, based upon the contributions to be secured it is considered that the proposals will accord with H SP2 (n) of the Arun Local Plan. The Infrastructure Delivery Plan (IDP) 2017 does not identify the requirement for any district wide infrastructure to be incorporated as part of the strategic allocations at Pagham and as such the proposals does not conflict with policy H SP2 (o) of the Arun Local Plan.

No desire has been expressed by the applicants to incorporate self-build or custom build dwellings at the

site and no evidence has been submitted in support of the application detailing any considered of the incorporation of an area of Gypsy and Traveller accommodation. However, policy H SP2 only requires consideration and does not require inclusion and as such the proposal is not considered to conflict with policy H SP2 (p) and (q) of the Arun Local Plan.

As identified above, it is considered that the proposed development will accord with policies SD SP3, H SP1, H SP2 and H SP2a of the Arun Local Plan. Therefore, the principle of the proposed development is considered acceptable subject to accordance with relevant policies contained with the Arun Local Plan and the National Planning Policy Framework (NPPF).

#### ILLUSTRATIVE LAYOUT AND DESIGN

Policy H SP2 of the Arun Local Plan requires that Strategic Site Allocations must be comprehensively planned and should have regard to a masterplan endorsed by the Council for the respective areas incorporating high quality imaginative design giving a strong sense of place and a permeable layout. It also requires strategic allocations to (amongst other matters) integrate with the surrounding communities, provide well connected green spaces, provide improvements to existing village centres and deliver infrastructure.

It should be highlighted that this outline application only relates to access with layout, scale, appearance and landscaping being reserved matters. Therefore, the development framework plan submitted in support of the application is only indicative but does show that the site can accommodate the scale of development proposed whilst providing adequate open space provision and respecting the site's location on the edge of the settlement.

The application is supported by a Design and Access Statement which clearly demonstrates how the indicative layout was arrived at and adequately demonstrates that the proposed development can be efficiently accommodated on site. The Design and Access statement has identified the opportunities and constraints present at the site and responded to these with the design of the development.

The development framework plan shows the sites vehicular access from Sefter Road with pedestrian access being provided onto Rose Green Road. It has been demonstrated that the indicative layout will achieve acceptable walkable access to community, recreational and shopping facilities both within the proposed development and outside of the site boundaries in accordance with H SP2 (f), (i) & (j) of the Arun Local Plan.

The site proposes approximately 8.32ha of residential development with 4.8ha of open space. The design and access statement establishes key principles for the development including permeability, street design, scale and external appearance.

The design and access statement identifies that development will predominantly consist of 2 storey dwellings and identifies that 2 1/2 and 3 storey development in the centre of the site is likely to be acceptable.

The main portion of residential development is situated to the north of Osborne Way and west of Lincoln Avenue with the development proposing a density of approximately 34.5 dwellings per hectare (dph). The existing residential development in Osborne Way is at a density of approximately 48dph with residential development to the west of Lincoln Avenue (along the eastern boundary of the site) at a density of approximately 27dph. Therefore, the proposed density is considered to reflect existing residential development in proximity of the site.

It is considered that further consideration should be given to the scale of development proposed and additional design work will need to be undertaken to ensure that the proposed development reflects the

character of Lincoln Avenue to the east (of the application site) with higher density development likely to be appropriate towards the southern boundary of the site where it would be in keeping with the established character of Osborne Way.

The application was considered by the Design Review Panel on the 18 April 2017 and emphasised the need for the site to maximise the connections with the existing community to ensure the site integrates well. The Panel also raised the need for the distribution of the open space to be changed, the location of community facilities to be re-considered and relationship between water management of the open space to be altered.

The LPA will not accept a generic housing estate on the edge of the built up area boundary and the developer will be expected to undertake the necessary work to achieve a development of the highest possible quality which reflects the character of the locality. A condition has been incorporated with the approval requiring the submission and approval by the LPA of a 'Design Code Masterplan' prior to the submission of any reserved matters application. It is a requirement of the condition that this document will reflect the principles established within the Design and Access statement submitted in support of this application in accordance with the comprehensive masterplanning requirements of policy H SP2.

It is considered that the development framework plan in conjunction with the Design and Access statement demonstrates that the development has been comprehensively master planned in accordance with policy H SP2 of the Arun Local Plan.

The residential development will have a limited presence within the street scene when viewed from Rose Green Road by virtue of the existing residential development. The western most portion of the site situated to the north of Sefter Road will have a presence within the street scene with development situated approximately 50m from Sefter Road.

It is considered that the proposed development will have some presence within the street scene of Lincoln Avenue with views restricted to the gaps between the bungalows and chalet bungalows situated to the west of Lincoln Avenue. Views of the site from the west will be restricted by existing field boundary planting, whilst to the north views from Lower Bognor Road are possible, the existing residential development to the north of Rose Green Road (south of the application site) has an extremely limited presence. Therefore, it is considered that with appropriate landscape planting along the northern boundary of the site that the proposed development will not adversely impact upon the established character of the locality.

With layout, scale and appearance being reserved matters there is no requirement at outline stage to undertake a detailed analysis of the indicative information provided. However, it is considered that the indicative information provided adequately demonstrates that the proposed development can be accommodated on the site and designed in a way which will ensure that the established character of the locality is respected in accordance with policy policies D DM1 and D SP1 of the Arun Local Plan.

#### RESIDENTIAL AMENITY

Given that this application has been submitted in outline and relates to access only it is not possible to make a full analysis of the potential residential amenity impacts of the development. However, it is considered that given the separation distances between the existing residential development to the south and east of the application site and the separation distances shown on the development framework plan there would not be any unacceptably adverse overbearing, overshadowing or overlooking impacts (subject to appropriate design, fenestration arrangements and scale). As such, the proposed development is deemed to accord with policy D DM1(3) of the Arun Local Plan.

It is acknowledged that the proposed development will likely give rise to some adverse impacts upon



existing views from nearby residential development. However, it must be stated that the loss of a private view is not a material consideration in the determination of a planning application.

A conflict has been identified between the existing Osborne Refrigeration site which is situated to the west and south of the proposed residential development. A supplementary noise assessment (10th May 2017) was prepared in support of the application and identified measures to mitigate noise generated by the existing B2 use. These included a 3m high acoustic fence and an additional buffer zone of 10m to achieve external noise levels in private amenity areas of <50dB during the day time.

During the night a noise limit of 30dB inside of bedrooms has been proposed. It has been identified within the noise assessment that noise levels will be elevated with the proposed 3m high acoustic barrier as opposed to the originally identified 4m barrier (which was identified as visually unacceptable by the LPA. Therefore, it will be necessary for glazing to be adopted achieving 28dB noise reduction. It has also been identified within the supplementary noise assessment that planning approval P/1/12 relating to the extension of the Osborne Refrigeration use restricted the hours of operation to 0700 and 1900 on weekdays and 0700 and 1200 hours on Saturday. Planning approval P/118/07 which permitted the B2 general industrial use included a restrictive condition preventing vehicles from entering or leaving the site between the hours of 2100 and 0700, except for the company lorry making a nationwide or euro-wide delivery.

In response to the comments of Environmental Health concerning an alternative (noisier) manufacturer taking over the existing B2 use and operating throughout the night the supplementary noise assessment has considered the impact of metal fabrication inside the existing building, This work has concluded that at the nearest sensitive receptor a rating of 48dB was identified at ground floor level and 51dB at first floor level externally. Standard thermal double glazing and attenuated trickle vents have been identified as sufficient to control external noise intrusion to within the criterion of 30dB inside first floor bedrooms during the night.

Some disturbance is anticipated during development of the site and an appropriately worded construction management condition has been incorporated as part of the recommendation. It is considered that such a condition would provide adequate control to minimise disturbance during development.

Therefore, a condition has been incorporated and on this basis it is considered that the proposed development would not give rise to any unacceptably adverse harm to the residential amenity of existing nearby residential properties or future occupiers of the site.

Policy QEDM2 of the Arun Local Plan requires proposals which involve outdoor lighting to be accompanied by a lighting scheme prepared according to the latest national design guidance and relevant British Standards. A lighting statement has not been provided in support of this application. However, a condition has been included requiring the submission of a scheme for external lighting in accordance with Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light, Obtrusive Light Limitations for Exterior Lighting Installations for Zone E3. Therefore, it is considered that, subject to condition, the proposal will accord with policy QE DM2 of the Arun Local Plan.

Paragraphs 112 - 116 of the NPPF refers to advanced, high quality and reliable communications infrastructure as being essential for economic growth and social well-being. Therefore, it is considered that the provision of broadband for future occupiers on site is essential and as such a condition has been incorporated within the recommendation requiring the submission of a strategy for the provision of broadband to be submitted and approved by the Local Planning Authority prior to the commencement of development.

HOUSING MIX

The application is in outline and has not identified an indicative housing mix for the proposed development. Policy H DM1 states that the tenure mix for development schemes should be negotiated on a case by case basis taking any necessary viability considerations into account. However, it is advised that developments should have regard to the most up to date version of the SHMA (Strategic Housing Market Assessment).

Paragraph 61 of the NPPF identifies that planning policies should secure dwellings of sizes, types and tenures to meet the needs of different groups within the community. This includes but is not limited to, families with children, older people, students, people with disabilities, service families and travellers.

Policy H DM1 identifies a requirement to secure housing that would meet the needs of older people. The 'Updated Housing Needs Evidence - September 2016' (PELVP23) paragraph 5.17 states that there is a requirement to secure both specialist housing for older people as well as residential and nursing home bedspaces (falling within use class C2). The application identifies that the site will accommodate a 1FE primary school or care home. As the primary school is to be accommodated elsewhere it is expected that the care home will be provided on site which would provide residential accommodation for older people on site to help in meeting the identified increasing demand.

In addition it is expected that the development should incorporate single floor living such as bungalows or accessible flats. It is expected that any reserved matters application will incorporate such accommodation to meet the needs of the community.

Therefore, the proposed development is deemed to accord with policies H DM1 and AH SP2 of the Arun Local Plan.

## **HIGHWAYS AND PARKING**

### **Access Arrangements**

The application proposes a vehicular access onto Sefter Road with a secondary walking, cycling and emergency access situated off Rose Green Road.

The proposed access arrangements have been considered by the Local Highways Authority who have confirmed them as acceptable in their consultation response of the 9th April 2018. However, it was identified by WSCC that appropriate consent may be required to pipe the ditch which currently runs alongside the road in this location and the applicant should confirm prior to works commencing whether ditch works are within tree root protection zones.

It has also been identified that street lighting will need to be provided in the vicinity of the site access junctions and within the new estate roads.

Therefore, it is concluded in the WSCC consultation response that the proposed development when viewed alone will not result in any severe capacity impacts in accordance with Paragraph 109 of the NPPF.

Policy T SP1 requires that appropriate levels of parking are provided in line with WSCC guidance, including considering the impact on street parking (T SP1). The application is currently for outline permission with all matters reserved save for access. Therefore, parking provision and arrangement will be considered in detail at reserved matters stage. It is expected for the applicant to consult with WSCC Highways and consider the WSCC Parking Demand Calculator when undertaking detailed design for the site. It is also a requirement for cycle storage to be provided on site and any garages to be provided on site will be expected to have a minimum internal dimension of 3.0m x 6.0m and internal cycle racks or fixing should be provided in garages and properties without garages should be provided with cycle sheds in rear gardens.

### Strategic Highways Network

Highways England have been consulted in relation to the proposed development and a holding objection had been placed upon the development until such time as an appropriate contribution was made to the enhancement of the Whyke Roundabout on the A27 (located to the north of the proposed development).

The financial contributions required for these enhancements have been identified by Highways England but will not be secured as a financial contribution via the S106 Agreement. Instead a non-financial obligation requiring the developer to enter into a section 278 agreement with Highways England has been secured as part of the overall s106 agreement. The s278 agreement is an alternative means of this development mitigating the impact on the strategic highways network.

### Cumulative Impacts

A Cumulative Transport Assessment (CTA) has been prepared in support of this application and it has been prepared collaboratively with those (CTA's) submitted in support of planning applications P/134/16/OUT, P/140/16/OUT and P/6/17/OUT. The scope of the CTA has been the subject of discussion and agreement with the Local Highway Authority (LHA).

The CTA has considered the impact of the proposed development in conjunction with other developments in Pagham on a number of junctions in and around the application sites.

It has been identified by the LHA that a large number of 3rd party objections submitted to the Local Planning Authority (LPA) regarding delays on the B2166 (Pagham Road) arising from slow moving traffic associated with other uses. Whilst, these comments are acknowledged given that these are existing issues on the highways network, it is not the responsibility of the applicants of the current application to resolve.

The three CTA's submitted in support of P/134/16/OUT, P/140/16/OUT and P/6/17/OUT have been considered by the LHA and have been identified as being in accordance with current best practice. The majority of the conclusions within the CTA's are broadly comparable; there were notable difference in the anticipated future operation of the junctions. Most notable of which was Pagham Road/Sefter Road and a further review of the operation of this junction was identified as necessary.

For those junctions where mitigation is required, the proposed works or contributions are considered acceptable in mitigating the severe residual cumulative impacts of the development.

A further technical note has been submitted that reviews the operation of the Pagham Road/Sefter Road junction and this has been considered further by WSCC. The Consultation response (from WSCC) dated the 27th March 2018 considered the revised modelling for the Pagham Road/Sefter Road junction which provided a single model of the junction, with the geometry and traffic flows within this having been agreed by all three applicants (P/134/16/OUT, P/140/16/OUT and P/6/17/OUT).

It was confirmed that the modelled results show that the Sefter Road arm of the junction will start to operate at theoretical capacity in the future without taking into account the proposed development. However, it was identified by WSCC that whilst the development would take the junction over capacity, Paragraph 109 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts are severe. Therefore, whilst it was acknowledged by WSCC that drivers will be subjected to additional delays this alone is not considered to constitute a severe impact.

### Dougal Baillie Associates - Sensitivity Assessment

The Local Planning Authority in order to ensure that the mitigation measures proposed are adequately robust and mitigate the impact of the proposed development upon the highways network commissioned

an independent 'Sensitivity Assessment' undertaken by Dougall Baillie Associates (DBA).

The sensitivity assessment undertaken by DBA confirmed that the proposed mitigation works to the A27 Whyke Hill junction would address the impact of the Pagham developments provided that the works are implemented at the appropriate time. Therefore, the sensitivity analysis was focused upon the following key junctions;

1. B2145/B2166 roundabout;
2. B2166/Vinnetrow Road/Mill Lane roundabout;
3. Pagham Road/B2166 Lower Bognor Road priority junction;
4. Pagham Road/Sefter Road priority junction; and
5. Grosvenor Gardens/Rose Green Road/Nyetimber Lane/Gossamer Lane traffic signals.

The sensitivity assessment in this case has identified that;

1. The junction improvements proposed for junction 1 (above) would not entirely offset the impacts of the Pagham developments. However, relatively modest enhancement of the proposed roundabout approach widening would adequately offset the predicted impact.
2. The proposed physical improvements to junction 2 (above) would be sufficient to offset the cumulative traffic impact of the Pagham sites.
3. The sensitivity assessment revealed that simple signalisation of this junction would not be sufficient to offset development traffic impact, and widening of the southbound approach to two traffic lanes for a distance of 50m would also be required.
4. Signalisation of the existing junction would offset development traffic impact in conjunction with a localised speed limit.
5. The signal timings proposed in the Pagham Transport Assessments would accommodate the additional traffic generated by the proposed developments.

The sensitivity analysis commissioned by the LPA identified supplementary improvements to the following junctions and associated indicative costs;

- B2145/B2166 roundabout - £98,000
  - Pagham Road / Sefter Road - £140,000
  - Pagham Road / Lower Bognor Road - £250,000
- Total: 488,000

In addition to these modified works the following junction improvements identified within the applicants transport assessments are necessary;

- Rose Green Road widening - £81,000
  - B2166/Vinnetrow Rd. widening - £23,000
- Total: £104,000

Following the publication of the DBA sensitivity analysis the developers (for P/134/16/OUT, P/140/16/OUT and P/6/17/OUT) have submitted an amended 'Common Statement of Cumulative Assessments'. Each of the developers has agreed to undertake junction improvement works on behalf of the Local Highway Authority (LHA), as follows;

- P/134/16/OUT - Rose Green Road widening
- P/140/16/OUT - B2145/B2166 roundabout
- P/6/17/OUT - B2166/Vinnetrow Rd. widening

The Common Statement of Cumulative Assessment under table 7.3 identified cumulative contributions for each of the developments taking into account the associated costs of the junction improvements identified within the sensitivity analysis. Therefore, the developments will generate a combined highways contribution of £390,000 and a £100,000 contribution towards improvements of footpaths 101, 104 and 106 to provide a route from Pagham to Chichester via Sidlesham. As such, each developer will make the following adjusted contributions;

P/134/16/OUT - Land North of Sefter Road - £88,142.29 & Footpath Contribution of £28,572.00

P/140/16/OUT - Pagham South - £143,632.98 & Footpath Contribution of £40,816.00

P/6/17/OUT - Land north of Hook Lane - £158,224.73 & Footpath Contribution of £30,612.00

The proposed junction improvements go beyond those originally identified and proposed by the applicants and are intended to achieve no net detriment as a result of the additional development traffic. The Community Infrastructure Levy Regulations 2010 set out that a planning obligation must be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Therefore, it is acknowledged that existing issues are present on the highways network around Pagham but it is not the responsibility of the applicant for this application to resolve these existing issues.

The highway infrastructure improvements, to be secured via the s106 agreement, are considered sufficient and adequate to mitigate against the highways impacts of the proposed development (achieving no net detriment) in accordance with policies T SP1 and H SP2 (k) of the Arun Local Plan.

The financial contributions secured from P/134/16/OUT, P/140/16/OUT and P/6/17/OUT address the highways impacts of the Pagham strategic allocations under policy H SP2a. However, planning application P/25/17/OUT (Church Barton) has not contributed towards the cumulative mitigation strategy although in theory it should. Therefore, as an alternative a financial contribution towards sustainable transport measures has been identified - it is intended for this financial contribution to finance the implementation an off-road cycle route linking Sefter Road and the strategic allocation West of Bersted. The financial contribution is proportional to the scale of development and is deemed to meet the policy requirements of H SP2a (h) of the Arun Local Plan.

## EDUCATION

Policy INF SP1 of the Arun Local Plan states that the Local Planning Authority will support development proposals which provide or contribute towards the infrastructure and services needed to support development (including the necessary infrastructure set out in the Infrastructure Delivery Plan).

In terms of education provision within the Infrastructure Delivery Plan (IDP) dated February 2017 it is identified that Pagham north and south should make provision of land and contributions towards a new 1FE primary school (expandable to 2FE) to serve Pagham; contributions towards the 10FE Secondary School located centrally within the District; and contributions towards 50 new nursery places to serve Pagham.

The IDP identifies a total cost of £6million for the construction cost of the new primary school and appropriate contributions have been secured from each of the allocated sites in Pagham towards the delivery of the new primary school. West Sussex County Council (WSCC) in their Section 106 contributions response dated the 24th April 2018 identified a financial contribution of £1,566,600 from this development. A 2 hectare site to facilitate the construction of the new primary school will be secured via planning application P/140/16/OUT. The preferred primary school site is suitably located within Pagham and will be accessible by future occupiers of the strategic allocations as well as existing Pagham residents. The financial contribution and school site will be secured via the s106 agreement.

The IDP identifies a total contribution of £1,896,000, from the 1,200 unit Pagham strategic allocation, towards the creation of 50 new nursery places. Therefore, WSCC have requested a financial contribution of £438,900 from this development, in accordance with the IDP 2017, which will be secured via the s106 agreement.

The IDP 2017 identifies a financial contribution from the 1,200 unit strategic allocations at Pagham north and south of £5.27 million towards the 10FE Secondary school to serve the district (6FE expandable to 10FE). However, WSCC in their consultation response have requested a calculator based contribution towards expansion of Felpham Community College. When the secondary and sixth form contribution was discussed by the Pagham Advisory Group, it was questioned as to why the contribution was being directed to Felpham Community College rather than the Regis School. This was raised with WSCC education who advised that with the expansion of Felpham Community College additional capacity would (eventually) be created at the Regis School. However, it was advised that consideration would be given to directing the contribution to the Regis School for extension.

However, it is considered by the LPA that the proposed contribution should be allocated towards the proposed new secondary school identified under policy INF SP2 of the Arun Local Plan. This is considered necessary as failure for this development to contribute towards the new secondary school will result in a shortfall of financial contributions and potentially jeopardise the delivery of the new secondary school.

The contribution will be prescribed for the associated feasibility and design work as well as the provision of access to serve the new school. Therefore the proposed contribution would provide towards the necessary infrastructure identified within the IDP 2017 as required by policy INF SP1.

Therefore, it is considered that the proposed development (in terms of education provision and contributions) will accord with policies H SP2(n), H SP2a and INF SP1 of the Arun Local Plan.

#### HEALTH CARE PROVISION

Policy H SP2a (e) (iv) requires the strategic allocations at Pagham (SD1 & SD2) to provide contributions towards new healthcare facilities at West of Bersted (SD3) or alternatively where appropriate proposals may make contributions towards new facilities or improvement or expansion of the relevant existing facility, subject to agreement with the Council.

The Consultation response from the Coastal West Sussex Clinical Commissioning Group dated the 20th June 2017 has requested a financial contribution to Grove House GP Surgery for the infrastructure needs of managing GP consultant health care. This proposed project accords with the requirements of policy H SP2a (e) (iv) of the Arun Local Plan and accords with the requirements of the IDP 2017.

However, in order to ensure that the needs of future residents are best met through health care provision the Section 106 agreement has been worded to allow flexibility to secure the delivery of the most appropriate health care provision. This includes the provision of a new health care facility as part of the West of Bersted (SD3) strategic allocation; the expansion or improvement of Grove House GP Surgery; or the expansion or relocation of Sir Arthur Griffith clinic located in Pagham.

The development has also incorporated land for the delivery of an ambulance community response post facility for the Pagham area as required by the IDP 2017 and identified within policy H SP2a.

Therefore, it is considered that the proposal would accord with policy INF SP1 of the Arun Local Plan.

#### ADDITIONAL INFRASTRUCTURE CONTRIBUTIONS

Additional infrastructure contributions have been secured towards libraries, fire & rescue, police and

leisure facilities. These financial contributions and the identified projects are deemed to accord with the Community Infrastructure Levy Regulation 123 and meet the demand and need generated by the proposed development in accordance with policy INF SP1 of the Arun Local Plan.

Full details of the contributions secured are provided in the heads of terms attached to this report.

#### **AGRICULTURAL LAND**

The Natural England 'Agricultural Land Classification map London and the South East (ALC007)' identifies the site being classified as Grade 2 to the east with a small portion of the site to the west classified as Grade 3 agricultural land.

The Ministry of Agriculture, Fisheries and Food 'Agricultural Land Classification - October 1988' identifies Grade 2 as 'very good quality' and Grade 3 as 'good to moderate quality'. The NPPF (paragraph 170b) requires that the Local Planning Authority takes into account the economic and other benefits of this type of land.

The application was accompanied by an Agricultural Land Considerations Report (December 2016) which confirms that the soil on site is classified as Grade 2 (26.7%), 3a (51.7%) and 3b (21.6%). Therefore, the site comprises 10.5ha of best and most versatile (BMV) agricultural land but it is concluded under paragraph 7.3 that there are no significant effects on agriculture as a result of the proposed development.

The application site has been allocated for residential development under policies H SP1 and H SP2a of the Arun Local Plan and has been the subject of significant assessment prior to allocation. Therefore, it is considered that this provides evidence that alternative options for the location of this strategic allocation have been explored and subjected to a Sustainability Appraisal process to select the most sustainable sites. The Arun Local Plan (2011-2031) Sustainability Appraisal recognised that most of the undeveloped coastal plain within the District is high grade agricultural land and that the majority of the strategic allocations would have a significant negative effect on the objective of avoiding the loss of 'best and most versatile' (BMV) land. The loss of BMV is one factor in the site selection and decision making process.

Policy SO DM1 of the Arun Local Plan states that development will not be permitted on this type of land unless 'designated by this plan' or unless the need for the development outweighs the need to protect such land in the long term. As the site is a strategic allocated within the Local Plan the proposal would not be the subject of assessment under policy SO DM1.

#### **AFFORDABLE HOUSING**

For all developments over 11 residential units the Council requires a minimum of 30% affordable housing on site, as set out in Policy AH SP2 of the Arun Local Plan. Policy AH SP2 of the Arun District Local Plan (2011-2031) identifies the following mix of affordable homes (unless evidence indicates otherwise):

- 1 Bed - 35-40%
- 2 Bed - 30-35%
- 3 Bed - 20-25%
- 4 Bed - 5-10%

The proposed affordable housing provision has been considered by the Housing Strategy and Enabling Manager and it has been identified that an Affordable Housing Statement will be required to understand the detail of the 30% affordable housing on site. As this application is for outline consent the LPA will not have full details of the format of the affordable housing provision until the detailed design stage. However, the application does propose to provide 30% affordable housing which equates to 84 dwellings for a scheme of 280 units. The affordable housing provision is deemed to be acceptable and will be

secured via the Section 106.

The affordable housing mix will be secured via legal agreement and as such the proposal is deemed to accord with policy AH SP2 of the Arun Local Plan.

#### ECOLOGY AND BIODIVERSITY

The application is accompanied by an Ecological Appraisal (December 2016) which has considered the ecological interests of the application site and the importance of the habitats present in accordance with current guidance. The Ecological Appraisal has considered mitigation measures as well as ecological enhancements.

The proposed development has been considered by the Council's Ecological Advisor who has raised no objection to the proposed development. It was identified in their consultation response of the 4th January 2017 that the proposed mitigation measures identified within section 6 of the Ecological Appraisal (December 2016) are generally acceptable and a condition should be included with any approval requiring the submission of a detailed mitigation and enhancement strategy prior to the commencement of development.

Therefore, subject to the proposed conditions it is considered that the development will not give rise to any unacceptably adverse effects to ecology and biodiversity at the site. The proposed development subject to appropriate conditions (included with this recommendation) is deemed to accord with policy ENV SP1, ENV DM1 and ENV DM5 of the Arun Local Plan.

The Council's Tree Officer has considered the development and has raised no objection. However, it has been identified that an Arboricultural Method Statement and Tree Protection Plan will need to be provided in support of the application at reserved matters stage. Therefore, a condition has been incorporated as part of this recommendation report requiring the submission and approval of this detail prior to the commencement of development on site. Therefore, it is considered that subject to this condition the proposed development will accord with policy ENV DM4 of the Arun Local Plan. The Council's Tree Officer has also identified that a Tree Preservation Order (TPO) should be created at the site.

#### PAGHAM HARBOUR SPA/RAMSAR

Policy H SP2a (a) (SD1 and SD2) identifies that proposals will need to ensure no detrimental impact to Pagham Harbour SPA through compliance with policy ENV DM2 and its supporting text.

Policy ENV DM2 of the Arun District Local Plan states that within Zone B (0-5km) all new residential development which is likely to have an impact on Pagham Harbour will be required to;

- i. Make developer contributions towards the agreed strategic approach to access management at Pagham Harbour.
- ii. Create easily accessible new green spaces for recreation within or adjacent to the development site. These shall be capable of accommodating the predicted increases in demand for local walking, including dog walking. Good pedestrian links shall be provided between existing housing areas and new and existing green spaces in order to discourage car use.

The supporting text under Paragraphs 17.1.18 - 17.1.22 of the Arun Local Plan includes relevant background information on the Pagham Harbour SPA/Ramsar and the means by which the Local Plan policies will ensure its protection.

Paragraph 12.1.15 of the supporting text for policy H SP2a within the Arun Local Plan identifies that the Pagham South (SD1) allocation is within close proximity to Pagham Harbour, which is an important and



sensitive natural site within the wider Bognor Regis area. Development from this allocation should reduce any impacts from loss of supporting habitat or recreational disturbance that may arise.

The LPA had originally screened out the application by virtue of the mitigation measures proposed being integral parts of the proposal, in accordance with the approach derived from the *Hart District Council v Secretary of State for Communities & Local Government*. However, the decision of the ECJ in case C-323/17 it was concluded that it was not appropriate to take account of 'measures intended to avoid or reduce the harmful effects of the plan or project' at the screening stage of the Habitats Regulation Assessment process.

Whilst, some inconsistencies exist between this judgement and previous ECJ case law, it will be necessary until such time as further clarification is provided by the ECJ, to consider the efficacy of impact avoidance and mitigation measures such as the strategic access management and monitoring (SAMM) through an Appropriate Assessment.

The Local Planning Authority (LPA) appointed Ecological Planning & Research Ltd (EPR) to undertake the Appropriate Assessment (AA) for the current planning application. The purpose of an Appropriate Assessment (AA) is to further analyse likely significant effects identified during the screening stage. The AA evaluates the implications of the plan or project, in light of the conservation objectives of the affected International Sites and includes a test as to if the plan or project would result in significant adverse effects on site integrity.

Consideration within the AA has also been given to 'in combination effects' where other nearby plans or projects may have the potential to cause negative effects on the integrity of the International Site. These negative effects may act in combination, with those of this planning application, potentially leading to a 'likely significant effect' (LSE) becoming significant. Therefore consideration has been given to whether this application could contribute to effects generated by other plans or projects and vice versa.

The Arun Local Plan HRA Screening Report (UEEC, 2016b) identifies potential effects on Pagham Harbour SPA/Ramsar associated with the 'Pagham North' developments. These are;

- Disturbance;
- Effects on supporting habitat; and
- Water pollution.

These have been considered in Section 4 'Screening of Likely Significant Effects' of the Habitats Regulations Assessment (18/32-1A) dated 14th September 2018 prepared by EPR (on behalf of the LPA).

In relation to disturbance it is concluded in paragraph 4.19 that disturbance impacts arising from the proposed development alone will not trigger a likely significant effect (LSE). However, in combination with other plans and projects it is considered that there is the potential for a LSE. The recent European Court Judgement (ECJ) in 'People Over Wind' means where mitigation measures are relied upon it is not possible to screen out a LSE. Therefore, it will be necessary to explore if the mitigation proposed will avoid an adverse effect upon the integrity of the site.

In terms of recreational disturbance this has been considered under paragraphs 4.13-4.19 of the HRA and it has been concluded that following the recent ECJ ruling (People over Wind) it is no longer possible to rule out a likely significant effect where mitigation measures are relied upon. Therefore, the assessment must progress to AA stage to explore whether any contribution towards an adverse effect on the integrity of the site can be ruled out.

In respect of effects on supporting habitat it has been identified in the 'Screening Conclusion' (paragraph 4.38) that there is compelling evidence in the recent work reported in PELP 33a and Map 2 of the HRA that Dark-bellied Brent Geese are unlikely to use land within or adjacent to the application site to the extent that it can be considered to be 'regularly used functionally linked habitat for Brent Geese'. Natural England agreed with this view in their consultation response to this application have stated that, in view of this and given the presence of other agricultural land being available nearer the SPA, the proposal would not lead to a likely significant effect (LSE) through loss of supporting habitat.

Consideration was also given in the HRA (18/32-1A) to the combined impacts with other plans and projects. This was considered in the Arun Local Plan HRA documents (PELP 33a and PELP 33b) that informed the Local Plan examination in public. These documents were aimed mostly at addressing issues surrounding loss of functional supporting habitat for Dark-bellied Brent Geese at Pagham South, but did clarify the situation at Pagham North. In particular, it referred to new data compiled by Sussex Ornithological Society (SOS), submitted as part of its representations on a number of related planning applications at Pagham North and South.

It was concluded by Natural England (NE) that the nature of the site and its distance from Pagham Harbour means that it is unlikely to be regularly used functionally linked habitat. This and the availability of other agricultural land nearer the SPA led NE to conclude that the proposal would not lead to a LSE through loss of supporting habitat.

Paragraphs 4.42-4.61 of the HRA (18/32-1A) consider the potential 'Water Pollution' impacts of the development. It is identified under paragraph 4.56 that the ALP HRA Screening Report identifies a potential issue with capacity at the Pagham WWTW and it was advised by Natural England that subject to sufficient capacity in combination with other developments there will be no LSE from water quality impacts.

It has been acknowledged under paragraph 4.59 that Southern Water will be seeking to provide adequate capacity for each of the developments. However, in order to secure this a condition has been proposed to ensure that each of the developments are delivered in phases in line with the reinforcement works to be implemented by Southern Water. It is likely that water pollution impacts from the development will not trigger a LSE on the Pagham Harbour SPA/Ramsar. However, as the proposed planning condition constitutes mitigation it is not possible for water pollution impacts to be screened out and an AA in relation to water pollution impacts is required.

Recreational disturbance and water pollution have been identified as required to progress to the Appropriate Assessment stage. The proposed mitigation measures in relation to recreation impacts at Pagham Harbour SPA/Ramsar are identified under paragraph 5.45 as consisting of;

- Provision of suitable greenspace within the development; and
- Payment of strategic access management and monitoring (SAMM) tariff.

Paragraph 5.52 states that the avoidance and mitigation strategy outlined by the applicant is suitably robust and meets the tests set by the consideration under AA, provided that any planning permission is conditional on the Council agreeing in writing;

- A 25 year management plan for the open space, setting out the costed prescriptions for delivering appropriate public access and providing clear commitments from appropriately qualified operators to implement the prescriptions; and
- The signing of a legal agreement obliging the applicant to secure appropriate ownership of the open space and to provide funds for the 25 year management plan.

It is identified under paragraph 5.56 that reliance on Southern Water has been tested through the EiP of the ALP and it is reasonable to rely on them to deliver effective mitigation through enhancement and reinforcement works. In order to avoid water pollution effects it has been identified that ADC will require any planning permission to be conditional on a suitably worded condition to ensure development is phased and implemented to align with delivery of sewerage network reinforcement.

As a consequence of the proposed mitigation measures it is considered that ADC can be confident that they will avoid or mitigate an adverse effect on the integrity of Pagham Harbour SPA/Ramsar, alone and in combination with other plans and projects. Natural England has reviewed the Habitat Regulations Assessment Report and concurs with the findings that the proposal is likely to have a significant effect on Pagham Harbour SPA/Ramsar through increased recreational disturbance and water quality impacts. They also agree with the conclusions of the Appropriate Assessment that the mitigation measures set out above (i.e. contribution to SAMM Strategy, provision of greenspace on site and alignment with Southern Water's delivery programme) are required to avoid an adverse impact on the integrity of the SPA/Ramsar site. They advise that appropriate planning conditions or obligations are attached to any permission to secure these measures. As set out above conditions and obligations proposed will ensure these measures are secured.

Therefore, it is considered that the proposed development will accord with policy ENV DM2 of the Arun Local Plan.

#### DRAINAGE AND FLOODING

The entirety of the application site is identified as falling within Flood Zone 1 and as such is at low risk of flooding. The Environment Agency have been consulted and no comments were provided.

The Preliminary Surface Water Drainage Strategy submitted in support of the application identifies that a comprehensive sustainable drainage system will be implemented to prevent runoff from this development increasing flood risk on surrounding land. The detailed design of the drainage proposal will be established at detailed design stage. An indicative strategy has been provided to show that SuDS can be provided at the site.

It is proposed that drainage from the proposed development will consist of three separate SuDS attenuation basins which are located within each sub catchment. The flows from SuDS features located within catchment areas 1 and 2 will be discharged to an anti-tank ditch at rates agreed with ADC. Flows from catchment area 3, will be discharged into the watercourse at rate to be approved by ADC.

The proposed drainage strategy has been considered by the Council's drainage engineers who have raised no objection. The indicative drainage strategy accords with the opportunities identified within the Arun Strategic Surface Water Management Study - Stage 3 Report (October 2016) and the detailed drainage design should reflect the finding of this report.

A number of conditions have been requested by the Council's Drainage Engineers and these conditions have been incorporated into the recommendation. These conditions have included the requirement for winter groundwater monitoring to be undertaken prior to the commencement of development. This work will ensure that the detailed design of the SuDS will take account of site specific considerations.

#### FOUL DRAINAGE

Southern Water has been consulted in relation to this application and has advised that their initial investigations indicate that they cannot provide foul sewage disposal to service the proposed development.

Southern Water in their most recent consultation response dated the 13th April 2018 have stated that a

foul connection at the "practical point of connection" as defined in the New Connections Services implemented from the 1st April 2018 would result in an increased risk of flooding unless network reinforcement is undertaken. The reinforcement work will need to be provided by Southern Water and will be funded via the new infrastructure charge.

However, this was considered as part of the Arun Local Plan Examination in Public and it was identified that the agreed approach for addressing waste water treatment capacity for the strategic allocations at Pagham in the Arun Local Plan, is to divert flows to Lidsey and Ford WWTW, with reinforcement works (funded by developer contributions) to plants and pumping mains to be brought forward over time in line with housing delivery.

Southern Water have stated that they will need to work with the developer to understand the development program and review if the delivery of network reinforcement aligns with the occupation of the development. A condition has been requested by Southern Water to secure this and it is considered that this will be necessary to avoid any unacceptably adverse impact upon Pagham Harbour SPA/Ramsar in accordance with policy ENV DM2 of the Arun Local Plan.

#### BUILT HERITAGE AND LISTED BUILDINGS

Paragraphs 20(d) of the National Planning Policy Framework (NPPF) states that the planning system should contribute to and enhance the natural and local environment.

Paragraph 190 of the NPPF identifies that the LPA should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including development which may affect the setting of a heritage asset), taking into account any available evidence and necessary expertise.

Paragraph 192 of the NPPF states that in the determination of planning applications the LPA should take account of the desirability of sustaining and enhancing the significance of a heritage asset; the positive contribution that conservation of heritage assets can make to sustainable communities; and the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be. Irrespective of whether any potential harm amounts to substantial harm.

Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of the designated heritage asset, this harm should be weighed against the public benefits of the proposal.

There are three listed buildings situated between 48 and 70m to the south of the application site, these buildings are 92, 96 and 98 Rose Green Road and these are residential dwellings identified as Grade II listed buildings.

These listed buildings are separated from the application site by existing residential development and as such it is considered that the proposed residential development will result in less than significant harm.

A further 3 listed buildings are situated approximately 650m to the north (south of Lower Bognor Road) and 2 are situated 650m to east of the application site (east of Pagham Road). These are all agricultural farm buildings and as such the rural countryside surrounding them is a key aspect of their setting.

Given the separation distances between the application site and the nearest listed building, and the retention of significant agricultural land to the north of the application site it is considered that the

proposed development will not have an unacceptable adverse impact upon the significance these nearby heritage assets.

Therefore, it is considered that the proposed development will preserve the setting of listed buildings surrounding the site and as such would accord with policies HER SP1, HER DM1 and HER DM4 of the Arun Local Plan. It should also be considered that the proposed development makes a significant contribution to the Local Planning Authorities housing land supply and is an allocated site within the Arun Local Plan. Therefore, it is considered that the public benefits of the development would outweigh any harm to the setting or significance of heritage assets in accordance with paragraphs 196 and 197 of the NPPF.

#### **ARCHAEOLOGY**

The proposal has been considered by the Council's Archaeology Adviser who has stated that the potential of the proposed development to impact on unknown remains of archaeological importance justifies an investigation of the site and would be best secured via a suitably worded condition. This condition has been included as part of the recommendation and it is considered that by virtue of this the proposed development will accord with policy HER DM6 of the Arun Local Plan.

#### **RENEWABLE ENERGY**

Policy ECC SP2 of the Arun Local Plan identifies that major developments must produce 10% of the total predicted energy requirements from renewable or low carbon energy generation on site, unless it can be demonstrated that this is unviable. A condition has been included with this recommendation report requiring the submission of details for approval by the Local Planning Authority as to how this will be achieved on site.

#### **SUMMARY**

The proposed development is considered to be acceptable in principle as has been established above and it has been identified within the report that the proposal will not conflict with the development plan.

The impact of the proposed development upon existing infrastructure has been mitigated through financial contribution and the provision of services and facilities. Adequate mitigation measures have also been identified which will mitigate the impact of the development upon the Pagham Harbour SPA/Ramsar site to the south-west of the application site. The developer has also agreed to provide 30% affordable housing which equates to 84 dwellings for a scheme of 280 units.

Therefore, the proposed development is deemed to accord with the requirements of policy H SP2 and will cumulatively meet the requirements of H SP2a (SD1 & SD2) in conjunctions with planning applications P/140/16/OUT and P/6/17/OUT.

#### **HUMAN RIGHTS ACT**

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to

be a proportionate response to the submitted application based on the considerations set out in this report.

**DUTY UNDER THE EQUALITIES ACT 2010**

Duty under the Equalities Act 2010

In assessing this proposal the impacts upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation) have been considered in the determination of this application.

The proposal would have a neutral impact on the protected characteristics.

**SECTION 106 DETAILS**

See attached Heads of Terms summary.

**RECOMMENDATION**

**APPROVE CONDITIONALLY SUBJECT TO A SECTION 106 AGREEMENT**

1 The permission hereby granted is an outline permission under s92 of the Town and Country Planning Act 1990 (as amended) and an application for the approval of the Local Planning Authority to the following matters must be made not later than the expiration of 3 years beginning with the date of this permission:-

- (a) Layout;
- (b) Scale;
- (c) Appearance;
- (d) Landscaping.

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 (as amended).

2 The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission, or before the expiration of 2 years from the date of the approval of the last of the reserved matters to be approved, whichever is the later.

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 (as amended).

3 The development hereby permitted shall be carried out in accordance with the following approved plans:

- Site Location Plan - CSA/2038/113 Rev D
- Proposed Access Arrangements - 12-018-024 Rev C

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy D DM1 of the Arun Local Plan (2011-2031).

4 No development shall take place until a detailed scheme of phasing for the construction of the dwellings and associated highways and public areas has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a schedule identifying the order of commencement and completion within each phase of construction.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the phasing of the development needs to be satisfactory before work commences.

- 5 No development shall be carried out unless and until a schedule of materials and finishes to be used for external walls and roofs of the proposed buildings has been submitted to and approved by the Local Planning Authority. A 'statement of detail' shall be submitted setting out details of proposed windows and doors, details of the depth of recess/reveal from the brickwork, sills and lintels, brick bonding, brick detailing, eaves detailing and rainwater goods. The materials and 'statement of details' so approved shall be used in the construction of the buildings.

Reason: To enable the Local Planning Authority to control the development in details in the interests of amenity by endeavouring to achieve buildings of visual quality in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the use of satisfactory external materials goes to the heart of the planning permission.

- 6 The first reserved matters application shall be accompanied by a design code masterplan. This document shall demonstrate how the detailed proposals will reflect the objectives of the;

- Development Framework Plan - CSA/2038/119 Rev D - Development Framework Plan Option 1

- Development Framework Plan - CSA/2038/120 Rev F - Development Framework Plan Option 2 and Option 3

- Design and Access Statement - December 2016

The design code masterplan will provide further details on matters such as character areas, street hierarchy, building typologies, key buildings, the approach to car parking, structural planting, street furniture, lighting and treatment of the public realm. The development shall be carried out in accordance with the approved design code masterplan.

Reason: To enable the Local Planning Authority to control the development in details in the interests of amenity by endeavouring to achieve buildings of visual quality in accordance with Policy D DM1 of the Arun Local Plan.

- 7 The landscaping and layout particulars to be submitted in accordance with Condition 1 shall include:

- i. Details of all existing trees and hedgerows on the land, showing which are to be retained and which removed;

- ii. Details of the positions, height, design, materials and type of boundary treatment to be provided;

- iii. Details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree

- iv. The detailed hard and soft landscape design for the development including the layout and design of the public realm within the development;

- v. Details of the surfacing, lighting and signage of all footpaths, cycle routes and a phasing plan for their provision;

No hedge or tree shall be felled, uprooted or otherwise removed before, during or after the

construction period except where removal is indicated on a plan approved by the Local Planning Authority.

Reason: In the interests of amenity and of the environment of the development in accordance with Policy ENV DM4 of the Arun Local Plan.

- 8 Landscaping (hard and soft) shall be carried out in accordance with the approved details. All planting, seeding or turfing comprised in the approved details shall be carried out in the first planting and seeding seasons following the first occupation of each phase or sub phase of the development hereby permitted or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the phase or sub-phase die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of amenity and of the environment of the development in accordance with Policy D DM1 of the Arun Local Plan.

- 9 Prior to the commencement of the development an Arboricultural Method Statement and Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority and the development shall be undertaken in strict accordance with the details so approved.

Reason: To ensure the retention and maintenance of trees and vegetation which are an important feature of the area in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the protection and retention of trees goes to the heart of the planning permission.

- 10 Development shall not commence until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall adhere to the principles below;

- The design should following the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDs Manual Produced by CIRIA. Winter groundwater monitoring to established highest annual ground water levels and percolation testing to BRE 365, or similar approved, will be required to support the design of any infiltration drainage.

- The development shall not proceed until formal consent has been approved in writing from the Lead Local Flood Authority (WSCC) or its agent (ADC) for the discharge of any flows to watercourses, or the culverting, diversion, infilling or obstruction of any watercourses on the site. Any discharge of watercourse must be at a rate no greater than the pre-development run off values.

- Arrangements for future access and maintenance of any watercourse or culvert (piped watercourse) crossing or abutting the site.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure that the surface water disposal scheme is agreed before construction commences and to protect existing watercourses prior to the commencement of development.

- 11 No building shall be occupied until the complete surface water drainage system serving it has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.



Reason: To ensure that the proposed development is satisfactorily drained in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan.

- 12 Development shall not commence until full details of the maintenance and management of the surface water drainage system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. Upon completed construction of the surface water drainage system, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure that the future maintenance and funding arrangements for the surface water disposal scheme are agreed before construction commences.

- 13 Upon completed construction of the surface water drainage system but prior to occupation of any part of the scheme, the owner or management company shall either provide the local planning authority with an updated copy of the management manual incorporating any changes as a result of construction/implementation or confirm in writing that no changes are required to the manual.

No further changes shall be made to the approved surface water drainage system Maintenance & Management Plan/Regime including the management company responsible or the financial arrangements between the owners of the dwellings & the management company other than with the written consent of the Local Planning Authority.

The owner or management company shall thereafter strictly adhere to and implement the recommendations contained within the manual to ensure that the system is maintained in perpetuity.

Reason: To ensure the efficient maintenance and on-going operation of the surface water drainage system and to ensure the best practice in line with guidance set out in 'The SuDS Manual' CIRIA publication ref: C753 Chapter 32, in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan.

- 14 Before the development hereby permitted is commenced, details of the proposed foul drainage system shall be submitted to and approved in writing by the Local Planning Authority (including details of its siting, design and subsequent management/maintenance, if appropriate).

Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that waste water network capacity is available to adequately drain the development and no dwelling shall be occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details of any phase or sub-phase.

Reason: To ensure adequate infrastructure is provided to enable the scheme to be satisfactorily drained and avoids adverse impacts upon the Pagham Harbour SPA/Ramsar in accordance with policies D DM1, W DM1, W SP1, ENV DM2 and H SP2a of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the foul drainage system goes to the heart of the planning permission.

- 15 Prior to the commencement of development of any preparatory works an Ecological Protection & Enhancement Plan shall be submitted to and agreed in writing by the Council. The Plan shall be based on the mitigation measures proposed in Ecological Appraisal dated December 2016 prepared by Aspect Ecology and will include a programme of ecological monitoring to inform the long term management of the site. The Ecological Protection & Enhancement Plan shall include a full mitigation strategy for reptiles and a work programme with clear timelines for each mitigation measure to be carried out. The mitigation measures shall be implemented in accordance with the timescales set out in the agreed plan.

Reason: This condition is necessary to ensure the protection of wildlife and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site in line with national guidance and Policy ENV SP1 and ENV DM5 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because of the need ensure measures are in place to protect wildlife and habitats on site prior to any disturbance.

- 16 Prior to the occupation of any dwelling of a particular phase, a scheme for external lighting shall be submitted and approved in writing by the Local Planning Authority. The scheme shall ensure that the lighting is sensitive to bats by minimising the lighting of the woodland along the southern and western boundaries and shall comply with Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light, Obtrusive Light Limitations for Exterior Lighting Installations for Zone E3.

The scheme should also minimise potential impacts to any bats using the trees, hedgerows and buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding and no lighting will be installed within the buffer zones and GI areas. The lighting approved shall be installed and shall be maintained in accordance with the approved details.

Reason: To control the residential amenities of the local environment in accordance with Policies D DM1 and QE DM2 of the Arun Local Plan.

- 17 Prior to the commencement of development, including any works of demolition, a Construction Management Plan shall be submitted for approval in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- full details of the construction compound,
- soil resources plan,
- dust mitigation measures,
- noise reduction measures,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- the provision of effective wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- details of public engagement both prior to and during construction works.

Reason: In the interests of highway safety and the amenities of the area in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because of the safety and amenity issues that need to be addressed.

- 18 During the construction phase no machinery/vehicles or plant shall be operated on the site, no process shall be carried out and no deliveries taken at or despatched except between the hours of:

7.00 a.m. and 6.00 p.m. on Mondays to Fridays inclusive

8.00 a.m. and 1.00 p.m. on Saturday

Not at any time on Sundays or Public Holidays

Reason: In the interests of amenity in accordance with Policies D DM1 and QE DM1 of the Arun Local Plan.

- 19 No raw materials, finished or unfinished products or parts, crates, packing materials or waste shall be stacked or stored on the site except within the storage areas identified in the Construction Management Plan at any time approved by the Local Planning Authority.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy D DM1 of the Arun Local Plan.

- 20 Prior to commencement of development the applicant shall prepare and submit for approval an Employment and Skills Plan for the construction phase of development. Following approval of the Employment and Skills Plan the developer will implement and promote the objectives of the approved plan.

Reason: in accordance with Policy SKILLS SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to as it relates to the construction phase of development.

- 21 No use within the development shall be first occupied until such time as the access to the site from Sefter Road has been provided in accordance with the details shown on drawing no. 12-018-024 Rev C.

Reason: In the interests of amenity and to avoid unacceptable harm to highway safety in accordance with policy T SP1 of the Arun Local Plan.

- 22 Prior to development commencing, a construction programme for the development setting-out when roads, footpaths, walking, cycling and emergency routes are to be constructed is submitted to and agreed with the LPA after consultation with the County Highway Authority. Once agreed, the internal roads, footways, footpaths, cycleways and emergency routes shall be constructed in accordance with the programme and plans.

Reason: In the interests of road safety and to ensure timely delivery of all necessary infrastructure in accordance with policy T SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the programme will set out the phasing for the implementation of development.

- 23 Development shall only be occupied when the road(s), footways, and casual parking areas serving those parts of the development built and ready for occupation have been constructed, surfaced and drained in accordance with plans and details to be submitted to and approved by the Local Planning Authority.

Reason: To secure satisfactory standards of access for the proposed development in

accordance with T SP1 and T DM1 of the Arun Local Plan.

- 24 No part of the development shall be first occupied until the car parking spaces and where shown, garages, have been constructed in accordance with plans and details submitted to and approved in writing by the Local Planning Authority. These spaces shall thereafter be retained at all times for their designated use.

Reason: To provide car-parking space for the use in accordance with policy T SP1 of the Arun Local Plan.

- 25 No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority.

Reason: To promote and encourage sustainable transport to and from the proposed development in accordance with policy T DM1 of the Arun Local Plan.

- 26 No part of the development shall be first occupied until provision for street lighting has been made at the junction of the access road with Sefter Road and within the site in accordance with plans and details to be submitted to and approved by the Local Planning Authority to ensure appropriate lighting for the development.

Reason: In the interests of road safety in accordance with policy T SP1 of the Arun Local Plan.

- 27 No part of the development shall be first occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan once approved shall thereafter be implemented as specified within the approved document. The Travel Plan shall be completed in accordance with the latest guidance and good practice documentation as published by the Department for Transport or as advised by the Highway Authority.

Reason: To encourage and promote sustainable transport in accordance with Policies D DM1 and T SP1 of the Arun Local Plan.

- 28 Before development commences a scheme identifying the principles to be incorporated into detailed building design as the means of energy conservation, together with on-site energy renewable devices, shall be submitted to and agreed with the Local Planning Authority. Such scheme as is submitted shall seek as a target the provision of on-site renewable energy which will generate an estimated 10% of annual energy requirements of the buildings granted planning permission. In determining the provision of on-site energy generation account will be taken of the impact on the viability of the development. Such scheme as is approved will be implemented in accordance with the scheme.

Reason: In accordance with Policy ECC SP2 of the Arun Local Plan. It is considered necessary for this be a pre-commencement condition as sustainability goes to the heart of the approval.

- 29 Prior to the commencement of development, a strategy for the provision or facilitation of broadband provision to future occupants of the site shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall seek to ensure that upon occupation of a dwelling, either a landline or ducting to facilitate the provision of a broadband service to that dwelling from a site-wide network, is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway. Unless evidence is put forward and agreed in writing by the Local Planning Authority that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure, the development of the site shall be carried out in accordance with the approved strategy.

Reason: To ensure that the needs of future residents to connect to the internet does not necessarily entail engineering works to an otherwise finished and high quality living environment in accordance with Policy TEL SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the provision of broadband needs to be incorporated into the design for the site.

- 30 No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

Reason: The site has the potential to contain unknown remains of archaeological importance therefore in accordance with Policies D DM1 and HER DM6 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because archaeology can only be investigated before construction commences.

- 31 The finished floor levels of the development shall be set no lower than 5.1m above Ordnance Datum (AOD) as specified in the Flood Risk Assessment (FRA) 12-018 B dated December 2016.

Reason: In the interests of safety and to avoid unacceptable flood risks in accordance with policy W DM2 of the Arun Local Plan.

- 32 No occupation shall commence until a scheme for protecting the proposed dwellings from noise generated by the Osborne Refrigeration Site has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include details and location of any acoustic wall and/or fencing designed to protect amenity spaces and also window specification and ventilation requirements in order to achieve a suitable acoustic environment in line with BS 8233:2014 and World Health Organisation guidelines 1999. Any works which form part of the scheme approved by the Authority shall be completed before any permitted dwelling is occupied, unless an alternative period is agreed in writing by the Authority.

Reason: In the interests of amenity in accordance with policy D DM1 and QE DM1 of the Arun Local Plan.

- 33 Prior to the commencement of development, an Electric Vehicle Charging Strategy will be prepared and submitted to the Local Planning Authority which identifies the nature, form and location of electric charging infrastructure to be provided across the development. The electric vehicle strategy shall then be implemented in accordance with the approved details.

Reason: New petrol and diesel cars/vans will not be sold beyond 2040, and to mitigate against any potential adverse impact of the development on local air quality, in accordance with Policy D DM1 and Policy QE DM3 (c) of the Arun Local Plan and the NPPF. It is considered necessary for this to be a pre-commencement condition to ensure that the requisite charging infrastructure is designed into the housing development and it is implemented.

- 34 Prior to the commencement of development, a statement shall be submitted which will provide details of how the WW2 Infantry Section Post will be retained on site and integrated as part of the proposals. The development shall be carried out in accordance with the approved statement, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To preserve the significance of the non-designated heritage asset in accordance with Policy HER SP1 of the Arun Local Plan and paragraph 197 of the National Planning Policy Framework and to ensure that historic building feature is protected and preserved. It is necessary for this condition to be pre-commencement to avoid any harm to the significance of

the non-designated heritage asset.

- 35 INFORMATIVE: The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981, with only a few exceptions, it is an offence for any person to intentionally take, damage or destroy the nest of any wild birds while the nest is in use or being built. Birds nest between March and September and therefore removal of dense bushes, ivy or trees or parts of trees etc. during this period could lead to an offence under the act.
- 36 INFORMATIVE: This notice does not give authority to destroy or damage a bat roost or disturb a bat. Bat species are protected under Section 39 of the 1994 Conservation (Natural Habitats etc ) Regulations (as amended), the 1981 Wildlife and Countryside Act (as amended) and the 2000 Countryside and Rights of Way Act. It is illegal to damage or destroy any bat roost, whether occupied or not, or disturb or harm a bat. If you are aware that bats roost in a tree(s) for which work is planned, you should take further advice from Natural England (via the Bat Conservation Trust on 0845 1300228) or an ecological consultant before you start. If bats are discovered during the work, you must stop immediately and contact Natural England before continuing.
- 37 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Application for Outline Consent

**DECISION NOTICE**

Application Ref: P/134/16/OUT

**1 To Addressee**

Miss H Hunjan  
Barton Willmore  
The Observatory  
Southfleet Road  
Ebbsfleet

**2 Site Address**

Land North of Sefter Road & 80 Rose Green Road  
Pagham

**3 Description of Development**

Outline application for the development of up to 280 dwellings (including affordable homes), land for a replacement scout hut, land for an Ambulance Community Response Post Facility and land for either a 1FE primary school or care home. Provision of a primary vehicular access from Sefter Road and demolition of No. 80 Rose Green Road and creation of a pedestrian and emergency only access. Provision of Public Open Spaces including associated children's play areas, landscaping, drainage and earthworks. This application also falls within the parish of Aldwick

**4** In pursuance of their powers under this Act and related Orders and Regulations the Council **PERMIT** this development to be carried out in accordance with the application and plans and subject to compliance with the following conditions and Section 106 Agreement.

1 The permission hereby granted is an outline permission under s92 of the Town and Country Planning Act 1990 (as amended) and an application for the approval of the Local Planning Authority to the following matters must be made not later than the expiration of 3 years beginning with the date of this permission:-

- (a) Layout;
- (b) Scale;
- (c) Appearance;
- (d) Landscaping.

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 (as amended).

2 The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission, or before the expiration of 2 years from the date of the approval of the last of

the reserved matters to be approved, whichever is the later.

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 (as amended).

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan - CSA/2038/113 Rev D  
Proposed Access Arrangements - 12-018-024 Rev C

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy D DM1 of the Arun Local Plan (2011-2031).

- 4 No development shall take place until a detailed scheme of phasing for the construction of the dwellings and associated highways and public areas has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a schedule identifying the order of commencement and completion within each phase of construction.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the phasing of the development needs to be satisfactory before work commences.

- 5 No development shall be carried out unless and until a schedule of materials and finishes to be used for external walls and roofs of the proposed buildings has been submitted to and approved by the Local Planning Authority. A 'statement of detail' shall be submitted setting out details of proposed windows and doors, details of the depth of recess/reveal from the brickwork, sills and lintels, brick bonding, brick detailing, eaves detailing and rainwater goods. The materials and 'statement of details' so approved shall be used in the construction of the buildings.

Reason: To enable the Local Planning Authority to control the development in details in the interests of amenity by endeavouring to achieve buildings of visual quality in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the use of satisfactory external materials goes to the heart of the planning permission.

- 6 The first reserved matters application shall be accompanied by a design code masterplan. This document shall demonstrate how the detailed proposals will reflect the objectives of the;

- Development Framework Plan - CSA/2038/119 Rev D - Development Framework Plan Option 1
- Development Framework Plan - CSA/2038/120 Rev F - Development Framework Plan Option 2 and Option 3

- Design and Access Statement - December 2016

The design code masterplan will provide further details on matters such as character areas, street hierarchy, building typologies, key buildings, the approach to car parking, structural planting, street furniture, lighting and treatment of the public realm. The development shall be carried out in accordance with the approved design code masterplan.

Reason: To enable the Local Planning Authority to control the development in details in the interests of amenity by endeavouring to achieve buildings of visual quality in accordance with Policy D DM1 of the Arun Local Plan.

- 7 The landscaping and layout particulars to be submitted in accordance with Condition 1 shall



include:

- i. Details of all existing trees and hedgerows on the land, showing which are to be retained and which removed;
- ii. Details of the positions, height, design, materials and type of boundary treatment to be provided;
- iii. Details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree
- iv. The detailed hard and soft landscape design for the development including the layout and design of the public realm within the development;
- v. Details of the surfacing, lighting and signage of all footpaths, cycle routes and a phasing plan for their provision;

No hedge or tree shall be felled, uprooted or otherwise removed before, during or after the construction period except where removal is indicated on a plan approved by the Local Planning Authority.

Reason: In the interests of amenity and of the environment of the development in accordance with Policy ENV DM4 of the Arun Local Plan.

- 8 Landscaping (hard and soft) shall be carried out in accordance with the approved details. All planting, seeding or turfing comprised in the approved details shall be carried out in the first planting and seeding seasons following the first occupation of each phase or sub phase of the development hereby permitted or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the phase or sub-phase die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of amenity and of the environment of the development in accordance with Policy D DM1 of the Arun Local Plan.

- 9 Prior to the commencement of the development an Arboricultural Method Statement and Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority and the development shall be undertaken in strict accordance with the details so approved.

Reason: To ensure the retention and maintenance of trees and vegetation which are an important feature of the area in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the protection and retention of trees goes to the heart of the planning permission.

- 10 Development shall not commence until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall adhere to the principles below;

- The design should following the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDs Manual Produced by CIRIA. Winter groundwater monitoring to established highest annual ground water levels and percolation testing to BRE 365, or similar approved, will be required to support the design of any infiltration drainage.

- The development shall not proceed until formal consent has been approved in writing from the Lead Local Flood Authority (WSCC) or its agent (ADC) for the discharge of any flows to watercourses, or the culverting, diversion, infilling or obstruction of any watercourses on the site. Any discharge of watercourse must be at a rate no greater than the pre-development run off

values.

- Arrangements for future access and maintenance of any watercourse or culvert (piped watercourse) crossing or abutting the site.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure that the surface water disposal scheme is agreed before construction commences and to protect existing watercourses prior to the commencement of development.

- 11 No building shall be occupied until the complete surface water drainage system serving it has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan.

- 12 Development shall not commence until full details of the maintenance and management of the surface water drainage system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. Upon completed construction of the surface water drainage system, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure that the future maintenance and funding arrangements for the surface water disposal scheme are agreed before construction commences.

- 13 Upon completed construction of the surface water drainage system but prior to occupation of any part of the scheme, the owner or management company shall either provide the local planning authority with an updated copy of the management manual incorporating any changes as a result of construction/implementation or confirm in writing that no changes are required to the manual.

No further changes shall be made to the approved surface water drainage system Maintenance & Management Plan/Regime including the management company responsible or the financial arrangements between the owners of the dwellings & the management company other than with the written consent of the Local Planning Authority.

The owner or management company shall thereafter strictly adhere to and implement the recommendations contained within the manual to ensure that the system is maintained in perpetuity.

Reason: To ensure the efficient maintenance and on-going operation of the surface water drainage system and to ensure the best practice in line with guidance set out in 'The SuDS Manual' CIRIA publication ref: C753 Chapter 32, in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan.

- 14 Before the development hereby permitted is commenced, details of the proposed foul drainage system shall be submitted to and approved in writing by the Local Planning Authority (including details of its siting, design and subsequent management/maintenance, if appropriate).

Occupation of the development is to be phased and implemented to align with the delivery by

Southern Water of any sewerage network reinforcement required to ensure that waste water network capacity is available to adequately drain the development and no dwelling shall be occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details of any phase or sub-phase.

Reason: To ensure adequate infrastructure is provided to enable the scheme to be satisfactorily drained and avoids adverse impacts upon the Pagham Harbour SPA/Ramsar in accordance with policies D DM1, W DM1, W SP1, ENV DM2 and H SP2a of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the foul drainage system goes to the heart of the planning permission.

- 15 Prior to the commencement of development of any preparatory works an Ecological Protection & Enhancement Plan shall be submitted to and agreed in writing by the Council. The Plan shall be based on the mitigation measures proposed in Ecological Appraisal dated December 2016 prepared by Aspect Ecology and will include a programme of ecological monitoring to inform the long term management of the site. The Ecological Protection & Enhancement Plan shall include a full mitigation strategy for reptiles and a work programme with clear timelines for each mitigation measure to be carried out. The mitigation measures shall be implemented in accordance with the timescales set out in the agreed plan.

Reason: This condition is necessary to ensure the protection of wildlife and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site in line with national guidance and Policy ENV SP1 and ENV DM5 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because of the need ensure measures are in place to protect wildlife and habitats on site prior to any disturbance.

- 16 Prior to the occupation of any dwelling of a particular phase, a scheme for external lighting shall be submitted and approved in writing by the Local Planning Authority. The scheme shall ensure that the lighting is sensitive to bats by minimising the lighting of the woodland along the southern and western boundaries and shall comply with Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light, Obtrusive Light Limitations for Exterior Lighting Installations for Zone E3.

The scheme should also minimise potential impacts to any bats using the trees, hedgerows and buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding and no lighting will be installed within the buffer zones and GI areas. The lighting approved shall be installed and shall be maintained in accordance with the approved details.

Reason: To control the residential amenities of the local environment in accordance with Policies D DM1 and QE DM2 of the Arun Local Plan.

- 17 Prior to the commencement of development, including any works of demolition, a Construction Management Plan shall be submitted for approval in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- full details of the construction compound,
- soil resources plan,
- dust mitigation measures,
- noise reduction measures,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,

- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- the provision of effective wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- details of public engagement both prior to and during construction works.

Reason: In the interests of highway safety and the amenities of the area in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because of the safety and amenity issues that need to be addressed.

- 18 During the construction phase no machinery/vehicles or plant shall be operated on the site, no process shall be carried out and no deliveries taken at or despatched except between the hours of:

7.00 a.m. and 6.00 p.m. on Mondays to Fridays inclusive

8.00 a.m. and 1.00 p.m. on Saturday

Not at any time on Sundays or Public Holidays

Reason: In the interests of amenity in accordance with Policies D DM1 and QE DM1 of the Arun Local Plan.

- 19 No raw materials, finished or unfinished products or parts, crates, packing materials or waste shall be stacked or stored on the site except within the storage areas identified in the Construction Management Plan at any time approved by the Local Planning Authority.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy D DM1 of the Arun Local Plan.

- 20 Prior to commencement of development the applicant shall prepare and submit for approval an Employment and Skills Plan for the construction phase of development. Following approval of the Employment and Skills Plan the developer will implement and promote the objectives of the approved plan.

Reason: in accordance with Policy SKILLS SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to as it relates to the construction phase of development.

- 21 No use within the development shall be first occupied until such time as the access to the site from Sefter Road has been provided in accordance with the details shown on drawing no. 12-018-024 Rev C.

Reason: In the interests of amenity and to avoid unacceptable harm to highway safety in accordance with policy T SP1 of the Arun Local Plan.

- 22 Prior to development commencing, a construction programme for the development setting-out when roads, footpaths, walking, cycling and emergency routes are to be constructed is submitted to and agreed with the LPA after consultation with the County Highway Authority. Once agreed, the internal roads, footways, footpaths, cycleways and emergency routes shall be constructed in accordance with the programme and plans.

Reason: In the interests of road safety and to ensure timely delivery of all necessary infrastructure in accordance with policy T SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the programme will set out the phasing for the implementation of development.

- 23 Development shall only be occupied when the road(s), footways, and casual parking areas serving those parts of the development built and ready for occupation have been constructed, surfaced and drained in accordance with plans and details to be submitted to and approved by the Local Planning Authority.

Reason: To secure satisfactory standards of access for the proposed development in accordance with T SP1 and T DM1 of the Arun Local Plan.

- 24 No part of the development shall be first occupied until the car parking spaces and where shown, garages, have been constructed in accordance with plans and details submitted to and approved in writing by the Local Planning Authority. These spaces shall thereafter be retained at all times for their designated use.

Reason: To provide car-parking space for the use in accordance with policy T SP1 of the Arun Local Plan.

- 25 No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority.

Reason: To promote and encourage sustainable transport to and from the proposed development in accordance with policy T DM1 of the Arun Local Plan.

- 26 No part of the development shall be first occupied until provision for street lighting has been made at the junction of the access road with Sefter Road and within the site in accordance with plans and details to be submitted to and approved by the Local Planning Authority to ensure appropriate lighting for the development.

Reason: In the interests of road safety in accordance with policy T SP1 of the Arun Local Plan.

- 27 No part of the development shall be first occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan once approved shall thereafter be implemented as specified within the approved document. The Travel Plan shall be completed in accordance with the latest guidance and good practice documentation as published by the Department for Transport or as advised by the Highway Authority.

Reason: To encourage and promote sustainable transport in accordance with Policies D DM1 and T SP1 of the Arun Local Plan.

- 28 Before development commences a scheme identifying the principles to be incorporated into detailed building design as the means of energy conservation, together with on-site energy renewable devices, shall be submitted to and agreed with the Local Planning Authority. Such scheme as is submitted shall seek as a target the provision of on-site renewable energy which will generate an estimated 10% of annual energy requirements of the buildings granted planning permission. In determining the provision of on-site energy generation account will be taken of the impact on the viability of the development. Such scheme as is approved will be implemented in accordance with the scheme.

Reason: In accordance with Policy ECC SP2 of the Arun Local Plan. It is considered necessary for this be a pre-commencement condition as sustainability goes to the heart of the approval.

- 29 Prior to the commencement of development, a strategy for the provision or facilitation of broadband provision to future occupants of the site shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall seek to ensure that upon occupation of a dwelling, either a landline or ducting to facilitate the provision of a broadband service to that dwelling from a site-wide network, is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway. Unless evidence is

put forward and agreed in writing by the Local Planning Authority that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure, the development of the site shall be carried out in accordance with the approved strategy.

Reason: To ensure that the needs of future residents to connect to the internet does not necessarily entail engineering works to an otherwise finished and high quality living environment in accordance with Policy TEL SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the provision of broadband needs to be incorporated into the design for the site.

- 30 No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

Reason: The site has the potential to contain unknown remains of archaeological importance therefore in accordance with Policies D DM1 and HER DM6 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because archaeology can only be investigated before construction commences.

- 31 The finished floor levels of the development shall be set no lower than 5.1m above Ordnance Datum (AOD) as specified in the Flood Risk Assessment (FRA) 12-018 B dated December 2016.

Reason: In the interests of safety and to avoid unacceptable flood risks in accordance with policy W DM2 of the Arun Local Plan.

- 32 No occupation shall commence until a scheme for protecting the proposed dwellings from noise generated by the Osborne Refrigeration Site has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include details and location of any acoustic wall and/or fencing designed to protect amenity spaces and also window specification and ventilation requirements in order to achieve a suitable acoustic environment in line with BS 8233:2014 and World Health Organisation guidelines 1999. Any works which form part of the scheme approved by the Authority shall be completed before any permitted dwelling is occupied, unless an alternative period is agreed in writing by the Authority.

Reason: In the interests of amenity in accordance with policy D DM1 and QE DM1 of the Arun Local Plan.

- 33 Prior to the commencement of development, an Electric Vehicle Charging Strategy will be prepared and submitted to the Local Planning Authority which identifies the nature, form and location of electric charging infrastructure to be provided across the development. The electric vehicle strategy shall then be implemented in accordance with the approved details.

Reason: New petrol and diesel cars/vans will not be sold beyond 2040, and to mitigate against any potential adverse impact of the development on local air quality, in accordance with Policy D DM1 and Policy QE DM3 (c) of the Arun Local Plan and the NPPF. It is considered necessary for this to be a pre-commencement condition to ensure that the requisite charging infrastructure is designed into the housing development and it is implemented.

- 34 Prior to the commencement of development, a statement shall be submitted which will provide details of how the WW2 Infantry Section Post will be retained on site and integrated as part of the proposals. The development shall be carried out in accordance with the approved statement, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To preserve the significance of the non-designated heritage asset in accordance with Policy HER SP1 of the Arun Local Plan and paragraph 197 of the National Planning Policy

Framework and to ensure that historic building feature is protected and preserved. It is necessary for this condition to be pre-commencement to avoid any harm to the significance of the non-designated heritage asset.

INFORMATIVE: The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981, with only a few exceptions, it is an offence for any person to intentionally take, damage or destroy the nest of any wild birds while the nest is in use or being built. Birds nest between March and September and therefore removal of dense bushes, ivy or trees or parts of trees etc. during this period could lead to an offence under the act.

INFORMATIVE: This notice does not give authority to destroy or damage a bat roost or disturb a bat. Bat species are protected under Section 39 of the 1994 Conservation (Natural Habitats etc ) Regulations (as amended), the 1981 Wildlife and Countryside Act (as amended) and the 2000 Countryside and Rights of Way Act. It is illegal to damage or destroy any bat roost, whether occupied or not, or disturb or harm a bat. If you are aware that bats roost in a tree(s) for which work is planned, you should take further advice from Natural England (via the Bat Conservation Trust on 0845 1300228) or an ecological consultant before you start. If bats are discovered during the work, you must stop immediately and contact Natural England before continuing.

INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



Neil Crowther  
Group Head of Planning

Case Officer: Claire Potts

Decision Issued: **15th October 2019**

Arun District Council  
The Arun Civic Centre  
Maltravers Road  
Littlehampton  
West Sussex BN17 5LF

**IT IS IMPORTANT THAT YOU READ THE NOTES ATTACHED TO THIS DOCUMENT**

## **APPEALS TO THE SECRETARY OF STATE**

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, and you want to appeal against this planning application decision, then you must do so within 28 days of the date of this notice.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and you want to appeal against this planning application decision, then you must do so within 28 days of the date of service of the enforcement notice, or within 12 weeks of the date of this notice, whichever period expires earlier.

Otherwise, if you want to appeal against this decision then you must do so within 6 months of the date of this notice.

Appeals must be using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at <http://acp.planninginspectorate.gov.uk>

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

## **PURCHASE NOTICES**

If either the local planning authority or the Secretary of State refused permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (that is, where the land is situated in a National Park, the National Park authority for the Park, or in any other case the district council in whose area the land is situated). This notice will require the Council to purchase the owner's interest in the land in accordance with the provisions of Chapter 1 of Part VI of the Town & Country Planning Act 1990.

Please note that this decision notice only relates to matters under the Planning Acts and does not give consent under any other legislation that may apply to the development. You will need to carry out your own checks to determine whether any other consents or permissions are required. For example, the Building Regulations are likely to apply to most developments, and a Highways Licence may be required from West Sussex County Council for any development within the public highway (including the placing of skips on highway land).



## REPORT UPDATE

Application No: P/140/16/OUT

### Reason for the Update / Changes

Reason for Update/Changes:

#### 1. Clarification on position of WSCC in relation to the Secondary School Contribution;

The Local Education Authority in their consultation response to this application identified that the secondary contributions should be directed towards Felpham Community College for expansion. The Local Planning Authority (LPA) are instead seeking for these contributions to be directed towards the provision of the new secondary school in the centre of the District in accordance with the Infrastructure Delivery Plan 2017 (IDP).

WSCC have raised concerns with the proposed diversions of the financial contributions towards the 'new secondary school' and have stated that they were not consulted on this change.

On the 18th September the LPA requested that WSCC provide a statement which clearly sets out for each of the strategic sites an indicative figure of how much each will be contributing and whether the site will be contributing to the new secondary school or an existing secondary school. However, to date this document has not been provided by WSCC.

#### 2. Provision of the primary school land;

Two potential options for inclusion in the s106 agreement are currently being considered by the LPA, either that;

(a) The primary school land will now be available to WSCC from the grant of planning permission as opposed to the commencement of development. Therefore, the Hook Lane primary school land is no longer required as there is certainty that the Summer Lane site can be secured, or

(b) The Hook Lane primary school site will be secured (as a potential fall back site) and relevant and proportional financial contributions will be provided by each of the developers towards the provision of the primary school in the instance that Summer Lane doesn't come forward.

In either scenario (a) or (b) above the primary school land will be secured and IDP compliant financial contributions will be secured.

#### 3. Additional section incorporated in relation to the Open Space and Play Provision.

The indicative masterplan incorporates a total of approximately 5.35ha of open space provision which exceeds the Fields in Trust Standards by approximately 2.15 hectares. Therefore, the open space provision proposed by this development is considered sufficient and as such accords with policy OSR DM1 of the Arun Local Plan.

The indicative layout shows 8 Local Areas of Play (LAPs) and 2 Locally Equipped Areas of Play (LEAPs). The final location of these facilities will be a subject for consideration at Reserved Matters stage but the indicative provision is considered sufficient. The s106 agreement requires the submission of a Public Open Space Scheme which will incorporate the location and specification of any children's play areas

and that these facilities shall be completed prior to the occupation of 75% of dwellings within a phase. The public Open Space Scheme will also secure details of the play provision on site and details of how 1 no. LEAP (containing 6 'play experiences') and 1 no. enhanced LEAP (containing 9 'play experiences') will be accommodated on site. A proportional financial contributions towards providing fencing around the existing Multi Use Games Area (MUGA) at Avisford Recreation Ground will also be secured.

In lieu of on-site playing pitch provision a financial contribution has been secured towards the enhancement of existing playing fields and changing facilities at Westmeads recreation ground. This contribution is considered to accord with policy OSR DM1 (2) (b) of the Arun Local Plan.

Financial contributions have also been secured towards leisure provision within the district with contributions towards Swimming, Sports Halls and 3G Pitches being secured. The swimming and sports halls contributions will be directed towards the Arun Leisure Centre (Felpham Way, Bognor Regis). The Arun Leisure Centre is situated within 10 minutes' drive time of the development site which accords with Sports England recommendations on travel times for leisure facilities. The 3G pitch contribution will be directed towards the provision of a new 3G pitch to serve the western half of the district (within the catchment of Pagham) specifically to provide the base layer and pitch surface. Given the contributions which have been secured it is considered that the proposed development accords with policy OSR DM1 and HWB SP1 of the Arun Local Plan.

4. An additional Condition has been included in relation to the Brent Goose Mitigation Strategy;

No development shall commence until the applicant has submitted and the local planning authority (in consultation with Natural England) has approved the detailed management and maintenance scheme for the adjacent Pagham Harbour SPA Enhancement Land (as defined and referred to within the Agreement under s106 of the Town and Country Planning Act associated with the permission) which shall provide for:

- (a) the delivery of habitat enhancements (including some areas of additional planting) for Brent Geese on said land so as to achieve no net loss of foraging habitat for Brent Geese due to the development proposals;
- (b) the management of field boundary vegetation, associated with specific adjoining fields to enhance sight lines for Brent Geese, making this field matrix more suited to use by them; and
- (c) cessation of bird scaring initiatives on said land;

said measures and scheme to substantially accord with the details set out in Chapter 4 of the Ecology Solutions Ltd "Brent Goose Mitigation Plan" December 2017 submitted in support of the application.

5. An additional consultation response from Natural England was received on the 19th October 2018 which stated;

Natural England concurs with the HRA Report (EPR, September 2018) that the proposal is likely to have a significant effect on Pagham Harbour SPA/Ramsar through the increased recreational disturbance, loss of supporting habitat, and water quality impacts, in combination with other plans or projects.

We agree with the conclusions of the Appropriate Assessment, that mitigation measures are available to avoid an adverse effect on the integrity of the SPA/Ramsar. However, our view is that to avoid an adverse effect on the integrity of the SPA/Ramsar there should be no net loss of functionally linked land. To achieve this, a greater area within the brent good mitigation land needs to be planted with goose forage. Therefore, the detailed habitat management plan for the brent goose mitigation area must ensure no net loss of foraging resource to enable Arun District Council to be certain that impacts on brent geese

can and will be avoided.

Therefore, the following mitigation measures should be secured:

- Financial contribution to the Pagham Harbour Strategic Access Management and Monitoring (SAMM) Strategy;
- Greenspace totalling 3.92ha within the development site, managed to provide recreational space for people and their dogs. A costed management plan should be produced, with a suitable management company identified;
- Measures to minimise disturbance to brent geese foraging within fields adjacent to the application site;
- A detailed habitat management plan for the brent goose mitigation area should be produced, which sets out the habitat management over the whole 18.5ha area. This plan must ensure no net loss of foraging habitat available to brent geese. The plan should be costed and set out who will carry out the management work;
- Development should be phased to align with Southern Water's delivery of any necessary sewerage network reinforcement;
- A detailed surface water drainage strategy addressing both flood risk and water quality should be produced; including a management and maintenance plan, with a suitable management company identified.

We advise that appropriate planning conditions or obligation is attached to any planning permission to secure these measures.

6. An additional consultation response from Sussex Police was received on the 13th August 2018 and was not identified within the recommendation report. This consultation response provided updated S106 contributions and these amended figures have been incorporated within the heads of terms.

7. Amendments made to the s106 heads of terms to reflect agreed triggers and financial contributions. These amendments will be highlighted in bold on the amended heads of terms summary document.

8. Additional representations received from Pagham Parish Council. Summaries of these letters are provided below:

Comments received 27th September 2018;

- Allocations SD1 and SD2 will not help achieve sustainable development or deliver net gains across economic, social or environmental objectives and do not benefit from the presumption in favour of sustainable development contrary to the NPPF
- Applicants have failed to demonstrate that the presumption in favour of sustainable development applies
- The development proposed is premature
- Proposals are not in accordance with the development plan policies
- Failure to demonstrate how development can meet the requirements of policies SD SP1a, GI SP1, H SP2, ENV DM2 and H SP2a of the Local Plan
- Failure to demonstrate that the proposals would provide for the relevant infrastructure requirements specified in policies INF 1 and INF 2 and the Infrastructure Delivery Plan and have not provided a CIL compliant S106 Agreement.

Comments received 22nd October 2018;

- Reports include inaccuracies, imprecise and confusing statements regarding material information and fail to properly assess proposals against relevant development plan policies and fails to assess material considerations.
- Failure to resolve many issues relating to viability, deliverability and impact mitigation

- Lack of surety in reports over securing delivery of the development quantum or components
- Currently no lawful or enforcement means by which the contributions towards infrastructure would be collected or commitment to spending

9. Representations made by Pagham Parish Council and Oving Parish Council have been reported separately in the representation section of the report. Consultation responses from Aldwick Parish Council and North Mundham Parish Council were also received but were incorporated within the representation summary rather than being reported separately. Below is a summary of the specific comments submitted by each of the Parish Council's who were not reported individually;

#### ALDWICK PARISH COUNCIL

Comments received 08.02.2017 and 22.08.2017

- Development does not promote sustainable development.
- Proposal conflicts with policy GEN7 (iii), (iv), (v), (vi) and (vii) of the Arun Local Plan 2003.
- Proposal does not meet operation needs of agriculture or forestry in conflict with policy GEN3.
- Development would exacerbate existing flooding risks.
- The LPA needs to be satisfied that adequate drainage capacity exists or that appropriate drainage can be provided as part of the development.
- Members were concerned that surface water could drain into Pagham Rife.
- The use of prime agricultural land for development was ill-conceived.
- There are insufficient employment opportunities in the area to justify the number of houses.
- The already treacherous condition of the existing road should be resolved before any development takes place.
- Development would result in the destruction of 1 or more trees protected by a tree preservation order (TPO).

#### NORTH MUNDHAM PARISH COUNCIL

Comments received 10.02.2017

We are specifically concerned that none of the applications address the effects of these proposed developments on local traffic in our parish, pedestrian safety and traffic pollution (atmospheric and noise).

- The potential for increased local traffic flow, and the absence of any detailed analysis which comprehends the impact of development on the A27.
- The effect of increased traffic flow on pedestrian safety, particularly at junctions.
- Traffic pollution from both exhaust fumes and noise, particularly as it affects North Mundham School.
- Drainage and surface water and potential impact on Pagham Rife.
- The absence of any realistic cycle routes to ameliorate predicted traffic densities.
- The threat to the environment of Pagham Harbour.
- Remedial works to local road network insufficient to deal with cumulative impacts of traffic.

10. An additional 11 letters of objection have been received raising the following points:

- Adverse impact and disturbance of habitats and wildlife, including bats.
- Lose of productive farmland.
- Increase risk of sewerage discharge into Pagham Harbour, Pagham Treatment Works already at capacity.
- Pagham Road and other roads in area inadequate for additional traffic.
- Traffic levels dangerous for vehicles and cyclists.
- Essential services may be unable to cope with additional demand.
- Public transport improvements needed.
- Parking improvements required at shopping, leisure and other destinations.
- Traffic volumes unacceptable alone and in combination with other development.

- Flooding of roads would increase.
- Negative impact on local economy.
- Will there be sufficient employment.
- Unsustainable development.
- Other sites preferable e.g. Ford Airfield.
- Air pollution concerns.
- Responsibility for road repairs and timing of work to improve roads
- Query over provision for cyclists

11. The recommendation is amended and it is requested that authority be delegated to the Group Head of Planning in association with the Chair and Vice-Chair of Development Control Committee to allow for minor amendments to be made to the heads of terms.

Officers Comment:

1. The financial contribution will be in line with the request of WSCC but the project is yet to be agreed with the LPA disagreeing with the conclusions of WSCC in terms of the project.
2. Both options will generate appropriate financial contributions from the developer as well as secure sufficient land to provide the primary education provision in accordance with policy H SP2a of the Arun Local Plan and the IDP 2017.
3. The additional section on Open Space and Recreation confirms compliance of the proposal with relevant development plan policies.
4. The additional condition has been considered in the amended Appropriate Assessment.
5. The comments from Natural England have been noted and an additional condition has been incorporated to ensure no net loss of foraging habitat. It is considered that these comments do not result in any alteration to the recommendation of the LPA.
6. No additional comments.
7. The amendments include;
  - Update of the financial contributions towards police infrastructure in line with the most recent consultation response.
  - Additional contribution towards the existing Neighbourhood Equipped Area of Play at Pagham Village Hall.
  - Additional detail concerning the Primary School Land and the mechanism for transfer to WSCC.
  - Update to the triggers for some WSCC contributions.
8. The sustainability of the allocations was considered through the Local Plan process which included a sustainability appraisal of all of the strategic allocations. The presumption in favour of sustainable development states that for decision taking it means 'approving development proposals that accord with an up-to-date development plan without delay'. Paragraph 11d i) and ii) is not being applied in this instance because there are relevant development plan policies.

The Reports set out how the proposals accord with the up-to-date Local Plan and that there are no material considerations which indicate that a different decision should be reached.

The proposals are not considered to be premature as the Local Plan has now been adopted and therefore decisions would not undermine the plan-making process.

The Reports include specific reference to consideration of the proposals against policies H SP2, ENV DM2 and H SP2a of the Local Plan. Policy SD SP1a is listed in the policy context for each application and is a high level policy setting out the strategic approach to sustainable growth in the District. Therefore, whilst not specifically referenced within the report the proposed development accords with the relevant parts of policy SD SP1a which are deemed to be (a), (c), (e), (h), (i), (j) and (k) and have been considered in the conclusion to this report.

Policy GI SP1 is not listed in the Policy Context section for P/6/17/OUT and P/134/16/OUT but is relevant to the determination of this application. It is listed in the Policy Context for P/140/16/OUT. Policy GI SP1 relates to green infrastructure and development, identifying that major development must be designed to protect and enhance existing Green Infrastructure assets, and the connections between them, in order to ensure a joined up Green Infrastructure Network.

Paragraph 7.3.6 of the Arun Local Plan identifies Green Infrastructure assets in the district as;

- Parks and gardens;
- Natural and semi-natural urban green spaces;
- Grassland, wetlands, flood plains, open and running water, wastelands, derelict open land and the coast.
- Public rights of way;
- Twittens; and
- Outdoor sports facilities.

It is considered that the conclusion to this report has considered the impact of the development upon the green infrastructure network and found it to be acceptable. Financial contributions have been secured towards off-site enhancements as well as onsite provision of open space. Therefore, the proposed development is deemed to accord with policy GI SP1 of the Arun Local Plan.

9. The representations from Parish and Town Council's have already been taken into considered in the conclusion to this report.

10. These comments are considered to have already been taken into consideration in the determination of the planning application.

11. This will allow for finalisation of triggers points and other minor amendments in the drafting of the s106 as necessary.

Note: The changes to conditions are attached on the amended replacement recommendation sheet.

Please note that this report update only covers matters up until the 22nd October 2018 at 12pm. Any additional matters or representations submitted after this time and date will be presented to members as a verbal update.

**Notes: Changes to recommendations, conditions and / or reasons for refusal will always be reflected in the recommendation section of the attached Officer's Report.**

**Recommendation Report for Outline Consent**

REF NO: P/140/16/OUT

REPORT(ODB)

**LOCATION:** Land South of Summer Lane  
& West of Pagham Road  
Pagham

**PROPOSAL:** Outline application for access only - mixed use development comprising of up to 400 dwellings, a care home with up to 70 beds, a Local Centre comprising up to 2000sqm of A1/A2/A3/D1/sui generis floorspace, provision of land for a 1FE primary school (with sufficient space to ensure that it is expandable to 2FE), provision of land for a scout hut, safeguarding of land to help link the site to the Pagham Harbour Cycle Route & other community uses including public open space & allotments with some matters reserved.

<b>SITE AND SURROUNDINGS</b>
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<b>DESCRIPTION OF APPLICATION</b>	The application seeks outline permission with all matters reserved with the exception of access for a mixed use development comprising of up to 400 dwellings, a care home with up to 70 beds, a Local Centre comprising up to 2000sqm of A1/A2/A3/D1/sui generis floorspace, provision of land for a 1FE primary school (with sufficient space to ensure that it is expandable to 2FE), provision of land for a scout hut, safeguarding of land to help link the site to the Pagham Harbour Cycle Route & other community uses including public open space & allotments.
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<b>SITE AREA</b>	Approximately 22.97 hectares
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<b>RESIDENTIAL DEVELOPMENT DENSITY</b>	Approximately 17 dwellings per hectare (based on whole site).
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<b>TOPOGRAPHY</b>	Predominantly flat.
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<b>TREES</b>	The application proposes the felling of a number of trees on site. By virtue of the sites agricultural use trees are largely restricted to the boundaries of the site. The proposed works to the trees have been considered by the Council's Tree Officer and consultation responses are summarised below. The impact of the proposed development on trees is also considered further in the conclusion to this report.
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<b>BOUNDARY TREATMENT</b>	The eastern boundary of the site adjacent to Pagham Road features mature hedgerow and tree planting measuring between 2m and 5m in height. The western, southern and northern boundaries of the site features low planting of between 0.5m and 1.5m in height.
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<b>SITE CHARACTERISTICS</b>	The existing land use is a greenfield site in agricultural use, adjacent to the built up area boundary of Pagham. The application site is situated to the west of Pagham Road. Further agricultural land is situated to the west of the application site, with the Pagham Harbour situated approximately 614m to the south-west.
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Summer Lane is situated to the north of the application site

and is identified as a Public Right of Way (PROW), a PROW also crosses the site from east to west which leads towards the Pagham Harbour. Adjoining the western boundary of the application site is Church Barton House which is currently the subject of a planning application for the erection of up to 65 dwellings under planning reference P/25/17/OUT.

The vast majority of the site is identified by the Environment Agency as falling within Flood Zone 1. However, an area of the site measuring approximately 0.82 hectares is identified as Flood Zone 3 and an even smaller portion of the site (measuring approximately 0.44hectares) is identified as falling within Flood Zone 2. Various drainage ditches are present which cross the site and run along the boundaries.

A portion of the site measuring approximately 548.1m<sup>2</sup> is identified as falling within 500m of the Pagham Harbour SSSI with the remainder of the site falling within the 5km zone from Pagham Harbour. Pagham Harbour is also designated as a Special Protection Area (SPA) and Ramsar Site.

#### CHARACTER OF LOCALITY

The locality of the site is predominantly rural in character. However, development is present to the east of Pagham Road which is characterised predominantly by two storey dwellings and chalet bungalows of various designs and styles which are set back from the highway. Further two storey development is situated to the north of the application site (to the west of Pagham Road).

Bus stops are situated to the east of the site along Pagham Road and the application site will surround Pagham Village Hall which is situated to the west of Pagham Road. White Rocks (21 Pagham Road) which abuts the eastern boundary of the site is a Grade II Listed Building.

A Screening Opinion was issued on 30 June 2016 confirming that the proposal would require an Environmental Impact Assessment. A Scoping Opinion was subsequently issued on 4 August 2016 setting out the scope of the Environmental Statement.

A Secretary of State (Screening Direction) was issued under reference NPCU/EIASC/R/Y3805/76884 dated the 18th October 2016. This identified that the Secretary of State did not considered that a significant effect on the environment is likely in terms of changing the nature of the land use in the area. It was noted that the proposed development would result in an increase in the local permanent residential population. However, given the proximity of the proposal to the existing residential areas in Pagham, the Secretary of State did not consider that the effects would be significant. The Secretary of State acknowledged that while there may be some impact on sensitive areas the proposal would not affect the integrity of any sensitive area to the extent that a significant effect is likely.

Therefore, it was concluded by the Secretary of State that an Environmental Impact Assessment was not required.

<b>REPRESENTATIONS</b>
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**REPRESENTATIONS RECEIVED:**

Pagham Parish Council

Pagham Parish Council

Pagham Parish Council

**OBJECTION****1. Building a strong, competitive economy;**

- The development if approved would have a major negative impact on the attractiveness of the area for tourism, during and after construction, as development will be detrimental to the semi-rural character of the village.
- Tourism makes a huge contribution to the economy of Pagham.
- The loss of a significant amount of prime agricultural land would have a major negative impact on the other main local industry - farming.
- There is limited employment available in Pagham or the surrounding area. The development proposed would create an unavoidable need to travel on a daily basis.
- Any economic benefit during development would be short lived and is not sustainable economic growth.
- The only possible long term economic benefit relates to possible employment at a new primary school.
- The proposal mentions the provision of health care facilities. But there is already a doctors surgery in Pagham which is only open part time to due lack of staff.

**2. Supporting a prosperous rural economy;**

- Removal of grade 1 and 2 agricultural land from production to build houses inappropriate.
- Redundant and obsolete building not investigated for the opportunities they could provide.
- Type of housing proposed is not affordable to agricultural workers who are often low paid.
- Businesses which service existing large agri-businesses should be encouraged to develop and expand in the Parish.
- Destruction of qualities which attract tourists will damage tourism opportunities and economy.

**3. Promoting sustainable transport;**

- Pagham Road is the single access for the community to the strategic road network.
- Drainage of the road has always been a problem.
- Dangerous as vehicles leave the road and proximity of farm works in field is a concern.
- Significant number of HGV transit journeys upon Pagham Road, together with massive tractor/trailer loads of crop waste to serve the generating system. Consent has been granted for expansion of this business.
- Cyclists - road is unsafe.
- Concern over safety of junction Lower Bognor Road and Pagham Road.

**Key findings from Traffic Survey Commissioned by Pagham Parish Council:**

- Although the main access road from the village is relatively uncongested where it leaves the village, at peak times the volumes are swelled by traffic coming from west Bognor and joining by junctions with Sefter Road and the Lower Bognor Road. Resulting in tailbacks, both for joining traffic and then for all traffic.
- Only some 40% of the measured peak hour traffic attempting to reach Chichester and the A27 comes from Pagham village itself. Proposed developments would result in a disproportionate increase in peak traffic volumes.
- Westbound traffic on the B1266 approaching the junction with the B1245 was also significantly congested in peak hours with slow and queueing traffic measured.
- The consultants have concluded that the proposed development sites will have a substantial impact on the wider local road network and strategic road network.

4. Delivering a wide choice of high quality homes;

- The type and density of housing proposed in this application is completely at odds with the existing character of the area and does not reflect local needs.

5. Meeting the challenge of climate change, flooding and coastal change;

- The report fails to fully consider the potential groundwater levels. An assessment during wet winter periods needs to be undertaken.
- The report places reliance on culverts being capable of receiving surface water flows from the development but no detailed analysis has been undertaken to confirm this.
- The allowable surface water discharge should be based on the developable area and not the whole site.
- The Flood Risk Assessment (FRA) makes comments considered by us to be inaccurate and misleading.
- The existing sewage treatment works are currently unable to cope with existing flows so will not be able to receive flows from this development unless major improvement works are undertaken.
- The Parish Council is of the opinion that further work is required to substantiate the conclusions reached in the FRA and without this information the application must be rejected.

6. Conserving and enhancing the natural environment;

- Due to the sites location and proximity to the Pagham Harbour SPA/Ramsar site an Environmental Impact Assessment (EIA) should have been carried out.
- Studies commissioned by the Pagham Parish Council identify the presence of protected species.
- Development will affect foraging and nesting habitat.

Further comments 23/05/18 setting out impact on heritage assets and loss of wider landscape character and lack of protection for landscape character contrary to Policy LAN DM1.

Oving Parish Council;

Object - will add significant additional traffic onto Pagham Road which in turn will affect Marsh Lane and Vinnetrow Road so exacerbating the existing rat runs that are already a problem for these roads.

North Mundham Parish Council;

Have serious reservations about the potential effects of these developments, specifically:

- The potential for increased local traffic flow, and the absence of any detailed analysis which comprehends the impact of developments on the A27
- The effect of increased traffic flow on pedestrian safety, particularly at junctions
- Traffic pollution from both exhaust fumes and noise, particularly as it affects North Mundham school
- Drainage of surface water and the potential impact on Pagham Rife
- The absence of any realistic cycle routes to ameliorate predicted traffic densities
- The threat to the environment of Pagham Harbour.

It is clear that there is still much to do to produce a proper coherent statement of the local transport infrastructure. Until we are presented with a proposal that takes proper account of the effects on traffic and pedestrian safety in the neighbouring communities we will have no option but to sustain our objection.

789 letters of objection. Below is a summary of the key objections raised:

Sustainability

- Not enough jobs in the area.
- If commuters move in, the cars will not contribute to a low carbon economy.

- Increase in crime rate.
- Not enough affordable housing, replace Old People's Home with affordable housing.
- The proposed infrastructure additions are not needed.
- Overload emergency services.
- Tourism will no longer happen, as there are no fields.
- Noise and population increase would disturb adjacent horse sanctuary.
- There isn't enough water in Pagham for more people.
- Sea erosion will wash away Pagham.
- There is no consideration for how the old and new communities will integrate.

#### Agricultural land

- Site is arable farmland.
- Current agricultural use of land makes food.
- Uncertain times mean we should not rely on food imports.
- Would result in loss of strategic gap and significant change to community identity and demographics.

#### Historic Environment & Archaeology

- High possibility of medieval artefacts.
- Close proximity to Conservation Area.

#### Design and visual amenity

- Development will adversely impact upon existing character of the locality.
- Development will adversely impact upon rural character.
- Care home is too highly populated.
- Additional light pollution.

#### Surface water and drainage

- The area would flood.
- The village will flood as a result of the additional run-off.
- The sewage pump system is at full capacity.

#### Highways

- Due to other application at Summer Lane, road is too narrow.
- Council should upgrade the minor road into Chichester to give access to A27.
- Lack of parking within the village.
- Roads are heavily trafficked and congested.
- Due to rural nature of day traffic, this could cause the road to be dangerous.
- Lorries cause subsidence and rutting on the road, which cause vehicles to leave the road.
- Road is in a poor state of repair (potholes).
- HGV lorries make using the roads difficult.
- The roads are not safe to a degree that would allow the amount of cycling shown in the Trans.State.
- The Transport study is incorrect (paragraphs 4.5 to 4.7 of Reference 5 which quote percentage distributions which total more than 100%).
- Significant impact on North Mundham.
- No access for emergency vehicles.
- Cycle parking at the front of dwellings should be encouraged.

#### Infrastructure

- No infrastructure to support this.
- Schools are struggling to cope with demand.
- Not enough Doctors to cover the current populations.
- No recreation ground for young people.

- Chichester crematorium has a two-week waiting list.
- Low internet speeds.
- Insufficient water pressure.

#### Biodiversity and Ecology

- Site is very close to Pagham Harbour Nature Reserve.
- Development will kill birds of prey.
- The land was previously used for toxic waste.
- Endangerment of hedgehogs, deer, woodpeckers, pheasant, blackcaps, long tailed tits and yellowhammers.
- The bees like the site.

#### Development Plan

- Site exceeds number shown in Local Plan.

#### Non-material

- Seems a waste of money.
- Development could turn Pagham into a "Ghetto".
- Loss of 'views'.
- Uncertain times mean we should not rely on food imports.
- Brexit will mean the immigrants leave and the accommodation becomes available.

#### Sussex Ornithological Society (08/08/2017) & (10/08/2018)

- Application site would cause wintering birds to be directly affected, due to the loss of the sites.
- There are Brent Geese present at the site.

#### RSPB

- Recreational disturbance- they believe that off-site mitigation will be required to ensure no adverse effects on the SPA/RAMSAR.
- They do not believe that the Brent Geese survey was carried out correctly.

#### 2 No. Letters of support:

- More houses gives opportunities to younger people to own a house.

#### COMMENTS ON REPRESENTATIONS RECEIVED:

Comments are noted and will be considered in the conclusion to this report.

#### CONSULTATIONS

WSCC Strategic Planning

Surface Water Drainage Team

Highways England

Southern Water Planning

Environment Agency

Natural England

Historic England

Sussex Police-Community Safety

Ecology Advisor

Archaeology Advisor  
NHS Coastal West Sussex CCG  
Planning and Housing Strategy  
Parks and Landscapes  
Arboriculturist  
Economic Regeneration  
Environmental Health  
Engineering Services Manager  
Engineers (Drainage)  
Engineers (Coastal Protection)  
Building Control  
Conservation Officer  
Env. Amenities & Comm. Safety  
WSCC Strategic Planning  
WSCC Strategic Planning  
Highways England  
Environmental Health  
Environmental Health  
Ecology Advisor  
WSCC Strategic Planning  
Chichester District Council

**CONSULTATION RESPONSES RECEIVED:**

**ECOLOGY:**

Comments received 16th January 2017:

- Should permission be granted, I support the approach indicated by the illustrative masterplan of retaining the important habitats on-site.
- Mitigation will be required in accordance with the Ecology Assessment and an Ecological Mitigation and Enhancement Plan will need to be submitted prior to the commencement of works on-site. This should include:
  - The provision of protective barriers during construction, to protect retained hedges and trees;
  - A lighting plan, limiting the impact of lighting on foraging bats;
  - The provision of 20 bat boxes on site;
  - On-site provision of recreation activities, including dog walking;
  - Strengthening of the western boundary through new planting;
  - Vegetation clearance outside the bird breeding season or under the supervision of a qualified ecologist;
  - The provision of bird boxes;
  - Reptile habitat to be retained and details of reptile mitigation to be provided, including exclusion fencing and trapping and translocation;
- A contribution to the Recreation and Mitigation Project will be required.

Comments received 30th March 2017:

- Further details with regards to residential disturbance and the requirement for a contribution towards the implementation of the joint project at Pagham Harbour.

## ENVIRONMENT AGENCY

Comments received 26th January 2017:

- The proposed development will only meet the requirements of the National Planning Policy Framework if the following measures detailed within the Flood Risk Assessment (AMC/16/0708/5415) dated 27th October 2016 are implemented and secured by way of a planning condition on any planning permission;
- Finished floor levels are set no lower than 5.10m above Ordnance Datum (AOD).

## WSCC FLOOD RISK MANAGEMENT

Comments received 27th January 2017:

- Modelled surface water flood risk - Low risk
- Any existing surface water flow paths across the site should be maintained or appropriate mitigation strategies proposed.
- The area is shown to be at high risk of ground water flooding based on current mapping.
- We do not have any records of historic flooding within the confines of the proposed site.
- Current Ordnance Survey mapping shows no ordinary watercourses within the site boundary although local or field boundary ditches, not shown on Ordnance Survey mapping, existing across and around the site.
- No development should take place within 5m of any ordinary watercourse.

## WSCC STRATEGIC PLANNING (HIGHWAYS):

Comments received 27th January 2017:

- There are a number of additional matters that require further information. In summary these are;
- Reconsider the proposed junction arrangement and investigate the removal of the right turning lanes.
- Consider and alter the pedestrian crossings across Pagham Road to the development. This may require the widening of the refuges shown or the provision of an alternative form of crossing to serve the local centre/northern residential development.
- Revise the approach (trip generation and distribution) applied to the modelling of the local centre traffic.
- Provide development only traffic flow diagrams.
- Revisit the TEMPRO growth and amend as necessary to suit housing and employment growth within the draft Arun Local Plan and apply a suitable growth rate for junctions within Chichester District.
- Remodel the signalised junction at Rose Green Road/Gossamer Lane/Nyetimber Lane/Grosvenor Gardens to reflect the actual arrangement of this junction and provide the full LinSig modelling outputs.
- Identify what right of way or public transport infrastructure improvements may be feasible.

Comments received 26th April 2017:

- Aside from the on-going discussions regarding cumulative impacts, the majority of matters arising from the LHA's initial comments have been addressed. There are several matters though that would still need to be amended prior to the LHA providing a formal recommendation.

Comments received 27th September 2017:

The LHA has reviewed the three Cumulative Transport Assessments (CTA) submitted in support of the current planning applications in Pagham. The CTA's have been prepared in accordance with current best practice and the scope has been agreed with the LHA. Whilst the majority of the conclusions within the CTA's are broadly comparable, there are still in certain places quite notable differences as to the anticipated future operations of the junctions. The most notable of these is the Pagham Road/Sefter Road. A further review of the operation of this junction by the developers is necessary.

For those junctions where mitigation is required, the proposed works or contributions are considered acceptable in mitigating the severe residual cumulative impacts of the development.

Comments received 27th March 2018:

The submitted cumulative assessments have tested the capacity impacts of a development of up to 980

dwellings as jointly proposed at applications at Sefter Road, Hook Lane, and Summer Lane. The assessments also incorporate additional background traffic from permitted developments in the local area along with that from other potential developments including that at Church Barton Farm and West of Bersted. Viewed against the information presented and the National Planning Policy Framework, the LHA are satisfied that the combined impacts of the development would not give rise to residual severe highway impact. There are certain matters that will need to be concluded as part of the individual planning applications and associated s106 agreements.

Comments received 12th April 2018:

- The principle of vehicular access has been previously accepted. No additional comments are necessary. Several comments were issued in connection with pedestrian access to the development and the location of crossing points. The arrangements have been revised and the revised arrangement removes the potential conflict.
- The Stage One Road Safety Audit (RSA) raised the potential crossing desire line in the immediate vicinity of the northern vehicle access. The traffic island has now been altered to a refuge in accordance with the Safety Auditors recommendation.
- The only other matter raised by the Stage One RSA related to the dimensions of the amended bus stop lay-by on the north side of the carriageway. The designed has confirmed that the dimensions of the lay-by match those of the existing (drawing number 1616/01 Rev K).
- All matters in connection with the proposed vehicle and pedestrian access have now been addressed.
- Notwithstanding the cumulative impact of the four Pagham planning applications presently under consideration (these matters are dealt with by way of a separate response), based on the details and supporting information submitted for the current application, WSCC are satisfied with the arrangements as shown. On this basis, no severe impact is anticipated to arise from this proposal when viewed in isolation.
- The National Planning Policy Framework states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. Based upon the information submitted, the LHA are satisfied that the proposed development would not result in severe highway impacts. No highway objection would be raised.
- Conditions, informatives and s106 obligations recommended.

#### WSCC PUBLIC RIGHT OF WAY

Comments received 8th February 2017:

WSCC Public Right of Way would like to comment on this application as there are Right of Way which will be impacted by the proposal.

- There is a longstanding aspiration to secure a route from Pagham to Chichester via Sidlesham. This route would use existing public rights of way nos. 100, 104 and 106. The legal status of these routes would need to be changed to bridleway to allow cycling and surfacing on parts of the route would also need to be improved along with minor modification of the existing bridleway bridge over the Pagham Rife. This would greatly benefit the local community and new residents for both leisure and commuting.
- The developer proposes to safeguard an element of the proposed cycleway/bridleway link that fall within the land under their control. It appears that completion of the link would require works that appear to lay outside the control of the applicant, it would still be desirable for the developer to secure upgrading the whole route. In the event that they cannot obtain the necessary landowner consents to undertake the works; a contribution should be made to WSCC to allow them to pursue the delivery of this route.
- Public Footpath 101 runs between both areas of development and is an already well-used access route on foot from the village to Pagham Harbour. Given there will be an increase in footfall on this route a contribution should be made to WSCC to improve the footpath surface.
- We would also like the applicant to create a circular walk going north west from FP101 past Shipverling Barn turning south round the back of the reservoir to re-join FP101. This is within their power to gift.
- The granting of planning permission does not authorise the obstruction, interference or moving of any PROW. An application to WSCC would be required for this.

- Safe and convenient public access is to be available at all times across the full width of the PROW.
- No drainage system is to be installed through the surface of the path without the prior consent of WSCC RoW team.
- Any alteration to or replacement of the existing boundary with the PROW must be done in consultation with the WSCC RoW team.

Comments received 28th February 2017:

- Concerning the additional circular route from Shipverling Barn around the reservoir to join FP101. Whilst, we acknowledge this particular area is well served by rights of way, an additional circular route will be welcomed and attractive to both existing residents and new alike. This is increasing so given the elderly demographic of the Pagham area, who may welcome shorter circuits and it spreads the expected increase in number of walkers across the area. As the land falls within the applicants land interests, it would be within their power to gift this addition.
- In relation to point 1 of the PROW comments regarding the provision of a cycle link to Chichester and Sidlesham. As previously mentioned, this link would be of significant value for existing and future residents so as to avoid much of the locally narrow and heavily trafficked road network. The legal status of footpaths 100, 104 and 106 will need to be changed to bridleway to allow cycling. If this upgrade can be secured from the relevant landowners, the County Council would be willing to undertake all the necessary legal work at its own expense. There are improvements required to the surface and bridge as part of this upgrade, which I would look to secure in the form of a financial contribution from the applicant for the County Council to undertake these works.
- The County Council would like confirmation that future maintenance of the internal pedestrian and cycle routes within the site boundary will remain the responsibility of the applicant.
- Improvements to the surface of FP101 would be welcome as there will be an increase in footfall given this is a key link from the village and this development to both the RSP nature reserve and south to the beach. I would encourage the applicant to either improve this directly or to provide a financial contribution to the County Council to undertake this work.

#### SUSSEX POLICE

Comments received 30th January 2017:

- Guidance for designing out crime provided - no objection raised.

Comments received 22nd August 2017:

- I see no evidence that warrants further crime prevention advice at this stage.

#### SUSSEX POLICE - COMMERCIAL PLANNING MANAGER

Comments received 7th February 2017:

S106 contributions requested and incorporated in the heads of terms.

#### ARCHAEOLOGY ADVISOR

Comments received 30th January 2017:

I agree that the potential of the proposed development to impact on unknown remains of archaeological importance would justify an investigation of the site ahead of construction and that this process, and any subsequent measures to mitigate that impact, would be best secured following a standard archaeological condition, in this case a version of ARC1 excluding the words 'within the area indicated'.

#### HOUSING STRATEGY AND ENABLING MANAGER

Comments received 1st February 2017:

- At this outline stage there is no objection in principle but an Affordable Housing Statement is required in order to understand the detail of the 30% affordable housing on site.

#### HIGHWAYS ENGLAND



Comments received 27th January 2017:

The cumulative traffic impacts of these sites (P/134/16/OUT, P/140/16/OUT & P/6/17/OUT) on the A27 junction of Whyke and Bognor Regis have not yet been determined. We are now working closely with all three applicants consultants but have some way to go before we understand the implications and hence required mitigations at both junctions. Accordingly, we would respectfully request that your Council refrains from determining these applications until such time as we can agree with the applicants the impacts and mitigations required and thereby the required contributions for each towards delivering those mitigations.

Comments received 23rd March 2018;

A contribution is requested towards improvements at the A27 Whyke junction, with the works to be undertaken by Highways England. A contribution of £850 per dwelling is requested which totals £883,150 based on the 1,039 dwellings proposed. In terms of individual sites Highways England is looking to secure the following amounts;

- P/134/16/OUT - £212,500
- P/140/16/OUT - £340,000
- P/6/17/OUT - £255,000
- P/25/17/OUT - £75,650

Comments received 26th March 2018;

· We have received confirmation from the consultants for P/140/16/OUT and P/6/17/OUT that they are willing to accept the requested contributions.

Comments received 19th April 2018:

- Following our liaison with the applicant, we have now received confirmation that the applicant has agreed to contribute £340,000 towards the proposed mitigation improvements at the A27 Whyke Hill junction.
- Highways England is now satisfied that the development proposals can be achieved, subject to certain necessary s106 conditions, without detriment to the safe and efficient operation of the Strategic Road Network.
- Arun District Council will enter into a Section 106 Agreement with the applicant to the effect that prior to the commencement of the development hereby permitted the applicant will enter into a s278 Highways Agreement with Highways England.

## ECONOMIC DEVELOPMENT

Comments received 7th February 2017:

No objection - request that the eventual developer signs the Arun Developer and Partner Charter and works the Economic Development Team to run an event to encourage local businesses to be involved in work on and supplying the development as well as producing and implementing a Work and Skills Plan.

## HISTORIC ENGLAND

Comments received 8th February 2017:

- We recommend that the LPA refers to our recently published 'Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets (2015)' which defines setting as the way in which an asset is experienced.
- The Authority should judge the contribution that the land proposed for development makes to the significance of the church and the understanding of its medieval and rural origins and look for opportunities for the new development to enhance its significance, as required by the NPPF.
- The potential harm of the development should be avoided or minimised, such as through the implementation of measures to provide effective landscape screening of the proposed development and landscaped buffer areas to maintain a sufficient setting around Pagham's historic core.

- Historic England does not object on heritage grounds provided the issues and safeguards outlined in our advice are addressed in order for the application to meet the requirements of paragraphs 17, 132 and 137 of the NPPF.

Comments received 16th August 2017:

We do not wish to offer any further comments.

#### SOUTHERN WATER

Comments received 9th February 2017:

- A foul rising main crosses the site. The exact position of the foul rising main must be determined on site by the application before the layout of the proposed development is finalised.
- It may be possible to divert the foul rising main, so long as this would result in no unacceptable loss of hydraulic capacity, and the work was carried out at the developers expense to the satisfaction of Southern Water in the relevant statutory provisions.
- An initial desktop study has identified that Southern Water currently cannot accommodate the needs of this application without the development providing additional local infrastructure. The proposed development would increase flows into the wastewater sewerage system and as a result increase the risk of flooding in and around the existing area, contrary to paragraph 109 of the National Planning Policy Framework.
- Should the Local Planning Authority be minded to approve the application, Southern Water would like the following condition to be attached to any permission;

"Development shall not commence until a drainage strategy detailing the proposed means of foul disposal and a implementation timetable, has been submitted to and approved in writing, by the local planning authority in consultation with the sewerage undertaker. The development shall be carried out in accordance with the approved scheme and timetable."

Comments received 23rd August 2017:

The comments in our response dated 8th February 2017 remain unchanged and valid for the amended details.

#### ENGINEERS (DRAINAGE):

Comments received 9th February 2017:

- Please apply standard conditions ENGD3A, ENGD3A, ENGD4A, ENGD5A, ENGD5B and ENGD6A.

#### ENVIRONMENTAL HEALTH:

Comments received 1st February 2017;

- Please apply ENV5 (Unsuspected Contaimation) only.

Comments received 14th March 2017;

- Eight conditions requested to be imposed.

#### NATURAL ENGLAND

Comments received 13th February 2017:

- Internationally and nationally designated sites - no objection
- Appropriate financial contributions should be made to the Pagham Harbour strategic access management and monitoring project.
- The level of mitigation to address these increased numbers, is currently being finalised. However, Natural England is satisfied that provided contributions are made to the new, scaled-up, level of mitigation, a likely significant effect from increased recreational disturbance can be ruled out.
- Natural England welcomes the commitment, in paragraph 6.10 of the Report to inform the HRA, to provide signage and homeowner information packs, to encourage residents to use the recreation space

on site and recognise the sensitivities of Pagham Harbour.

- Dark-bellied brent geese forage within, and on land near to, Pagham Harbour SPA/Ramsar Site. Where the geese regularly forage on land outside of the SPA/Ramsar site, this land may be considered functionally linked to the SPA/Ramsar by providing supporting habitat. Its loss should, therefore, be considered in any combination assessment of impacts under the Habitats Regulations.

- The report to inform the HRA states that the application site could be used by brent geese on occasion, though surveys carried out in support of the application, and a data search for records submitted to the Sussex Biological Records Centre, did not record any use by brent geese. The report identifies that land to the west of the application site are more important for brent geese, and suggests mitigation in the form of planted screening to reduce visual disturbance which may arise from the application site.

- Natural England's view is that the size of the fields within the application site, and their location within 500m of the SPA, means that brent geese may use them when they are planted with a suitable crop. However, as surveys have not recorded any use, and given the availability of alternative foraging habitat around the SPA, we are satisfied that the loss of the application site as foraging habitat is not likely to have a significant effect on brent geese, alone, or in combination with other housing developments currently going through the planning process. Furthermore, we welcome the mitigation measure, in the form of screening, proposed to minimise disturbance to geese foraging in adjacent fields.

- The report to inform an HRA submitted with this application states that there is no direct hydrological link between the application site and Pagham Harbour and that Sustainable Urban Drainage Systems will address surface water run-off. For these reasons Natural England are satisfied that there will be no likely significant effect from hydrological impacts during construction, or from surface water run-off during operation.

- The HRA Stage 2 report: Screening for likely significant effects, regarding the emerging Arun Local Plan, identifies that developments in this location have the potential to impact the water quality of Pagham Harbour SPA/Ramsar site. Pagham WwTW serves the Pagham area, and discharges to the Pagham Rife, which feeds into the SPA/Ramsar site. The report identifies that the WwTW has sufficient capacity and that discharge rates would not be adversely affected. If there is capacity, in combination with other developments currently being considered through the planning process, then Natural England is satisfied that there will be no likely significant effect from water quality impacts.

- The wintering birds surveys carried out in 2014/15 recorded small numbers of lapwings and curlews using the application site. However, these species are not notified features of the SSSI. Therefore, the loss of the application site as foraging habitat for these species will not adversely affect the SSSI.

- For these reasons, Natural England are satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, and subject to the comments above, will not damage or destroy the interest features for which the Pagham Harbour SSSI has been notified. We therefore advise your authority that the SSSI does not represent a constraint in determining this application.

Comments received 18th August 2017:

- No objection subject to mitigation

- Having reviewed the additional information in respect of foraging dark-bellied brent geese, our position as set out in our consultation response of the 13th February has not changed.

Comments received 13th February 2018:

No objection - subject to appropriate mitigation being secured.

Without appropriate mitigation the application could have a significant effect on the Pagham Harbour Special Protection Area and Ramsar site.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required/or the following mitigation options should be secured:

- Appropriate financial contributions to the strategic approach to mitigating recreational disturbance;

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- Alternative foraging habitat for dark-bellied brent geese
- Measures to minimise disturbance to brent geese foraging in fields adjacent to the application site.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

#### WSSC EDUCATION

Comments received 20th March 2017:

- Our preference is still for a school in the southern end of Pagham but I am not aware that all the testing re flooding etc. has been completed to make this a viable location.
- The detailed S106 response should come through the usual channels.

#### WSSC SECTION 106 CONSULTATION RESPONSE

Comments received 23rd March 2017:

- School, Library and Fire & Rescue contributions requested.

Comments received 24th April 2018:

Revised contributions: delivery of an early years facility at cost of £646,000. Primary education provision of a 2 ha site for £1 plus contribution of £1,927,210. Secondary and sixth form contributions (formula based) to be spent on expansion at Felpham Community college. Library contribution to new Tier 7 library facility of £33,333. Fire and rescue - formula based contribution towards the redevelopment of Bognor Fire Station.

#### GREENSPACE

Comments received 17th May 2017:

- The Council's SPG guidelines apply to development of houses and are based broadly upon the National Playing Fields Association's "Six Acre Standard". The detailing of the open space provision to be approved by the LPA. Detail of maintenance provision to be provided and commuted sums payments required towards the maintenance of open space where these are provided on site and if taken on by the Local Authority. Section 106 monies in addition for infrastructure to be concluded. A management plan would be sought for the forward maintenance of the public open space, detailing regime and responsibility.
- Forming part of the application and not less than a reserved matter would be the requirement of the submission of a full landscape scheme which should be submitted for approval, detailing species choice, position, densities and size at time of planting.
- Details are required to assure the adjacent land setting is maintained, the setting is uncompromised and the proposals are appropriate to setting. The landscape proposals will need to improve biodiversity and enhance the landscape character of the site and its surroundings and that are subsequently considered to fully comply with Saved Policies GEN27 and GEN 28 and emerging Arun Local Plan Policies.
- A tree survey relating to any existing trees would need to be undertaken.

Comments received 4th October 2017:

We have nothing further to add at this stage beyond our consultation submission of the 17th May 2017.

#### COUNCIL'S TREE OFFICER

Comments received 9th February 2017:

- The accuracy of the base data submitted in support of this outline application is acceptable up to a point but the individual trees within Groups will need to be accurately plotted and shown on all plans.
- It will not be sufficient for the applicants to rely on the Arb Impact Statement & Tree Protection Plan alone at the detail stage submission and for this stage of the application process it will have to be supported by an Arboricultural Method Statement report to describe how retained trees will be respected and fully protected during the construction works on this site.

- The levels of tree loss are in my opinion excessive and unnecessary and I am therefore recommending a Tree Preservation Order is served to better protect these trees and give us more control over their future maintenance.
- I strongly object to the proposed layout and the applicants should be encouraged to review and re-submit their proposals showing minimal tree loss to the screening trees along Pagham Road.
- If the trees to the rear of the ditch can be retained then I would be more likely to support the removal of the Sycamore trees on the roadside verge.

Comments received 23rd August 2017:

- I sustain the concerns raised in my previous comments as they are still relevant to the latest submitted layout plan.
- This has come back in with none of the previously raised items addressed and I have serious concerns about where they will be forming new access drives and footpaths along both Summer Lane and Pagham Road. I sustain a strong objection.

#### **COUNCIL'S CONSERVATION OFFICER**

Comments received 8th June 2017:

- There is no objection, as due to the flat topography, there are few long views in to, or out of the ASA and the proposed development will have little impact on its locally distinctive qualities.

#### **LEISURE SERVICES**

Comments received 6th July 2017, updated April 2018:

- Contributions requested towards pools, sports hall and 3G pitches.

#### **CHICHESTER DISTRICT COUNCIL**

Comments received 8th August 2017:

- The traffic generated by the development proposed would, without effective mitigation, result in a severe impact on the roads and junctions within Chichester District, particularly the A27/B2145 junction (Whyke Roundabout) and the A27/A259 junction (Bognor Road Roundabout) on the trunk road network, and the Runction and North Mundham/Hunston roundabouts on the WSCC road network. Mitigation should be secured through the local plan or on a bespoke basis for additional development. Chichester District Council would expect Arun District Council to adopt the same approach in partnership with WSCC and Highways England.
- CDC preference would be for a comprehensive assessment and mitigation strategy for all development allocated at both strategic and neighbourhood level within the emerging Local Plan (as modified).

#### **NHS - CCG**

Contribution towards Grove House GP surgery for infrastructure needs of managing GP consultant health care of £502,777.

#### **COMMENTS ON CONSULTATION RESPONSES:**

Comments noted.

Natural England have been consulted on the HRA commissioned by the Local Planning Authority and their comments are expected to be submitted on the 15th October. Therefore, these comments will be provided as a report update.

<b>POLICY CONTEXT</b>
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Designation applicable to site:  
Part outside built up area boundary

Policy H SP2a Site SD1 Pagham South

**DEVELOPMENT PLAN POLICES**

AHSP2	AH SP2 Affordable Housing
DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
ECCDM1	ECC DM1 Renewable Energy
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM1	ENV DM1 Designated Sites of Biodiversity or geographical imp
ENVDM2	ENV DM2 Pagham Harbour
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
ENVSP1	ENV SP1 Natural Environment
GISP1	GI SP1 Green Infrastructure and Development
HDM1	H DM1 Housing mix
HDM2	H DM2 Independent living and care homes
HERDM1	HER DM1 Listed Buildings
HERDM2	HER DM2 Locally Listed Buildings or Structures of Character
HERDM3	HER DM3 Conservation Areas
HERDM4	HER DM4 Areas of Special Character
HERSP1	HER SP1 The Historic Environment
HSP1	HSP1 Housing allocation the housing requirement
HSP2	H SP2 Strategic Site Allocations
HSP2A	HSP2a Greater Bognor Regis Urban Area
HWBSP1	HWB SP1 Health and Wellbeing
INFSP1	INF SP1 Infrastructure provision and implementation
LANDM1	LAN DM1 Protection of landscape character
OSRDM1	Protection of open space, outdoor sport, comm& rec facilities
OSRSP1	OSR SP1 Allotments
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP1A	SD SP1a Strategic Approach
SDSP2	SD SP2 Built-up Area Boundary
SODM1	SO DM1 Soils
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development
WDM1	W DM1 Water supply and quality

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WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
WMDM1	WM DM1 Waste Management
WSP1	W SP1 Water

**PLANNING POLICY GUIDANCE:**

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

**SUPPLEMENTARY POLICY GUIDANCE:**

SPD1	Open Space & Recreation Standards
SPD2	Conservation Areas
SPD3	Parking Standards
SPD6	Archaeology
SPD8	Areas of Special Character

**POLICY COMMENTARY**

The Development Plan consists of the Arun Local Plan 2011-2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

**The Neighbourhood Development Plan**

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan.

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton.

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Regulation 14).

In December 2014, the Pagham Neighbourhood Plan was withdrawn from the examination process in order to produce further studies in respect of the impact on the Pagham Harbour SPA/Ramsar Site. This work has been completed and the Regulation 14 'pre-submission consultation & publicity' stage was undertaken between 02/10/15 and 13/11/15. It is therefore necessary, in accordance with paragraph 48 of the NPPF, to have regard to the Draft Neighbourhood Plan as a material planning consideration. Therefore, policies 1, 3, 8 and 9 are considered relevant to the proposed development.

However, it must be considered that the policies contained within the draft Pagham Neighbourhood Plan cannot be attributed any weight by virtue of the lack of progress on the plan since consultation took place in 2015 and the adoption of the Arun Local Plan (2011-2031).

**DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

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

The proposal is considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area. The proposal is also located in a strategic allocation within the built-up area boundary.

#### **OTHER MATERIAL CONSIDERATIONS**

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

#### **CONCLUSIONS**

##### Principle

The application site falls within the parish of Pagham and the development plan for the determination of this application comprises the Arun Local Plan (2011-2031). The Pagham Neighbourhood Plan (PNP) is currently under preparation and has reached Reg. 14 stage with the consultation period running from the 2nd October 2015 to the 13th November 2015. The PNP has not been made and as such does not form part of the development plan as defined by section 38 of the Planning and Compulsory Purchase Act 2004.

##### Arun Local Plan (2011-2031)

The key policy considerations in the determination of this application are considered to be;

Policy H SP1 - establishes the housing requirement within the plan period (2011-2031) of at least 20,000 new homes within the Arun District. This includes SD2 Pagham north (at least 800 dwellings) and SD1 Pagham south (at least 400 dwellings).

Policy C SP1 - states that outside the built-up area boundaries (as identified on the policies map) land will be defined as countryside and will be recognised for its intrinsic character and beauty. Development will be permitted in the countryside where it is:

- a. For the operational needs of agriculture, horticulture, forestry, the extraction of minerals or the management of waste as part of a waste site allocation within the West Sussex Waste Local Plan; or
- b. For quiet, informal recreation; or
- c. For green infrastructure; or
- d. For the diversification of the rural economy; or
- e. For road and/or cycle schemes; or
- f. In accordance with other policies in the Plan which refer to a specific use or type of development.

Policy SD SP3 - identifies gaps between settlements which include a gap between Pagham and Selsey. The policy states that development will only be permitted within the gaps if:

- a. It would not undermine the physical and/or visual separation of settlements;
- b. It would not compromise the integrity of the gap, either individually or cumulatively with other existing or proposed development;
- c. It cannot be located elsewhere;



- d. It maintains the character of the undeveloped coast;
- e. If a subsequent DPD or Neighbourhood Plan deems it appropriate through an allocation.

Policy H SP2 - identifies that development proposals within the Strategic Site Allocations must be comprehensively planned and should have regard to a masterplan endorsed by the Council for the respective areas which incorporates high quality imaginative design which gives a sense of place.

It is identified that the comprehensive development of the allocation will need to meet the following key requirements;

- a. Integrate appropriately with surrounding communities through an appropriate design particularly where they adjoin by providing for public realm improvements, shared community uses, and connectivity of transport modes including walking, cycling and public transport.
- b. Ensure a clear and harmonious relationship between town and country including clearly defined boundaries, using physical features that are readily recognisable and likely to be permanent.
- c. Protects, conserves or enhances the natural environment, landscapes and biodiversity.
- d. Incorporate high quality, well connected green spaces, planting within main streets and biodiversity rich open spaces.
- e. Extend, enhance and reinforce strategic green infrastructure and publically accessible open space.
- f. New community hubs where required to be provided, shall be well located taking account of the permeable layout to all transport modes and shall as far as possible cluster retail, commercial and community uses.
- g. Where existing village centres are within or will serve the needs of strategic development sites their improvement as sustainable centres will be required.
- h. Where community buildings are provided these shall be designed and provide for a range of uses such as healthcare, police, faith and community groups.
- i. Integration of community hubs and local centres of an appropriate form and scale into the design and layout of development proposals where identified in the specific allocations policies in H SP2 a-c.
- j. Ensure walkable access to local community, recreational and shopping facilities, jobs and accessible transport.
- k. Address the off-site capacity requirements, that related to that particular allocation, identified in the Arun Transport Assessment (2016 and update 2017 and taking into account subsequent relevant assessments) and the local highway network.
- l. Positively respond to sustainable water management taking particular account of the coastal plain topography which may require strategic surface water solutions.
- m. Maintain and enhance any important features, characteristics and assets of the local area.
- n. Provide for the required infrastructure, which relate to that particular allocation, in accordance with Policy INF SP1 and the Infrastructure Delivery Plan.
- o. Enable strategic District wide infrastructure to be delivered at strategic sites if the location is appropriate for the District.
- p. Consider inclusion of an area of the sites for self-build and custom build.
- q. Consider the delivery of an area as a site for Gypsy and Traveller accommodation.

Policy H SP2a - identifies the strategic allocation of at least 1,200 dwellings in Pagham over the plan period. This includes allocation SD1 (Pagham South) for at least 400 dwellings and allocation SD2 (Pagham North) for the provision of at least 800 dwellings. The policy requires development proposals to meet the following key design and infrastructure requirements;

- a. Ensure no detrimental impact to Pagham Harbour SPA.
- b. Take into account nearby heritage assets.
- c. Provide a new one-form (expandable to two-form) primary school and nursery places.
- d. Provide a care home facility.

- e. Provide a community hub which includes.
  - shops and complimentary uses.
  - community building (Tier 7 library, D1/sui generis floor space)
  - provision of land for scout hut, and
  - land for an ambulance community response post
- f. Provision of public open space to include children's play areas, landscaping, drainage, and earthworks.
- g. Contribute to the provision of an enhanced local cycle network by making on site provision and appropriate off site financial contributions
- h. Where possible, provide pedestrian and cycle routes to Bognor Regis town centre in order to enhance the sustainability of the site.

In order to establish the principle of the proposed development it will be necessary to assess the proposed development against the policy requirements of H SP1, H SP2 and H SP2a. Whilst, policies within the PNP have been identified as material considerations in accordance with paragraph 48 of the National Planning Policy Framework they cannot be attributed any weight in the determination of this application by virtue of the lack of progress and the adoption of the Arun Local Plan (2011-2031).

The application site encompasses the majority of strategic allocation SD1 (with the exception of the portion of the allocation the subject of application P/25/17/OUT) and seeks permission for up to 400 dwellings. Therefore, the proposed development in conjunction with P/25/17/OUT will exceed the 400 dwelling requirement established by H SP1 and will accord with the policy requirement.

The Southern-most portion of the site falls outside of the strategic allocation and as such this portion of the site falls outside the built-up area boundary (SD SP2) within the countryside (C SP1) as well as a strategic gap (SD SP3). The development outside of the built-up area boundary will consist of a scout hut, open space and allotments. The proposed allotments and open space would constitute informal recreation and as such would accord with policy C SP1 (b) of the Arun Local Plan (2011-2031). The proposed scout hut would conflict with policy C SP1 but would be situated immediately adjacent to the built-up area boundary and would not adversely impact upon the rural setting of the countryside (subject to appropriate design).

The proposed scout hut, open space and allotments would not undermine the physical or visual separation of the settlements of Pagham and Selsey nor would they compromise the integrity of the strategic gap. Therefore, the proposed development would not conflict with policy SD SP3 of the Arun Local Plan (2011-2031).

The proposal includes 2,000sqm of A1/A2/A3/D1/sui generis floor space and provision of land for a 1 form entry primary school (with sufficient space to allow for expansion to 2 forms of entry). This would create a community hub introducing a number of key community uses to Pagham. The proposal is designed to integrate with the existing pedestrian network with enhancement to existing public rights of way to be secured via the Section 106 agreement. Therefore, the proposed development will accord with policy H SP2 (a) and (i) as well as policy H SP2a (c) and (e) of the Arun Local Plan (2011-2031). Given that the proposal incorporates a community hub which will serve the needs of future occupiers and the wider community it is considered that policy H SP2 (g) of the Arun Local Plan is not relevant to the determination of this application.

The community hub is situated at the entrance to the northern portion of the development site with the community uses, care home and primary school situated immediately adjacent from one another. The community hub and primary school are well connected for pedestrian, cycle and vehicular access with bus stops situated within acceptable walking distances. It is considered that the location of the community hub is in compliance with policy H SP2 (f) of the Arun Local Plan.

The proposed development has been designed with a landscape buffer along the western boundary of the site with the indicative masterplan demonstrating that the development will be outward facing providing a strong boundary and separation between the urban development and rural fringe of Pagham. The proposed development will therefore accord with policy H SP2 (b) and (e) of the Arun Local Plan.

The extensive PROW network surrounding the site allows for medium range views of the site from the west as well as from the end of Church Lane situated to the south-west of the application site. Existing views are of open fields with existing residential development (to the east of Pagham Road) visible through the tree and hedgerow planting along the eastern boundary of the application site. Therefore, it is considered that subject to adequate landscape screening along the western boundary of the site the proposed development (subject to scale) would not adversely impact upon the established landscape character or visual amenity of the locality. The application was accompanied by a Heritage Impact Assessment and the impact of the proposals upon the setting of nearby heritage assets has been considered as part of this application. It has been concluded later in the report that the proposals will not result in any significant impact upon nearby heritage assets. Thus, the proposed development is deemed to accord with policies H SP2 (c), (m) and H SP2a (b) of the Arun Local Plan.

The Council's Ecological Advisor has advised that subject to appropriate conditions the proposed development would not result in an unacceptably adverse impact upon biodiversity or ecology at the site. The application site is situated approximately 470m to the north-east of the Pagham Harbour SPA/Ramsar and as such it is necessary, in accordance with the Birds and Habitats Directives, to consider the impact of the proposal upon the integrity of the SPA/Ramsar site. The Local Authority instructed Ecological Planning & Research Ltd (EPR) to undertake a Habitat Regulations Assessment on behalf of the LPA. The Appropriate Assessment has concluded that, providing that the avoidance and mitigation measures are secured and implemented, the development would result in no adverse effect upon the integrity of Pagham Harbour SPA/Ramsar. As such the development is deemed to accord with policy H SP2a (a) of the Arun Local Plan. The proposals compliance with Policy ENV DM2 is considered in detail later in the conclusion to this report.

The indicative masterplan demonstrates how high quality and well connected green space has been incorporated as part of the development. LAPs, LEAPs and open space are located throughout the site with footpaths and cycle ways running through the site and linking the green infrastructure network together. The indicative masterplan demonstrates how planting will be incorporated throughout the site and within the main streets (although detailed landscaping will be provided as part of any future reserved matters application). Additional contributions have been secured via the S106 agreement for the enhancement of footpaths 101, 104 and 106 to create an off road cycle link and provide an alternative cycle route towards Chichester (via south Mundham). Therefore, it is considered that the proposal will accord with policy H SP2 (d) and (e) as well as policy H SP2a (f) and (g) of the Arun Local Plan.

A Sustainability Appraisal was undertaken in support of the Arun Local Plan with the site being considered sustainably located. The site is located within acceptable walking distance of existing facilities and will provide a new primary school and community hub on site. Bus stops are situated along the eastern boundary of the site along Pagham Road within suitable walking distances. Therefore, the proposal accords with policy H SP2 (j) of the Arun Local Plan.

The highway infrastructure improvements, to be secured via the s106 agreement, are considered sufficient and adequate to mitigate against the highways impacts of the proposed development in accordance with policy H SP2 (k) of the Arun Local Plan.

The Council's Drainage Engineers have been consulted in relation to the proposed drainage strategy and no objection has been raised. A total of 6 conditions have been requested and these have been included in the recommendation. This has included the requirement for winter groundwater monitoring to be

undertaken prior to the commencement of development. This work will ensure that the drainage strategy takes account of site specific considerations. Therefore, subject to the inclusion of these conditions it is considered that the proposed development will accord with policy H SP2 (l) of the Arun Local Plan.

A number of financial contributions will be secured towards infrastructure provision via the S106 agreement. These contributions are detailed in the attached Heads of Terms and considered in detail later in the conclusion to this report. However, based upon the contributions to be secured it is considered that the proposals will accord with H SP2 (n) of the Arun Local Plan. The Infrastructure Delivery Plan (IDP) 2017 does not identify the requirement for any district wide infrastructure to be incorporated as part of the strategic allocations at Pagham and as such the proposals does not conflict with policy H SP2 (o) of the Arun Local Plan.

No desire has been expressed by the applicants to incorporate self-build or custom build dwellings at the site and no evidence has been submitted in support of the application detailing any considered of the incorporation of an area of Gypsy and Traveller accommodation. However, policy H SP2 only requires consideration and does not require inclusion and as such the proposal is not considered to conflict with policy H SP2 (p) and (q) of the Arun Local Plan.

As identified above, it is considered that the proposed development (with the exception of the proposed scout hut) will accord with policies C SP1, SD SP3, H SP1, H SP2 and H SP2a of the Arun Local Plan. Therefore, the principle of the proposed development is considered acceptable subject to accordance with relevant policies contained with the Arun Local Plan and the National Planning Policy Framework (NPPF).

#### ILLUSTRATIVE LAYOUT AND DESIGN

Policy H SP2 of the Arun Local Plan requires that Strategic Site Allocations must be comprehensively planned and should have regard to a masterplan endorsed by the Council for the respective areas incorporating high quality imaginative design giving a strong sense of place and a permeable layout. It also requires strategic allocations to (amongst other matters) integrate with the surrounding communities, provide well connected green spaces, provide improvements to existing village centres, infrastructure and the delivery of infrastructure.

It should be highlighted that this outline application only relates to access with layout, scale, appearance and landscaping being reserved matters. Therefore, the layout plan submitted in support of the application is only indicative but does show that the site can accommodate the scale of development proposed whilst providing adequate open space provision and respecting the site's location on the edge of the settlement.

The application was considered by the Design Review Panel on the 18th April 2017. The Panel supported the concept of 'green fingers' and considered that these could be strengthened through linking them with the wider landscape more coherently. Comments were made in relation to the impact of retaining the hedgerow on Pagham Lane on the layout of the scheme and it was considered that development should line the existing street. The Panel also considered that the routes through the site needed a higher degree of connectivity and the layout simplifying to make it more legible. The Panel comments are considered below.

The application is supported by a Design and Access Statement which clearly demonstrates how the indicative layout was arrived at and adequately demonstrates that the proposed development can be efficiently accommodated on site. The Design and Access statement has identified the opportunities and constraints present at the site and responded to these with the design of the development.

The indicative layout shows the application site subdivided into two separate parcels to the north and

south of the site with the school, commercial centre and playing fields situated centrally. It has been demonstrated that the indicative layout will achieve acceptable walkable access to community, recreational and shopping facilities both within the proposed development and outside of the site boundaries in accordance with H SP2 (f), (i) & (j) of the Arun Local Plan.

The Design and Access statement identifies four separate character areas at the site and these have been identified as 'Summer Lane; Local Centre; Western Edge; and Pagham Road'. Key characteristics have been identified for each of the character areas with the indicative layout establishing how these principles could look on site. Indicative Sections have also been provided for each of the character areas demonstrating how public and private spaces will interact in each of the character areas.

Whilst, it is considered that the Design and Access statement provides sufficient detail as to how each of the areas could differ in design and appearance. A condition has been incorporated with the approval requiring the submission and approval by the LPA of a 'Design Code Masterplan' prior to the submission of any reserved matters application. It is expected that this document will reflect the principles established within the Design and Access statement submitted in support of this application in accordance with the comprehensive masterplanning requirements of policy H SP2.

A landscape buffer has been provided along the western boundary of the site and the development has been designed to be outward facing. This approach will ensure that the development respects its edge of settlement location and maintains a suitable and strong boundary between the built up area boundary and countryside and would accord with H SP2 (b) and (e) of the Arun Local Plan.

The site is currently used for agricultural purposes and measures approximately 22.97 hectares in area. Therefore, given the scale of development proposed there will be a significant impact upon the established character of the locality. However, the impact of the proposed development was considered in the allocation of the site within the Arun District Local Plan (2011-2031) and it is considered that the proposed development (subject to appropriate design and materials) would not have an unacceptably adverse impact upon the character of the locality.

Whilst, only indicative a 'storey parameter plan - DLA.1731/L003.10' has been submitted showing that 1-2 storey development will be situated on the fringes of the proposed development, with 1-2.5 storey development situated within the centre of the two primary residential sections. The 'local centre', which is situated centrally on the site and in close proximity to the eastern boundary, will feature development of up to 3 storeys in height. As identified earlier in the report the scale of development is a matter for consideration at reserved matters stage. However, it is encouraging that consideration has been given to means by which the development's impact upon the rural character of the locality can be minimised. This has also been considered in the submitted indicative 'Density Plan - DLA.1731/L003.07' which shows lower density development on the edges of the proposed development with higher densities present in the centre of the two 'residential blocks'. It is considered that the principles established by the storey parameter plan and density plan should be reflected in any future submission and as such a condition has been incorporated for this detail to be reflected in the design code masterplan.

The proposed development will have an overall density of at least 30 dwellings per hectare (dph) which is considered to reflect the established character of the locality and the existing densities to the east of Pagham Road.

Public rights of way (PROW) cross the site and further PROW are present to the west of the application site. The layout has taken into consideration means by which the development could be tied-in to the existing PROW network.

The extensive PROW network surrounding the site allows for medium range views of the site from the

west as well as from the end of Church Lane situated to the south-west of the application site. Existing views are of open fields with the existing residential development (to the east of Pagham Road) being visible through the tree and hedgerow planting along the eastern boundary of the application site. Therefore, it is considered that subject to adequate landscape screening along the western boundary of the site the proposed development (subject to scale) would not adversely impact upon the established landscape character or visual amenity of the locality.

Some concerns existed with the indicative layout as proposed due to the absence of an internal link between the northern and southern portion of the sites for vehicular traffic. It is considered that this will result in those wishing to visit the community hub or school, on the way to or from the southern portion of the site, to go out of the site onto Pagham Road before re-entering. Consideration was given to this being provided via the Church Barton site (P/25/17/OUT) to the west of the proposed development which would have avoided any impact upon the open space provision to the west of the proposed school. However, PROW 100 runs through the site and provides vehicular access to the farm land situated to the west of the application site. Any vehicular access crossing over the PROW would require the installation of gates and it has been identified by the applicants that this would not be supported by the owner of the site. Therefore, it is considered that a north-south vehicular access cannot be achieved.

With layout, scale and appearance being reserved matters there is no requirement at outline stage to undertake a detailed analysis of the indicative information provided. However, it is considered that the indicative information provided adequately demonstrates that the proposed development can be accommodated on the site and designed in a way which will ensure that the established character of the locality is respected in accordance with policies D DM1 and D SP1 of the Arun Local Plan.

#### RESIDENTIAL AMENITY

The proposed development will not result in any unacceptably adverse impacts upon the residential amenity of existing nearby occupiers. Separation distances of between 47m and 57m are present between the proposed development and existing residential development to the east of Pagham Road. Outline approval for residential development was granted for land to the north of Summer Lane and minimum separation distances of 32m are present along the northern boundary of the site. These separation distances in conjunction with boundary screening are considered to avoid any unacceptably adverse overbearing, overshadowing or overlooking impacts upon existing or future occupiers of the site in accordance with policy D DM1(3) of the Arun Local Plan.

The 'Noise and Air Quality Assessment' submitted in support of the application and it has been identified that the proposed Pagham developments will amount to a 1.1dB and 1.5dB increase in traffic noise levels along Pagham Road which amounts to a minor effect short term and negligible impact long term. The report identifies that the maximum noise changes from the proposed Pagham developments and committed development would be 2.1dB or less and would not cause any change in behaviour or attitude, nor would it have a significant effect on the acoustic character of the area. Therefore, it is considered that the proposed development will accord with policy QE DM1 of the Arun Local Plan.

Policy QEDM2 of the Arun Local Plan requires proposals which involve outdoor lighting to be accompanied by a lighting scheme prepared according to the latest national design guidance and relevant British Standards. A lighting statement has not been provided in support of this application. However, a condition has been included requiring the submission of a scheme for external lighting in accordance with Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light, Obtrusive Light Limitations for Exterior Lighting Installations for Zone E3. Therefore, it is considered that the proposal will accord with policy QE DM2 of the Arun Local Plan.

Paragraphs 112 - 116 of the NPPF refers to advanced, high quality and reliable communications infrastructure as being essential for economic growth and social well-being. Therefore, it is considered

that the provision of broadband for future occupiers on site is essential and as such a condition has been incorporated within the recommendation requiring the submission of a strategy for the provision of broadband to be submitted and approved by the Local Planning Authority prior to the commencement of development.

#### HOUSING MIX

The submitted Design and Access Statement (DLA.1731.DAS.RPT.02.PLANNING ISSUE) dated December 2016 identifies an indicative housing mix which complies with the suggested mix of housing by size and tenure (Table 29) identified within the 'Updated Housing Needs Evidence - September 2016' (PELVP23) prepared in support of the Arun Local Plan.

Paragraph 61 of the NPPF identifies that planning policies should secure dwellings of sizes, types and tenures to meet the needs of different groups within the community. This includes but is not limited to, families with children, older people, students, people with disabilities, service families and travellers.

Policy H DM1 identifies a requirement to secure housing that would meet the needs of older people. The 'Updated Housing Needs Evidence - September 2016' (PELVP23) paragraph 5.17 states that there is a requirement to secure both specialist housing for older people as well as residential and nursing home bedspaces (falling within use class C2). The application has incorporated a 70 bed care home and has identified that the Pagham Road Character Area will incorporate 10-15% bungalows if viable. As such it is considered that the development has made adequate provision for older people on site to help in meeting the increasing demand.

Therefore, the proposed development is deemed to accord with policies H DM1 and AH SP2 of the Arun Local Plan.

#### HIGHWAYS

##### Access Arrangements:

The application proposes two accesses onto Pagham Road to the east of the application site. The northernmost access will serve the community hub and the northern portion of the development. This access has been designed to accommodate the HGV manoeuvres associated with a convenience store. The access road will have a width of 7.3m and two 2m wide footways. The measured highway speeds of 33mph were identified and visibility splays of 2.4m x 49m can be achieved. It has been identified within the transport assessment that visibility splays in excess of this could be achieved if necessary.

The secondary access will provide vehicular access to the southern portion of the development, allotments and scout hut/open space. The southernmost access has been designed with a width of 6.1m and two 2m wide footways. Again visibility splays of 2.4m x 49m can be achieved, but visibility splays in excess of this could be achieved if necessary.

It has been confirmed by WSCC that the two proposed junctions will operate well within capacity with very little queuing or delays on the major or minor arms.

The consultation response dated the 12th April 2018 confirmed that the principle of the access arrangements for the site is acceptable. A Stage 1 Road Safety Audit (RSA) has been undertaken and the issues identified within this have been addressed. Therefore, on the basis of the details and supporting information submitted, the LHA are satisfied that the proposed development would not result in severe highway impacts and no highway objection has been raised.

The proposed development will be integrated with the existing public right of way network with contributions towards the upgrade of the existing footpaths to the west of the application site (footpaths 101, 104 and 106). This will enable upgrade works to the existing footpaths (to create brideways)

providing a cycle route from Pagham to Chichester via Sidlesham, this route will use existing rights of way and lightly trafficked roads or off-road tracks. Therefore, the proposed development by virtue of this contribution is deemed to accord with policies H SP2a (g) and T SP1(b) and Paragraph 98 of the National Planning Policy Framework.

The Travel Plan (TP/01/A) is considered acceptable albeit this document is only a framework document rather than a full travel plan. As such, a condition has been incorporated as part of this recommendation securing the submission of a full travel plan for approval by the LPA in conjunction with WSCC.

The application site is deemed to be located within acceptable walking distances of nearby services and facilities as well as suitably located to provide access to public transportation and as such is compliant with policy T SP1 (a).

Policy T SP1 requires that appropriate levels of parking are provided in line with WSCC guidance, including considering the impact on street parking (T SP1). The application is currently for outline permission with all matters reserved save for access. Therefore, parking provision and arrangement will be considered in detail at reserved matters stage. The applicant should consider the WSCC Parking Demand Calculator when undertaking detailed design for the site to ensure that adequate parking provision is secured as part of the detailed design. It is also a requirement for cycle storage to be provided on site and any garages to be provided on site will be expected to have a minimum internal dimension of 3.0m x 6.0m and internal cycle racks or fixing should be provided in garages and properties without garages should be provided with cycle sheds in rear gardens.

Strategic Highways Network:

Highways England has been consulted in relation to the proposed development and a holding objection had been placed upon the development until such time as an appropriate contribution was made to the enhancement of the Whyke Roundabout on the A27 which is located to the north-west of Pagham where the B2145 crosses the A27.

The financial contributions required for these enhancements have been identified by Highways England but will not be secured as a financial contribution via the S106 Agreement. Instead a non-financial obligation requiring the developer to enter into a section 278 agreement with Highways England has been secured as part of the s106 agreement.

Cumulative Impacts:

A Cumulative Transport Assessment (CTA) has been prepared in support of this application and it has been prepared collaboratively with those (CTA's) submitted in support of planning applications P/134/16/OUT, P/140/16/OUT and P/6/17/OUT. The scope of the CTA has been the subject of discussion and agreement with the Local Highway Authority (LHA).

The CTA has considered the impact of the proposed development in conjunction with other developments in Pagham on a number of junctions in and around the application sites.

It has been identified by the LHA that a large number of 3rd party objections submitted to the Local Planning Authority (LPA) regarding delays on the B2166 (Pagham Road) arising from slow moving traffic associated with other uses. Whilst, these comments are acknowledged given that these are existing issues on the highways network, it is not the responsibility of the applicants of the current application to resolve.

The three CTA's submitted in support of P/134/16/OUT, P/140/16/OUT and P/6/17/OUT have been considered by the LHA and have been identified as being in accordance with current best practice. The majority of the conclusions within the CTA's are broadly comparable; there were notable difference in the



anticipated future operation of the junctions. Most notable of which was Pagham Road/Sefter Road and a further review of the operation of this junction was identified as necessary.

For those junctions where mitigation is required, the proposed works or contributions are considered acceptable in mitigating the severe residual cumulative impacts of the development.

A further technical note has been submitted that reviews the operation of the Pagham Road/Sefter Road junction and this has been considered further by WSCC. The consultation response (from WSCC) dated the 27th March 2018 considered the revised modelling for the Pagham Road/Sefter Road junction which provided a single model of the junction, with the geometry and traffic flows within this having been agreed by three applicants (P/134/16/OUT, P/140/16/OUT and P/6/17/OUT).

It was confirmed that the modelled results show that the Sefter Road arm of the junction will start to operate at theoretical capacity in the future without taking into account the proposed development. However, it was identified by WSCC that whilst the development would take the junction over capacity, Paragraph 109 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts are severe. Therefore, whilst it was acknowledged by WSCC that drivers will be subjected to additional delays this alone is not considered to constitute a severe impact.

Dougal Baillie Associates - Sensitivity Assessment:

The Local Planning Authority, in order to ensure that the mitigation measures proposed are adequately robust and mitigate the impact of the proposed development upon the highways network, commissioned an independent 'Sensitivity Assessment' undertaken by Dougal Baillie Associates (DBA).

The sensitivity assessment undertaken by DBA confirmed that the proposed mitigation works to the A27 Whyke Hill junction would address the impact of the Pagham developments provided that the works are implemented at the appropriate time. Therefore, the sensitivity analysis was focused upon the following key junctions;

1. B2145/B2166 roundabout;
2. B2166/Vinnetrow Road/Mill Lane roundabout;
3. Pagham Road/B2166 Lower Bognor Road priority junction;
4. Pagham Road/Sefter Road priority junction; and
5. Grosvenor Gardens/Rose Green Road/Nyetimber Lane/Gossamer Lane traffic signals.

The sensitivity assessment in this case has identified that;

1. The junction improvements proposed for junction 1 (above) would not entirely offset the impacts of the Pagham developments. However, relatively modest enhancement of the proposed roundabout approach widening would adequately offset the predicted impact.
2. The proposed physical improvements to junction 2 (above) would be sufficient to offset the cumulative traffic impact of the Pagham sites.
3. The sensitivity assessment revealed that simple signalisation of this junction would not be sufficient to offset development traffic impact, and widening of the southbound approach to two traffic lanes for a distance of 50m would also be required.
4. Signalisation of the existing junction would offset development traffic impact in conjunction with a localised speed limit.
5. The signal timings proposed in the Pagham Transport Assessments would accommodate the additional traffic generated by the proposed developments.

The sensitivity analysis commissioned by the LPA identified supplementary improvements to the following junctions and associated indicative costs;

- B2145/B2166 roundabout - £98,000
  - Pagham Road / Sefter Road - £140,000
  - Pagham Road / Lower Bognor Road - £250,000
- Total: 488,000

In addition to these modified works the following junction improvements identified within the applicants transport assessments are necessary;

- Rose Green Road widening - £81,000
  - B2166/Vinnetrow Rd. widening - £23,000
- Total: £104,000

Following the publication of the DBA sensitivity analysis the developers (for P/134/16/OUT, P/140/16/OUT and P/6/17/OUT) have submitted an amended 'Common Statement of Cumulative Assessments'. Each of the developers has agreed to undertake junction improvement works on behalf of the Local Highway Authority (LHA), as follows;

- P/134/16/OUT - Rose Green Road widening
- P/140/16/OUT - B2166/Vinnetrow Rd. widening
- P/6/17/OUT - B2145/B2166 roundabout

The Common Statement of Cumulative Assessment under table 7.3 identified cumulative contributions for each of the developments taking into account the associated costs of the junction improvements identified within the sensitivity analysis. Therefore, the developments will generate a combined highways contribution of £390,000 and a £100,000 contribution towards improvements of footpaths 101, 104 and 106 to provide a route from Pagham to Chichester via Sidlesham. As such, each developer will make the following adjusted contributions;

- P/134/16/OUT - Land North of Sefter Road - £88,142.29 & Footpath Contribution of £28,572.00
- P/140/16/OUT - Pagham South - £143,632.98 & Footpath Contribution of £40,816.00
- P/6/17/OUT - Land north of Hook Lane - £158,224.73 & Footpath Contribution of £30,612.00

The proposed junction improvements go beyond those originally identified and proposed by the applicants and are intended to achieve no net detriment as a result of the additional development traffic. The Community Infrastructure Levy Regulations 2010 set out that a planning obligation must be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Therefore, it is acknowledged that existing issues are present on the highways network around Pagham but it is not the responsibility of the applicant for this application to resolve these existing issues.

The highway infrastructure improvements, to be secured via the s106 agreement, are considered sufficient and adequate to mitigate against the highways impacts of the proposed development (achieving no net detriment) in accordance with policies T SP1 and H SP2 (k) of the Arun Local Plan.

The financial contributions secured from P/134/16/OUT, P/140/16/OUT and P/6/17/OUT address the highways impacts of the Pagham strategic allocations under policy H SP2a. However, planning application P/25/17/OUT (Church Barton) has not contributed towards the cumulative mitigation strategy although in theory it should. Therefore, as an alternative a financial contribution towards sustainable transport measures has been identified - it is intended for this financial contribution to finance the implementation an off-road cycle route linking Sefter Road and the strategic allocation West of Bersted. The financial contribution is proportional to the scale of development and is deemed to meet the policy

requirements of H SP2a (h) of the Arun Local Plan.

## EDUCATION

Policy INF SP1 of the Arun Local Plan states that the Local Planning Authority will support development proposals which provide or contribute towards the infrastructure and services needed to support development (including the necessary infrastructure set out in the Infrastructure Delivery Plan).

In terms of education provision within the Infrastructure Delivery Plan (IDP) dated February 2017 it is identified that Pagham north and south should make provision of land and contributions towards a new 1FE primary school (expandable to 2FE) to serve Pagham; contributions towards the 10FE Secondary School located centrally within the District; and contributions towards 50 new nursery places to serve Pagham.

The IDP identifies a total cost of £6million for the construction cost of the new primary school and appropriate contributions have been secured from each of the allocated sites in Pagham towards the delivery of the new primary school. West Sussex County Council (WSCC) in their Section 106 contributions response dated the 24th April 2018 identified a financial contribution of £1,927,210 and the provision of a 2 hectare site to enable the creation of the new primary school as part of P/140/16/OUT. The preferred primary school site is suitably located within Pagham and will be accessible by future occupiers of the strategic allocations as well as existing Pagham residents. The financial contribution and school site will be secured via the s106 agreement.

The IDP identifies a total contribution of £1,896,000, from the 1,200 unit Pagham strategic allocation, towards the creation of 50 new nursery places. Therefore, WSCC have requested a financial contribution of £646,000 from this development, in accordance with the IDP 2017, which will be secured via the s106 agreement. This financial contribution will be directed towards early years provision to be provided in conjunction with the new primary school.

The IDP 2017 identifies a financial contribution from the 1,200 unit strategic allocations at Pagham north and south of £5.27 million towards the 10FE Secondary school to serve the district (6FE expandable to 10FE). However, WSCC in their consultation response have requested a calculator based contribution towards expansion of Felpham Community College. When the secondary and sixth form contribution was discussed by the Pagham Advisory Group, it was questioned as to why the contribution was being directed to Felpham Community College rather than the Regis School. This was raised with WSCC education who advised that with the expansion of Felpham Community College additional capacity would (eventually) be created at the Regis School. However, it was advised that consideration would be given to directing the contribution to the Regis School for extension.

The proposed contribution does not provide towards the necessary infrastructure identified within the IDP 2017 as required by policy INF SP1. However, it is considered by the LPA that the proposed contribution should be allocated towards the proposed new secondary school identified under policy INF SP2 of the Arun Local Plan. The contribution will be prescribed for the associated feasibility and design work as well as the provision of access to serve the new school. Therefore the proposed contribution would provide towards the necessary infrastructure identified within the IDP 2017 as required by policy INF SP1.

Therefore, it is considered that the proposed development (in terms of education provision and contributions) will accord with policies H SP2(n), H SP2a and INF SP1 of the Arun Local Plan.

## HEALTH CARE PROVISION

Policy H SP2a (e) (iv) requires the strategic allocations at Pagham (SD1) to provide contributions towards new healthcare facilities at West of Bersted (SD3) or alternatively where appropriate proposals may make contributions towards new facilities or improvement or expansion of the relevant existing

facility, subject to agreement with the Council.

The Consultation response from the Coastal West Sussex Clinical Commissioning Group dated the 20th June 2017 has requested a financial contribution to Grove House GP Surgery for the infrastructure needs of managing GP consultant health care. This proposed project accords with the requirements of policy H SP2a (e) (iv) of the Arun Local Plan and accords with the requirements of the IDP 2017.

However, in order to ensure that the needs of future residents are best met through health care provision the Section 106 agreement has been worded to secure various potential health care solutions. This includes the provision of a new health care facility as part of the West of Bersted (SD3) strategic allocation; the expansion or improvement of Grove House GP Surgery; or the expansion or relocation of Sir Arthur Griffith clinic located in Pagham.

Therefore, it is considered that the proposal would accord with policy INF SP1 of the Arun Local Plan.

#### ADDITIONAL INFRASTRUCTURE CONTRIBUTIONS

Additional infrastructure contributions have been secured towards libraries, fire & rescue, police and leisure facilities. These financial contributions and the identified projects are deemed to accord with the Community Infrastructure Levy Regulation 123 and meet the demand and need generated by the proposed development in accordance with policy INF SP1 of the Arun Local Plan.

Full details of the contributions secured are provided in the heads of terms attached to this report.

#### AGRICULTURAL LAND

The Natural England 'Agricultural Land Classification map London and the South East (ALC007)' identifies the site being classified as Grade 2 to the east with a small portion of the site to the west classified as Grade 3 agricultural land.

The Ministry of Agriculture, Fisheries and Food 'Agricultural Land Classification - October 1988' identifies Grade 2 as 'very good quality' and Grade 3 as 'good to moderate quality'. The NPPF (paragraph 170b) requires that the Local Planning Authority takes into account the economic and other benefits of this type of land.

The application was accompanied by an Agricultural Land Classification and Soil Resources statement dated September 2016. It was identified within this statement that the loss of 21.7ha (the application site area) would equate to a reduction of 0.18% of Arun's collective Grade 2 and 3 quality agricultural land.

The application site has been allocated for residential development under policies H SP1 and H SP2a of the Arun Local Plan and has been the subject of significant assessment prior to allocation. Therefore, it is considered that this provides evidence that alternative options for the location of this strategic allocation have been explored and subjected to a Sustainability Appraisal process to select the most sustainable sites. The Arun Local Plan (2011-2031) Sustainability Appraisal recognised that most of the undeveloped coastal plain within the District is high grade agricultural land and that the majority of the strategic allocations would have a significant negative effect on the objective of avoiding the loss of 'best and most versatile' (BMV) land. The loss of BMV is one factor in the site selection and decision making process.

Policy SO DM1 of the Arun Local Plan states that development will not be permitted on this type of land unless 'designated by this plan' or unless the need for the development outweighs the need to protect such land in the long term. As the site is a strategic allocated within the Local Plan the proposal would not be the subject of assessment under policy SO DM1.

#### AFFORDABLE HOUSING

For all developments over 11 residential units the Council requires a minimum of 30% affordable housing on site, as set out in Policy AH SP2 of the Arun Local Plan. Policy AH SP2 of the Arun District Local Plan (2011-2031) identifies the following mix of affordable homes (unless evidence indicates otherwise):

- 1 Bed - 35-40%
- 2 Bed - 30-35%
- 3 Bed - 20-25%
- 4 Bed - 5-10%

The proposed affordable housing provision has been considered by the Housing Strategy and Enabling Manager and a tenure mix of 75% Affordable Rented Housing and 25% Intermediate Housing has been requested. The development proposes to provide 30% affordable housing which equates to 120 units on a scheme of 400 dwellings. The affordable housing provision is deemed to be acceptable and will be secured via the Section 106.

#### **ECOLOGY AND BIODIVERSITY**

The application has been accompanied by an Ecological Assessment (5633.EcoAss.vf1) which has considered the ecological interest of the application site and the importance of the habitats present in accordance with current guidance. The Ecological Assessment has identified the features of greater value in the context of the application site and these are identified as the hedgerows, ditches, tree lines and field margins.

It has been identified (within the Ecological Assessment) that whilst there will be some losses to hedgerows and trees in order to provide access such features are to be retained and enhanced wherever possible.

The proposed development has been considered by the Council's Ecological Advisor who has advised that important habitats (treelines and hedgerows) should be retained on site and there should be the provision of significant areas of species rich wildflower, grassland and nature tree and hedgerow planting. It has also been highlighted that the open space along the entire western boundary of the site should be provided in accordance with the indicative masterplan.

In addition, it was confirmed that the mitigation measures will be required in accordance with the Ecological Assessment (submitted in support of the application). It was also requested that an Ecological Mitigation and Enhancement Plan be submitted for approval by the LPA prior to the commencement of development, these measures will be secured via condition.

Therefore, the development will not give rise to any unacceptably adverse effects to ecology and biodiversity at the site. The proposed development subject to appropriate conditions (included with this recommendation) is deemed to accord with policy ENV SP1, ENV DM1 and ENV DM5 of the Arun Local Plan.

The Council's Tree Officer has considered the proposed development and an objection was raised (dated 23rd August 2017) on the basis that the proposed layout would result in excessive levels of tree loss. However, the layout proposed is indicative and does not permit the felling of trees on site. Conditions have been included as part of this recommendation report restricting the felling, uprooting or removal of trees before, during or after the construction period except where removal is indicated on a plan approved by the Local Planning Authority. The Council's Tree Officer has also identified a number a Tree Preservation Orders which should be created on site.

It is considered that by virtue of the conditions proposed the development will not result in any unacceptably adverse impacts to existing trees on site without first receiving authorisation from the Local

Planning Authority. Therefore, the proposed development will accord with policy ENV DM4 of the Arun Local Plan.

#### PAGHAM HARBOUR SPA/RAMSAR

Policy H SP2a (a) (SD1 and SD2) identifies that proposals will need to ensure no detrimental impact to Pagham Harbour SPA through compliance with policy ENV DM2 and its supporting text.

Policy ENV DM2 of the Arun District Local Plan states that within Zone B (0-5km) all new residential development which is likely to have an impact on Pagham Harbour will be required to;

- i. Make developer contributions towards the agreed strategic approach to access management at Pagham Harbour.
- ii. Create easily accessible new green spaces for recreation within or adjacent to the development site. These shall be capable of accommodating the predicted increases in demand for local walking, including dog walking. Good pedestrian links shall be provided between existing housing areas and new and existing green spaces in order to discourage car use.

The supporting text under Paragraphs 17.1.18 - 17.1.22 of the Arun Local Plan includes relevant background information on the Pagham Harbour SPA/Ramsar and the means by which the Local Plan policies will ensure its protection.

Paragraph 12.1.15 of the supporting text for policy H SP2a within the Arun Local Plan identifies that the Pagham South (SD1) allocation is within close proximity to Pagham Harbour, which is an important and sensitive natural site within the wider Bognor Regis area. Development from this allocation should reduce any impacts from loss of supporting habitat or recreational disturbance that may arise.

The application is supported by a number of documents including a Habitat Regulation Assessment (HRA) dated December 2016 (5633.IAA.VF1); Brent Goose Mitigation Strategy (Dec 2017 - 5633.BGMP.vf1); and 'Updated Information to enable a Habitats Regulation Assessment of the impact on the Pagham Harbour Ramsar/Special Protection Area' (5633.IHRA.revisited.vf3) dated June 2018.

The LPA had originally screened out the application by virtue of the mitigation measures proposed being integral parts of the proposal, in accordance with the approach derived from the Hart District Council v Secretary of State for Communities & Local Government . However, the decision of the ECJ in case C-323/17 it was concluded that it was not appropriate to take account of measures intended to avoid or reduce the harmful effects of the plan or project at the screening stage of the Habitats Regulation Assessment process.

Whilst, some inconsistencies exist between this judgement and previous ECJ case law, it will be necessary until such time as further clarification is provided by the ECJ, to consider the efficacy of impact avoidance and mitigation measures such as the strategic access management and monitoring (SAMM) through an Appropriate Assessment.

The Local Planning Authority (LPA) appointed Ecological Planning & Research Ltd (EPR) to undertake the Appropriate Assessment (AA) for the current planning application. The purpose of an Appropriate Assessment (AA) is to further analyse likely significant effects identified during the screening stage. The AA evaluates the implications of the plan or project, in light of the conservation objectives of the affected International Sites and includes a test as to if the plan or project would result in significant adverse effects on site integrity.

Consideration within the AA has also been given to 'in combination effects' where other nearby plans or projects may have the potential to cause negative effects on the integrity of the International Site. These

negative effects may act in combination, with those of this planning application, potentially leading to a 'likely significant effect' (LSE) becoming significant. Therefore consideration has been given to whether this application could contribute to effects generated by other plans or projects and vice versa.

The Habitats Regulations Assessment (18/32-2A) dated the 17th August 2018 prepared by EPR (on behalf of the LPA) identified in the 'Screening Conclusion' (paragraph 4.37) that the Local Plan HRA concluded that the Pagham South allocation was unlikely to have a LSE on Pagham Harbour SPA/Ramsar (and this was agreed by Natural England). It was proposed during the Arun Local Plan examination in public and agreed in the main modifications that the policy for the allocation should include suitable wording to allow for planning application specific assessment and mitigation where this assessment found mitigation necessary. The information provided by the applicant addresses this issue and identifies that although a LSE alone or in combination is unlikely, a precautionary approach means mitigations is proposed. As such, the HRA for this application was progressed to the AA stage.

Water pollution has also been considered in paragraphs 4.38 - 4.60 of the EPR Report and it was concluded that although there is a potential issue with capacity at Pagham WWTW (wastewater treatment works) identified within the Arun Local Plan HRA Screening Report, the applicant has provided information from the relevant water supplier (Southern Water) confirming that there is sufficient capacity to accommodate this site. Natural England in their consultation response of February 2017 stated that it was satisfied that there would be no LSE from water quality impacts.

A memorandum of understanding between Arun District Council and Southern Water (September 2017) and statements within the examination in public Inspector's report (July 2018) provide sufficient assurances that waste water and sewerage discharges from the 400 homes proposed (by this application) can be accommodated at Pagham WWTW. Although consideration of in combination effects is not specifically addressed, the agreed approach for addressing waste water treatment capacity for the strategic allocations at Pagham in the Arun Local Plan, is to divert flows to Lidsey and Ford WWTW, with reinforcement works (funded by developer contributions) to plants and pumping mains to be brought forward over time in line with housing delivery.

It is concluded under paragraph 4.59 that water pollution impacts arising from the proposed development will not have the potential for a LSE on the Pagham Harbour SPA/Ramsar site alone. However, there is potential for a LSE on the SPA/Ramsar in combination with other plans or projects.

Table 4.1 identifies that there is the potential for LSE on Pagham Harbour SPA/Ramsar site alone or in combination with other plans or projects in relation to the disturbance of birds, effects on supporting habitat and water pollution. As a consequence the proposal has been subject to an 'Appropriate Assessment' (Stage 2 of the HRA process).

The applicant's technical assessment work has concluded that the use of the site by Dark-bellied Brent Geese is not significant and therefore the site is not considered to be 'supporting habitat'. However, they have identified measures to secure biodiversity gains, increasing the proposed enhancement package to provide greater comfort in relation to any perceived residual impacts on Dark-bellied Brent Geese.

The measures identified by the applicant are;

- Enhancing the western boundary by screening with dense tree planting to reduce visual disturbance;
- Fencing will be included on the western and southern boundaries to prevent dogs accessing land to the south and west when run off their leads;
- Footpaths which link to the SPA/Ramsar site will not be closed but will not be promoted in signage or literature for new residents, rather new on-site open space will be promoted, especially for dog walkers; and
- Brent Goose Mitigation Plan (December 2017) - A bespoke package of mitigations/enhancement

measures delivering suitable habitat for foraging Brent Geese for the long term has been developed with support from Natural England (letter dated 13th December 2017).

Natural England in their consultation response dated 13th February 2018 confirmed that, the package of measures as set out in the Brent Goose Mitigation Plan (BGMP) are sufficient to avoid a significant effect on the SPA from the loss of Dark-bellied Brent Geese foraging habitat and should be secured in perpetuity (in this case 80 years, as defined within the SAMM Project).

It is identified that Brent Geese clearly utilise the land within and adjacent to the application site at least occasionally and are likely to take advantage of the foraging resources when available.

It is concluded under paragraph 5.56 of the HRA (18/32-2A) that the proposed mitigation measures are considered to be suitable and ADC can be confident that they will avoid or mitigate an adverse effect on the integrity of the Pagham Harbour SPA/Ramsar site, alone or in-combination with other plans and projects.

In order to mitigate recreational pressure upon Pagham Harbour SPA/Ramsar in combination with other residential proposals in the area, Natural England has advised that an appropriate contribution should be made to the strategic approach to access management at Pagham Harbour. The Council require payment of the strategic access management and monitoring (SAMM) tariff and the provision of suitable greenspace within the development to meet the recreational needs of future occupiers. Both of these measures have been secured via the Section 106 agreement.

To mitigate potential water pollution impacts it is identified under paragraph 5.78 that any approval should be conditional on a condition requiring development to be phased and implemented in accordance with the delivery of any sewerage network reinforcement required. It is identified under paragraph 5.79 that a condition must be included requiring the approval of a detailed SuDS strategy, which should include elements to address both water quality and volume of run-off.

It has been concluded under paragraph 7.4 of the HRA (18/32-2A) for this application that providing the avoidance and mitigation measures identified above are successfully agreed, secured and implemented that the proposals will accord with the impact and avoidance strategy set out within Policy ENV DM2 of the Arun Local Plan and as such there would be no adverse effect on the integrity of Pagham Harbour SPA/Ramsar. Therefore the development passes the HRA screening and Appropriate Assessment tests and can proceed.

#### DRAINAGE AND FLOODING

The majority of the site falls within Flood Zone 1 (low risk), apart from a small area at the most southerly point of the site which is identified as flood risk Zone 3 (high risk).

The Environment Agency has been consulted and have identified that the proposed development will meet the requirements of the National Planning Policy Framework (NPPF) if the finished floor levels are set no lower than 5.1m above Ordnance Datum (AOD) as specified in the Flood Risk Assessment (FRA) Amc/16/0708/5415 dated the 27th October 2016. This will be secured via an appropriately worded condition.

The development drainage strategy submitted in support of the application identifies the use of permeable paving/permeable sub base; piped storm drains; road side swales; and attenuation/bio-retention basins at the site (subject to detailed design). The attenuation basins are shown on the indicative block plan (DLA.1731.L003.09.Rev B) and within the Drainage Strategy (Appendix E - Drawing No. 5415:CA). It is considered that the proposed attenuation basins will not result in an unacceptable impact upon the open space provision at the site, with the indicative layout providing open space which



exceeds the minimum requirements by 2.29ha.

The Council's Drainage Engineers have been consulted in relation to the proposed drainage strategy and no objection has been raised. A total of 6 conditions have been requested and these have been included in the recommendation. This has included the requirement for winter groundwater monitoring to be undertaken prior to the commencement of development. This work will ensure that the drainage strategy takes account of site specific considerations.

The applicant in the submitted design and access statement identifies that Southern Water has confirmed that capacity exists for a direct connection to Pagham waste water treatment works (WWTW) for the proposed development without the need for any upgrades. It is further identified that the foul drainage water strategy will not utilise any existing public foul sewers and a new direct connection will be provided.

Southern Water in their consultation responses dated the 23rd August 2017 (in relation to the proposal) have identified that they can accommodate the needs of this application at the Pagham Waste Water Treatment Works (WWTW). It was identified within a memorandum of understanding (MOU) between Arun District Council and Southern Water (dated September 2017) in support of the Arun Local Plan and within the examination in public Inspector's report (July 2018) provide sufficient assurances that waste water and sewerage discharge proposed by this application can be accommodated at Pagham WWTW. The agreed approach for addressing waste water treatment capacity for other strategic developments in the Arun Local Plan, is to divert flows to Lidsey and Ford WWTW, with reinforcement works (funded by developer contributions) to plants and pumping mains to be brought forward over time in line with housing delivery.

Therefore, subject to the proposed conditions it is considered that the development will accord with policies W SP1, W DM1, W DM2 and W DM3 of the Arun Local Plan.

#### BUILT HERITAGE AND LISTED BUILDINGS

Paragraphs 20(d) of the National Planning Policy Framework (NPPF) states that the planning system should contribute to and enhance the natural and local environment.

Paragraph 190 of the NPPF identifies that the LPA should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including development which may affect the setting of a heritage asset), taking into account any available evidence and necessary expertise.

Paragraph 192 of the NPPF states that in the determination of planning applications the LPA should take account of the desirability of sustaining and enhancing the significance of a heritage asset; the positive contribution that conservation of heritage assets can make to sustainable communities; and the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be. Irrespective of whether any potential harm amounts to substantial harm.

Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of the designated heritage asset, this harm should be weighed against the public benefits of the proposal.

There are a number of listed buildings situated within close proximity to the application site. White Rock (21 Pagham Road) is situated in closest proximity and is sited on the eastern boundary of the southern

portion of the site. The proposed built development will be situated approximately 50m to the north of White Rocks and by virtue of this separation distance and boundary screening proposed by the indicative layout plan, it is considered that the proposal will not result in unacceptable harm to the setting of White Rock.

Further to the south of the application site is St Thomas a Becket, a Grade I listed medieval church which was restored in 1837. The listed building sits within a verdant churchyard on Church Lane and enjoys a sense of enclosure from the boundary walls and mature trees. The church is situated on the edge of the built up area boundary and is accessed via a semi-rural lane. Further to the south and separated from the church by Church Farm Holiday Village is Becket's Barn, the remains of a former archbishop's palace designated as a scheduled monument and listed building. The church and former archbishop's palace have a clear historic relationship and reflect the medieval importance of the settlement of Pagham.

Immediately adjacent to the church is Old Cottage, an 18th Century thatched cottage which together with the church forms a picturesque grouping. Despite the more modern infill bungalows along Church Lane, it has been identified that the church and other cottages along the lane keep the old character remarkably well. This small group of listed buildings along Church Lane and Pagham Road forms the 'historic core of Pagham'. The rural character of the lane and open fields to the north assist in helping to understand and appreciate the origins of St Thomas a Becket church and the historic core of Pagham and contributes positively to their setting.

The impact of the proposed residential development has been considered by Historic England in their consultation response of the 8th February 2017, in which it was stated that;

"Historic England agrees with the heritage statement that direct views of the development from the church and churchyard are largely contained by the modern bungalows opposite."

It was also identified by Historic England that changes to the general landscape and settlement character in the vicinity of the church have the potential to affect the setting of listed buildings as a result of an increase in traffic and noise. The noise impact of the proposed development has been considered in the 'Noise and Air Quality Assessment' submitted in support of the application and it has been identified that the proposed Pagham developments will amount to a 1.1dB and 1.5dB increase in traffic noise levels along Pagham Road which amounts to a minor effect short term and negligible impact long term. The report identifies that the maximum noise changes from the proposed Pagham developments and committed development would be 2.1dB or less and would not cause any change in behaviour or attitude, nor would it have a significant effect on the acoustic character of the area.

Views of the church are restricted from Pagham Road due to the height of boundary screening along the eastern boundary of the application site, with the church spire becoming visible at the southernmost end of Pagham Road, where it meets Church Lane. The development will have a limited impact within the street scene of Church Lane by virtue of the proposed residential development being situated approximately 255m to the north of Church Lane. Which in conjunction with the hedgerows and built form to the north of Church Lane will limit the development's visibility from the Grade I listed building.

It is acknowledged that the proposed development will impact upon views of the Grade I listed building from footpath 101 to the north but it is considered that whilst, the development will have an impact upon the setting of the Grade I listed church that this impact is not substantial or significant.

To the north-east of the application site is a cluster of listed buildings and the Barton Close area of special character (ASC).

The application has been the subject of consultation with the Council's Conservation and Design Officer

who has raised no objection. It was acknowledged that the application site is situated some distance to the south-west of the ASC by the Council's Conservation Officer, that there are few long terms views into the ASC, and as such the proposed development will have little impact upon its locally distinctive qualities.

Therefore, it is considered that the proposed development will preserve the setting of listed buildings surrounding the site and as such would accord with policies HER SP1, HER DM1 and HER DM4 of the Arun Local Plan. It should also be considered that the proposed development makes a significant contribution to the Local Planning Authorities housing land supply and is an allocated site within the Arun Local Plan. Therefore, it is considered that the public benefits of the development would outweigh any harm to the setting or significance of heritage assets in accordance with paragraphs 196 and 197 of the NPPF.

#### **ARCHAEOLOGY**

The proposal has been considered by the Council's Archaeology Adviser who has stated that the potential of the proposed development to impact on unknown remains of archaeological importance justifies an investigation of the site and would be best secured via a suitably worded condition. This condition has been included as part of the recommendation and it is considered that by virtue of this the proposed development will accord with policy HER DM6 of the Arun Local Plan.

#### **RENEWABLE ENERGY**

Policy ECC SP2 of the Arun Local Plan identifies that major developments must produce 10% of the total predicted energy requirements from renewable or low carbon energy generation on site, unless it can be demonstrated that this is unviable. A condition has been included with this recommendation report requiring the submission of details for approval by the Local Planning Authority as to how this will be achieved on site.

#### **SUMMARY**

The proposed development is considered to be acceptable in principle as has been established above and it has been identified within the report that the proposal will not conflict with the development plan.

The impact of the proposed development upon existing infrastructure has been mitigated through financial contribution and the provision of services and facilities. Adequate mitigation measures have also been identified which will mitigate the impact of the development upon the Pagham Harbour SPA/Ramsar site to the south-west of the application site. The developer has also agreed to provide 30% affordable housing which equates to 120 affordable units (for a 400 dwelling development).

Therefore, the proposed development is deemed to accord with the requirements of policy H SP2 and will cumulatively meet the requirements of H SP2a (SD1 & SD2) in conjunctions with planning applications P/134/16/OUT and P/6/17/OUT.

<b>HUMAN RIGHTS ACT</b>
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The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms

of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

### **DUTY UNDER THE EQUALITIES ACT 2010**

Duty under the Equalities Act 2010

In assessing this proposal the impacts upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation) have been considered in the determination of this application.

The proposal would have a neutral impact on the protected characteristics..

### **SECTION 106 DETAILS**

See attached Heads of Terms summary.

### **RECOMMENDATION**

**APPROVE CONDITIONALLY SUBJECT TO A SECTION 106 AGREEMENT**

1 The permission hereby granted is an outline permission under s92 of the Town and Country Planning Act 1990 (as amended) and an application for the approval of the Local Planning Authority to the following matters must be made not later than the expiration of 3 years beginning with the date of this permission:-

- (a) Layout;
- (b) Scale;
- (c) Appearance;
- (d) Landscaping.

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 (as amended).

2 The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission, or before the expiration of 2 years from the date of the approval of the last of the reserved matters to be approved, whichever is the later.

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 (as amended).

3 The development hereby permitted shall be carried out in accordance with the following approved plans:

- Location Plan - dwg no. DLA.1731.L003.03
- Red Line Boundary - DLA.1731.L003.01
- Proposed Northern Site Access - 1616/01 Rev L
- Proposed Southern Site Access - 1616/02 Rev K

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy D DM1 of the Arun Local Plan (2011-2031).

- 4 No development shall take place until a detailed scheme of phasing for the construction of the dwellings and associated highways and public areas has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a schedule identifying the order of anticipated commencement and completion within each phase of construction.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the phasing of the development needs to be satisfactory before work commences.

- 5 No development in any phase shall be carried out unless and until a schedule of materials and finishes to be used for that phase for external walls and roofs of the proposed buildings has been submitted to and approved by the Local Planning Authority. No development in any phase shall be carried out unless and until a 'statement of detail' for that phase has been submitted to and approved setting out details of proposed windows and doors, details of the depth of recess/reveal from the brickwork, sills and lintels, brick bonding, brick detailing, eaves detailing and rainwater goods. The materials and 'statement of details' so approved shall be used in the construction of the buildings.

Reason: To enable the Local Planning Authority to control the development in details in the interests of amenity by endeavouring to achieve buildings of visual quality in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the use of satisfactory external materials goes to the heart of the planning permission.

- 6 Prior to the submission of any reserved matters application a design code masterplan shall be submitted to, and approved in writing, by the Local Planning Authority. This document shall demonstrate how the detailed proposals will reflect the objectives of the;

- Illustrative Masterplan (Dwg No. DLA.1731.L003.05 Rev F);
- Design and Access Statement (DLA.1731.DAS.RPT.02.PLANNING ISSUE);
- Density Plan (DLA.1731.L003.07 Rev B);
- Storeys Parameter Plan (DLA.1731.L003.10);
- Development Framework Plan (DLA.1731.L003.02 Rev B); and
- Internal Movement Strategy (DLA.1731.L003.12 Rev B).

The design code masterplan will provide further details on matters such as character areas, street hierarchy, building typologies, key buildings, the approach to car parking, structural planting, street furniture, lighting and treatment of the public realm. The development shall be carried out in accordance with the approved design code.

Reason: To enable the Local Planning Authority to control the development in details in the interests of amenity by endeavouring to achieve buildings of visual quality in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the design of the scheme goes to the heart of the planning permission.

- 7 The landscaping and layout particulars to be submitted in accordance with Condition 1 shall include:

- i. Details of all existing trees and hedgerows on the land, showing which are to be retained and which removed;
- ii. Details of the positions, height, design, materials and type of boundary treatment to be provided;

- iii. Details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree
- iv. The detailed landscape design for the development including the layout and design of the public realm within the development;
- v. Details of the surfacing, lighting and signage of all footpaths, cycle routes and a phasing plan for their provision;

No hedge or tree shall be felled, uprooted or otherwise removed before, during or after the construction period except where removal is indicated on a plan approved by the Local Planning Authority.

Reason: In the interests of amenity and of the environment of the development in accordance with Policy ENV DM4 of the Arun Local Plan.

- 8 Landscaping (hard and soft) shall be carried out in accordance with the approved details. All planting, seeding or turfing comprised in the approved details shall be carried out in the first planting and seeding seasons following the first occupation of each phase or sub phase of the development hereby permitted or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the phase or sub-phase die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of amenity and of the environment of the development in accordance with Policy D DM1 of the Arun Local Plan.

- 9 Prior to the commencement of each phase of the development an Arboricultural Method Statement and Tree Protection Plan shall be submitted for that phase to and approved in writing by the Local Planning Authority and the development shall be undertaken in strict accordance with the details so approved.

Reason: To ensure the retention and maintenance of trees and vegetation which are an important feature of the area in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the protection and retention of trees goes to the heart of the planning permission.

- 10 Development shall not commence until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the local planning authority, and shall include;

- The design should following the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDs Manuel Produced by CIRIA. Winter groundwater monitoring to established highest annual ground water levels and percolation testing to BRE 365, or similar approved, will be required to support the design of any infiltration drainage.

- The development shall not proceed until formal consent has been approved in writing from the Lead Local Flood Authority (WSCC) or its agent (ADC) for the discharge of any flows to watercourses, or the culverting, diversion, infilling or obstruction of any watercourses on the site. Any discharge of watercourse must be at a rate no greater than the pre-development run off values.

- Arrangements for future access and maintenance of any watercourse or culvert (piped watercourse) crossing or abutting the site.

No building shall be occupied until the complete surface water drainage system serving it has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure that the surface water disposal scheme is agreed before construction commences and to protect existing watercourses prior to the commencement of development.

- 11 Development shall not commence until full details of the maintenance and management of the surface water drainage system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. Upon completed construction of the surface water drainage system, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure that the future maintenance and funding arrangements for the surface water disposal scheme are agreed before construction commences.

- 12 Upon completed construction of the surface water drainage system but prior to occupation of any part of the scheme, the owner or management company shall either provide the local planning authority with an updated copy of the management manual incorporating any changes as a result of construction/implementation or confirm in writing that no changes are required to the manual.

No further changes shall be made to the approved surface water drainage system Maintenance & Management Plan/Regime including the management company responsible or the financial arrangements between the owners of the dwellings & the management company other than with the written consent of the Local Planning Authority.

The owner or management company shall thereafter strictly adhere to and implement the recommendations contained within the manual to ensure that the system is maintained in perpetuity.

Reason: To ensure the efficient maintenance and on-going operation of the surface water drainage system and to ensure the best practice in line with guidance set out in 'The SuDS Manual' CIRIA publication ref: C753 Chapter 32, in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan.

- 13 Before the development hereby permitted is commenced, details of a proposed foul drainage system shall be submitted to and approved in writing by the Local Planning Authority (including details of its siting, design and subsequent management/maintenance, if appropriate) and no dwelling shall be occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details.

Reason: To ensure adequate infrastructure is provided to enable the scheme to be satisfactorily drained in accordance with Policies D DM1, W DM1 and W SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the foul

drainage system goes to the heart of the planning permission.

- 14 Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development.

Reason: To ensure adequate foul capacity is available to satisfactorily drain the development and avoid adverse impacts upon the Pagham Harbour SPA/Ramsar in accordance with policies D DM1, W DM1, W SP1, ENV DM2 and H SP2a of the Arun Local Plan.

- 15 Prior to the commencement of construction works or any preparatory works an Ecological Management and Mitigation Plan including a Schedule of Works shall be submitted to the LPA for approval and will be based on the recommendations within the supporting Ecological Assessment - Dec 2016 5633.EcoAss.vf1. All approved details shall then be implemented in full and in accordance with the agreed timings and details.

Reason: This condition is necessary to ensure the protection of wildlife and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site in line with national guidance and Policy ENV SP1 and ENV DM5 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because of the need ensure measures are in place to protect wildlife and habitats on site prior to any disturbance.

- 16 Prior to the occupation of any dwelling of a particular phase, a scheme for external lighting shall be submitted and approved in writing by the Local Planning Authority. The scheme shall ensure that the lighting is sensitive to bats by minimising the lighting of the woodland along the southern and western boundaries and shall comply with Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light, Obtrusive Light Limitations for Exterior Lighting Installations for Zone E3.

Reason: To control the residential amenities of the local environment in accordance with Policies D DM1 and QE DM2 of the Arun Local Plan.

- 17 Prior to the commencement of development, including any works of demolition, a Construction Management Plan shall be submitted for approval in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- full details of the construction compound,
- soil resources plan,
- dust mitigation measures,
- noise reduction measures,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- the provision of effective wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- details of public engagement both prior to and during construction works.

Reason: In the interests of highway safety and the amenities of the area in accordance with



Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because of the safety and amenity issues that need to be addressed.

- 18 During the construction phase no machinery/vehicles or plant shall be operated on the site, no process shall be carried out and no deliveries taken at or despatched except between the hours of:

7.00 a.m. and 6.00 p.m. on Mondays to Fridays inclusive

8.00 a.m. and 1.00 p.m. on Saturday

Not at any time on Sundays or Public Holidays

Reason: In the interests of amenity in accordance with Policies D DM1 and QE DM1 of the Arun Local Plan.

- 19 No raw materials, finished or unfinished products or parts, crates, packing materials or waste shall be stacked or stored on the site except within the storage areas identified in the Construction Management Plan at any time approved by the Local Planning Authority.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy D DM1 of the Arun Local Plan.

- 20 Prior to commencement of development the applicant shall prepare and submit for approval an Employment and Skills Plan for the construction phase of development. Following approval of the Employment and Skills Plan the developer will implement and promote the objectives of the approved plan.

Reason: in accordance with Policy SKILLS SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to as it relates to the construction phase of development.

- 21 The vehicular and pedestrian accesses and bus stop lay by as indicatively shown on drawing no.1616/01 Rev L ("the Northern Access") including appropriate visibility splays shall be completed in accordance with the requisite Agreement under s278 of the Highways Act 1980 with the local highway authority prior to the occupation of any phase of the development served by the Northern Access. Once provided the visibility splays for said access shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metres above the adjoining carriageway level or as otherwise agreed.

Reason: In the interests of amenity and to avoid unacceptable harm to highway safety in accordance with policy GEN7 of the Arun District Local Plan. It is considered necessary for this to be a pre-commencement condition as establishing an access to the site goes to the heart of the planning permission.

- 22 The vehicular and pedestrian accesses as indicatively shown on drawing no.1616/02 Rev K ("the Southern Access") including appropriate visibility splays (in line with any S278 approval) shall be completed in accordance with the requisite Agreement under s278 of the Highways Act 1980 prior to the occupation of any phase of the development served by the Southern Access. Once provided the visibility splays for said access shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metres above the adjoining carriageway level or as otherwise agreed.

Reason: In the interests of amenity and to avoid unacceptable harm to highway safety in accordance with policy T SP1 of the Arun Local Plan.

- 23 No part of the development shall be first occupied until visibility splays of 2.4 metres by 49

metres have been provided at the proposed northern and southern site vehicular accesses onto Pagham Road in accordance with the approved planning drawings. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metres above the adjoining carriageway level or as otherwise agreed.

In the interests of amenity and to avoid unacceptable harm to highway safety in accordance with policy T SP1 of the Arun Local Plan.

- 24 Before development commences a scheme identifying the principles to be incorporated into detailed building design as the means of energy conservation, together with on-site energy renewable devices, shall be submitted to and agreed with the Local Planning Authority. Such scheme as is submitted shall seek as a target the provision of on-site renewable energy which will generate an estimated 10% of annual energy requirements of the buildings granted planning permission. In determining the provision of on-site energy generation account will be taken of the impact on the viability of the development. Such scheme as is approved will be implemented in accordance with the scheme.

Reason: In accordance with Policy ECC SP2 of the Arun Local Plan. It is considered necessary for this be a pre-commencement condition as sustainability goes to the heart of the approval.

- 25 Prior to the commencement of development, a strategy for the provision or facilitation of broadband provision to future occupants of the site shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall seek to ensure that upon occupation of a dwelling, either a landline or ducting to facilitate the provision of a broadband service to that dwelling from a site-wide network, is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway. Unless evidence is put forward and agreed in writing by the Local Planning Authority that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure, the development of the site shall be carried out in accordance with the approved strategy.

Reason: To ensure that the needs of future residents to connect to the internet does not necessarily entail engineering works to an otherwise finished and high quality living environment in accordance with Policy TEL SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the provision of broadband needs to be incorporated into the design for the site.

- 26 No part of the development shall be first occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan once approved shall thereafter be implemented as specified within the approved document. The Travel Plan shall be completed in accordance with the latest guidance and good practice documentation as published by the Department for Transport or as advised by the Highway Authority.

Reason: To encourage and promote sustainable transport in accordance with Policies D DM1 and T SP1 of the Arun Local Plan.

- 27 No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

Reason: The site has the potential to contain unknown remains of archaeological importance therefore in accordance with Policies D DM1 and HER DM6 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because archaeology can only be investigated before construction commences.

28 Prior to commencement of development a badger survey should be undertaken to ensure badgers are not using the site. If a badger sett is found onsite, Natural England should be consulted and a mitigation strategy produced and submitted to the Local Planning Authority for approval.

Reason: In accordance with Policies ENV SP1 and ENV DM5 of the Arun Local Plan. It is considered that this condition must be pre-commencement to prevent harm to potentially vulnerable species on site.

29 Prior to the commencement of development, an Electric Vehicle Charging Strategy will be prepared and submitted to the Local Planning Authority which identifies the nature, form and location of electric charging infrastructure to be provided across the development. The electric vehicle strategy shall then be implemented in accordance with the approved details.

Reason: New petrol and diesel cars/vans will not be sold beyond 2040, and to mitigate against any potential adverse impact of the development on local air quality, in accordance with Policy D DM1 and Policy QE DM3 (c) of the Arun Local Plan and the NPPF. It is considered necessary for this to be a pre-commencement condition to ensure that the requisite charging infrastructure is designed into the housing development and it is implemented.

30 No development shall commence until the applicant has submitted and the local planning authority (in consultation with Natural England) has approved the detailed management and maintenance scheme for the adjacent Pagham Harbour SPA Enhancement Land (as defined and referred to within the Agreement under s106 of the Town and Country Planning Act associated with the permission) which shall provide for:

- (a) the delivery of habitat enhancements (including some areas of additional planting) for Brent Geese on said land so as to achieve no net loss of foraging habitat for Brent Geese due to the development proposals;
- (b) the management of field boundary vegetation, associated with specific adjoining fields to enhance sight lines for Brent Geese, making this field matrix more suited to use by them; and
- (c) cessation of bird scaring initiatives on said land;

said measures and scheme to substantially accord with the details set out in Chapter 4 of the Ecology Solutions Ltd "Brent Goose Mitigation Plan" December 2017 submitted in support of the application.

Reason: This condition is necessary to ensure that the management and maintenance of the Pagham Harbour SPA Enhancement Land accords with national guidance and Policy ENV DM2 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because of the need ensure measures are in place to avoid any detrimental impact of the development upon the SPA/Ramsar prior to development commencing.

31 INFORMATIVE: The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981, with only a few exceptions, it is an offence for any person to intentionally take, damage or destroy the nest of any wild birds while the nest is in use or being built. Birds nest between March and September and therefore removal of dense bushes, ivy or trees or parts of trees etc. during this period could lead to an offence under the act.

32 INFORMATIVE: This notice does not give authority to destroy or damage a bat roost or disturb a bat. Bat species are protected under Section 39 of the 1994 Conservation (Natural Habitats etc ) Regulations (as amended), the 1981 Wildlife and Countryside Act (as amended) and the 2000 Countryside and Rights of Way Act. It is illegal to damage or destroy any bat roost, whether occupied or not, or disturb or harm a bat. If you are aware that bats roost in a tree(s) for which work is planned, you should take further advice from Natural England (via the Bat

Conservation Trust on 0845 1300228) or an ecological consultant before you start. If bats are discovered during the work, you must stop immediately and contact Natural England before continuing.

- 33 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



**Town & Country Planning Act 1990 (as amended)**  
**Town & country Planning (Development Management**  
**Procedure) (England) Order 2015 - Article 5**  
**Application for Outline Consent**  
**DECISION NOTICE**

Application Ref: P/140/16/OUT

**To Addressee**

Hunter Page Planning Ltd  
 Thornbury House  
 18 High Street  
 Cheltenham  
 GL50 1DZ

**Site Address**

Land South of Summer Lane  
 & West of Pagham Road

**Description of Development**

Outline application for access only - mixed use development comprising of up to 400 dwellings, a care home with up to 70 beds, a Local Centre comprising up to 2000sqm of A1/A2/A3/D1/sui generis floorspace, provision of land for a 1FE primary school (with sufficient space to ensure that it is expandable to 2FE), provision of land for a scout hut, safeguarding of land to help link th site to the Pagham Harbour Cycle Route & other community uses including public open space & allotments with some matters reserved.

In pursuance of their powers under this Act and related Orders and Regulations the Council **PERMIT** this development to be carried out in accordance with the application and plans and subject to compliance with the following conditions and Section 106 Agreement.

- 1 The permission hereby granted is an outline permission under s92 of the Town and Country Planning Act 1990 (as amended) and an application for the approval of the Local Planning Authority to the following matters must be made not later than the expiration of 3 years beginning with the date of this permission:-

- (a) Layout;
- (b) Scale;
- (c) Appearance;
- (d) Landscaping.

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 (as amended).

- 2 The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission, or before the expiration of 2 years from the date of the approval of the last of the reserved matters to be approved, whichever is the later.

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 (as amended).

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan - dwg no. DLA.1731.L003.03  
 Red Line Boundary - DLA.1731.L003.01  
 Proposed Northern Site Access - 1616/01 Rev L  
 Proposed Southern Site Access - 1616/02 Rev K

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy D DM1 of the Arun Local Plan (2011-2031).

- 4 No development shall take place until a detailed scheme of phasing for the construction of the dwellings and associated highways and public areas has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a schedule identifying the order of anticipated commencement and completion within each phase of construction.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the phasing of the development needs to be satisfactory before work commences.

- 5 No development in any phase shall be carried out unless and until a schedule of materials and finishes to be used for that phase for external walls and roofs of the proposed buildings has been submitted to and approved by the Local Planning Authority. No development in any phase shall be carried out unless and until a 'statement of detail' for that phase has been submitted to and approved setting out details of proposed windows and doors, details of the depth of recess/reveal from the brickwork, sills and lintels, brick bonding, brick detailing, eaves detailing and rainwater goods. The materials and 'statement of details' so approved shall be used in the construction of the buildings.

Reason: To enable the Local Planning Authority to control the development in details in the interests of amenity by endeavouring to achieve buildings of visual quality in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the use of satisfactory external materials goes to the heart of the planning permission.

6 Prior to the submission of any reserved matters application a design code masterplan shall be submitted to, and approved in writing, by the Local Planning Authority. This document shall demonstrate how the detailed proposals will reflect the objectives of the;

- Illustrative Masterplan (Dwg No. DLA.1731.L003.05 Rev F);
- Design and Access Statement (DLA.1731.DAS.RPT.02.PLANNING ISSUE);
- Density Plan (DLA.1731.L003.07 Rev B);
- Storeys Parameter Plan (DLA.1731.L003.10);
- Development Framework Plan (DLA.1731.L003.02 Rev B); and
- Internal Movement Strategy (DLA.1731.L003.12 Rev B).

The design code masterplan will provide further details on matters such as character areas, street hierarchy, building typologies, key buildings, the approach to car parking, structural planting, street furniture, lighting and treatment of the public realm. The development shall be carried out in accordance with the approved design code.

Reason: To enable the Local Planning Authority to control the development in details in the interests of amenity by endeavouring to achieve buildings of visual quality in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the design of the scheme goes to the heart of the planning permission.

7 The landscaping and layout particulars to be submitted in accordance with Condition 1 shall include:

- i. Details of all existing trees and hedgerows on the land, showing which are to be retained and which removed;
- ii. Details of the positions, height, design, materials and type of boundary treatment to be provided;
- iii. Details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree
- iv. The detailed landscape design for the development including the layout and design of the public realm within the development;
- v. Details of the surfacing, lighting and signage of all footpaths, cycle routes and a phasing plan for their provision;

No hedge or tree shall be felled, uprooted or otherwise removed before, during or after the construction period except where removal is indicated on a plan approved by the Local Planning Authority.

Reason: In the interests of amenity and of the environment of the development in accordance with Policy ENV DM4 of the Arun Local Plan.

- 8 Landscaping (hard and soft) shall be carried out in accordance with the approved details. All planting, seeding or turfing comprised in the approved details shall be carried out in the first planting and seeding seasons following the first occupation of each phase or sub phase of the development hereby permitted or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the phase or sub-phase die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of amenity and of the environment of the development in accordance with Policy D DM1 of the Arun Local Plan.

- 9 Prior to the commencement of each phase of the development an Arboricultural Method Statement and Tree Protection Plan shall be submitted for that phase to and approved in writing by the Local Planning Authority and the development shall be undertaken in strict accordance with the details so approved.

Reason: To ensure the retention and maintenance of trees and vegetation which are an important feature of the area in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the protection and retention of trees goes to the heart of the planning permission.



10

Development shall not commence until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the local planning authority, and shall include;

- The design should following the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDs Manual Produced by CIRIA. Winter groundwater monitoring to established highest annual ground water levels and percolation testing to BRE 365, or similar approved, will be required to support the design of any infiltration drainage.

- The development shall not proceed until formal consent has been approved in writing from the Lead Local Flood Authority (WSCC) or its agent (ADC) for the discharge of any flows to watercourses, or the culverting, diversion, infilling or obstruction of any watercourses on the site. Any discharge of watercourse must be at a rate no greater than the pre-development run off values.

- Arrangements for future access and maintenance of any watercourse or culvert (piped watercourse) crossing or abutting the site.

No building shall be occupied until the complete surface water drainage system serving it has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure that the surface water disposal scheme is agreed before construction commences and to protect existing watercourses prior to the commencement of development.

11

Development shall not commence until full details of the maintenance and management of the surface water drainage system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. Upon completed construction of the surface water drainage system, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure that the future maintenance and funding arrangements for the surface water disposal scheme are agreed before construction commences.

- 12 Upon completed construction of the surface water drainage system but prior to occupation of any part of the scheme, the owner or management company shall either provide the local planning authority with an updated copy of the management manual incorporating any changes as a result of construction/implementation or confirm in writing that no changes are required to the manual.

No further changes shall be made to the approved surface water drainage system Maintenance & Management Plan/Regime including the management company responsible or the financial arrangements between the owners of the dwellings & the management company other than with the written consent of the Local Planning Authority.

The owner or management company shall thereafter strictly adhere to and implement the recommendations contained within the manual to ensure that the system is maintained in perpetuity.

Reason: To ensure the efficient maintenance and on-going operation of the surface water drainage system and to ensure the best practice in line with guidance set out in 'The SuDS Manual' CIRIA publication ref: C753 Chapter 32, in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan.

- 13 Before the development hereby permitted is commenced, details of a proposed foul drainage system shall be submitted to and approved in writing by the Local Planning Authority (including details of its siting, design and subsequent management/maintenance, if appropriate) and no dwelling shall be occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details.

Reason: To ensure adequate infrastructure is provided to enable the scheme to be satisfactorily drained in accordance with Policies D DM1, W DM1 and W SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the foul drainage system goes to the heart of the planning permission.

- 14 Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development.

Reason: To ensure adequate foul capacity is available to satisfactorily drain the development and avoid adverse impacts upon the Pagham Harbour SPA/Ramsar in accordance with policies D DM1, W DM1, W SP1, ENV DM2 and H SP2a of the Arun Local Plan.

- 15 Prior to the commencement of construction works or any preparatory works an Ecological Management and Mitigation Plan including a Schedule of Works shall be submitted to the LPA for approval and will be based on the recommendations within the supporting Ecological Assessment - Dec 2016 5633.EcoAss.vf1. All approved details shall then be implemented in full and in accordance with the agreed timings and details.

Reason: This condition is necessary to ensure the protection of wildlife and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site in line with national guidance and Policy ENV SP1 and ENV DM5 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because of the need ensure measures are in place to protect wildlife and habitats on site prior to any disturbance.

- 16 Prior to the occupation of any dwelling of a particular phase, a scheme for external lighting shall be submitted and approved in writing by the Local Planning Authority. The scheme shall ensure that the lighting is sensitive to bats by minimising the lighting of the woodland along the southern and western boundaries and shall comply with Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light, Obtrusive Light Limitations for Exterior Lighting Installations for Zone E3.

Reason: To control the residential amenities of the local environment in accordance with Policies D DM1 and QE DM2 of the Arun Local Plan.

- 17 Prior to the commencement of development, including any works of demolition, a Construction Management Plan shall be submitted for approval in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- full details of the construction compound,
- soil resources plan,
- dust mitigation measures,
- noise reduction measures,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- the provision of effective wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- details of public engagement both prior to and during construction works.

Reason: In the interests of highway safety and the amenities of the area in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because of the safety and amenity issues that need to be addressed.

- 18 During the construction phase no machinery/vehicles or plant shall be operated on the site, no process shall be carried out and no deliveries taken at or despatched except between the hours of:
- 7.00 a.m. and 6.00 p.m. on Mondays to Fridays inclusive  
8.00 a.m. and 1.00 p.m. on Saturday  
Not at any time on Sundays or Public Holidays
- Reason: In the interests of amenity in accordance with Policies D DM1 and QE DM1 of the Arun Local Plan.
- 19 No raw materials, finished or unfinished products or parts, crates, packing materials or waste shall be stacked or stored on the site except within the storage areas identified in the Construction Management Plan at any time approved by the Local Planning Authority.
- Reason: To safeguard the amenities of neighbouring properties in accordance with Policy D DM1 of the Arun Local Plan.
- 20 Prior to commencement of development the applicant shall prepare and submit for approval an Employment and Skills Plan for the construction phase of development. Following approval of the Employment and Skills Plan the developer will implement and promote the objectives of the approved plan.
- Reason: in accordance with Policy SKILLS SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to as it relates to the construction phase of development.
- 21 The vehicular and pedestrian accesses and bus stop lay by as indicatively shown on drawing no.1616/01 Rev L ("the Northern Access") including appropriate visibility splays shall be completed in accordance with the requisite Agreement under s278 of the Highways Act 1980 with the local highway authority prior to the occupation of any phase of the development served by the Northern Access. Once provided the visibility splays for said access shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metres above the adjoining carriageway level or as otherwise agreed.
- Reason: In the interests of amenity and to avoid unacceptable harm to highway safety in accordance with policy GEN7 of the Arun District Local Plan. It is considered necessary for this to be a pre-commencement condition as establishing an access to the site goes to the heart of the planning permission.

- 22 The vehicular and pedestrian accesses as indicatively shown on drawing no.1616/02 Rev K ("the Southern Access") including appropriate visibility splays (in line with any S278 approval) shall be completed in accordance with the requisite Agreement under s278 of the Highways Act 1980 prior to the occupation of any phase of the development served by the Southern Access. Once provided the visibility splays for said access shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metres above the adjoining carriageway level or as otherwise agreed.

Reason: In the interests of amenity and to avoid unacceptable harm to highway safety in accordance with policy T SP1 of the Arun Local Plan.

- 23 No part of the development shall be first occupied until visibility splays of 2.4 metres by 49 metres have been provided at the proposed northern and southern site vehicular accesses onto Pagham Road in accordance with the approved planning drawings. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metres above the adjoining carriageway level or as otherwise agreed.

In the interests of amenity and to avoid unacceptable harm to highway safety in accordance with policy T SP1 of the Arun Local Plan.

- 24 Before development commences a scheme identifying the principles to be incorporated into detailed building design as the means of energy conservation, together with on-site energy renewable devices, shall be submitted to and agreed with the Local Planning Authority. Such scheme as is submitted shall seek as a target the provision of on-site renewable energy which will generate an estimated 10% of annual energy requirements of the buildings granted planning permission. In determining the provision of on-site energy generation account will be taken of the impact on the viability of the development. Such scheme as is approved will be implemented in accordance with the scheme.

Reason: In accordance with Policy ECC SP2 of the Arun Local Plan. It is considered necessary for this be a pre-commencement condition as sustainability goes to the heart of the approval.

- 25 Prior to the commencement of development, a strategy for the provision or facilitation of broadband provision to future occupants of the site shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall seek to ensure that upon occupation of a dwelling, either a landline or ducting to facilitate the provision of a broadband service to that dwelling from a site-wide network, is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway. Unless evidence is put forward and agreed in writing by the Local Planning Authority that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure, the development of the site shall be carried out in accordance with the approved strategy.

Reason: To ensure that the needs of future residents to connect to the internet does not necessarily entail engineering works to an otherwise finished and high quality living environment in accordance with Policy TEL SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the provision of broadband needs to be incorporated into the design for the site.

- 26 No part of the development shall be first occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan once approved shall thereafter be implemented as specified within the approved document. The Travel Plan shall be completed in accordance with the latest guidance and good practice documentation as published by the Department for Transport or as advised by the Highway Authority.

Reason: To encourage and promote sustainable transport in accordance with Policies D DM1 and T SP1 of the Arun Local Plan.

- 27 No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

Reason: The site has the potential to contain unknown remains of archaeological importance therefore in accordance with Policies D DM1 and HER DM6 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because archaeology can only be investigated before construction commences.

- 28 Prior to commencement of development a badger survey should be undertaken to ensure badgers are not using the site. If a badger sett is found onsite, Natural England should be consulted and a mitigation strategy produced and submitted to the Local Planning Authority for approval.

Reason: In accordance with with Policies ENV SP1 and ENV DM5 of the Arun Local Plan. It is considered that this condition must be pre-commencement to prevent harm to potentially vulnerable species on site.

29 Prior to the commencement of development, an Electric Vehicle Charging Strategy will be prepared and submitted to the Local Planning Authority which identifies the nature, form and location of electric charging infrastructure to be provided across the development. The electric vehicle strategy shall then be implemented in accordance with the approved details.

Reason: New petrol and diesel cars/vans will not be sold beyond 2040, and to mitigate against any potential adverse impact of the development on local air quality, in accordance with Policy D DM1 and Policy QE DM3 (c) of the Arun Local Plan and the NPPF. It is considered necessary for this to be a pre-commencement condition to ensure that the requisite charging infrastructure is designed into the housing development and it is implemented.

30 No development shall commence until the applicant has submitted and the local planning authority (in consultation with Natural England) has approved the detailed management and maintenance scheme for the adjacent Pagham Harbour SPA Enhancement Land (as defined and referred to within the Agreement under s106 of the Town and Country Planning Act associated with the permission) which shall provide for:

- (a) the delivery of habitat enhancements (including some areas of additional planting) for Brent Geese on said land so as to achieve no net loss of foraging habitat for Brent Geese due to the development proposals;
- (b) the management of field boundary vegetation, associated with specific adjoining fields to enhance sight lines for Brent Geese, making this field matrix more suited to use by them; and
- (c) cessation of bird scaring initiatives on said land;

said measures and scheme to substantially accord with the details set out in Chapter 4 of the Ecology Solutions Ltd "Brent Goose Mitigation Plan" December 2017 submitted in support of the application.

Reason: This condition is necessary to ensure that the management and maintenance of the Pagham Harbour SPA Enhancement Land accords with national guidance and Policy ENV DM2 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because of the need ensure measures are in place to avoid any detrimental impact of the development upon the SPA/Ramsar prior to development commencing.

INFORMATIVE: The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981, with only a few exceptions, it is an offence for any person to intentionally take, damage or destroy the nest of any wild birds while the nest is in use or being built. Birds nest between March and September and therefore removal of dense bushes, ivy or trees or parts of trees etc. during this period could lead to an offence under the act.

INFORMATIVE: This notice does not give authority to destroy or damage a bat roost or disturb a bat. Bat species are protected under Section 39 of the 1994 Conservation (Natural Habitats etc ) Regulations (as amended), the 1981 Wildlife and Countryside Act (as amended) and the 2000 Countryside and Rights of Way Act. It is illegal to damage or destroy any bat roost, whether occupied or not, or disturb or harm a bat. If you are aware that bats roost in a tree(s) for which work is planned, you should take further advice from Natural England (via the Bat Conservation Trust on 0845 1300228) or an ecological consultant before you start. If bats are discovered during the work, you must stop immediately and contact Natural England before continuing.

INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant,

acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



Neil Crowther  
Group Head of Planning

Case Officer: Mr D Easton

Date of Decision: 22 November 2018

Arun District Council  
The Arun Civic Centre  
Maltravers Road  
Littlehampton  
West Sussex BN17 5LF

**IT IS IMPORTANT THAT YOU READ THE NOTES ATTACHED TO THIS DOCUMENT**



## APPEALS TO THE SECRETARY OF STATE

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, and you want to appeal against this planning application decision, then you must do so within 28 days of the date of this notice.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and you want to appeal against this planning application decision, then you must do so within 28 days of the date of service of the enforcement notice, or within 12 weeks of the date of this notice, whichever period expires earlier.

Otherwise, if you want to appeal against this decision then you must do so within 6 months of the date of this notice.

Appeals must be using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at <http://acp.planninginspectorate.gov.uk>

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

## PURCHASE NOTICES

If either the local planning authority or the Secretary of State refused permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (that is, where the land is situated in a National Park, the National Park authority for the Park, or in any other case the district council in whose area the land is situated).

This notice will require the Council to purchase the owner's interest in the land in accordance with the provisions of Chapter 1 of Part VI of the Town & Country Planning Act 1990.

Please note that this decision notice only relates to matters under the Planning Acts and does not give consent under any other legislation that may apply to the development. You will need to carry out your own checks to determine whether any other consents or permissions are required. For example, the Building Regulations are likely to apply to most developments, and a Highways Licence may be required from West Sussex County Council for any development within the public highway (including the placing of skips on highway land).



## REPORT UPDATE

Application No: P/25/17/OUT

Reason for the Update / Changes

REPORT UPDATE PREPARED 23/01/19

Reason for Update/Changes:

1. Response to matters raised by Pagham Parish Council in their submissions following the completion of the officer report;

· In accordance with Part 3 Paragraph 1.4 of the Council's Constitution, the Committee may delegate any authority it wishes to officers.

"Full Council, the Cabinet, a Committee or Sub-Committee may delegate further functions or specific responsibilities to officers and when this occurs, it will be recorded in the minutes of the meeting; and the Officer Scheme of Delegation at Part 4 of this Constitution will be amended where required."

· Pagham Parish Council have been notified of amendments to the planning application. However, this has been done out of courtesy and is not a statutory notification. The 21 day notification period expires on 31 January and officers have willingly provided the Parish with this time period to provide any further comments on matters they may wish to. Delegated authority is sought to consider these comments (should they be submitted) with the Chairman and Vice Chairman following the meeting. However, it should be noted that the application now comprises a reduced amount of detail from when it was originally submitted and there has been two years of consultation already. There are no new details to consider or comment upon.

· The Council has consulted on the planning application entirely in accordance with the statutory requirement.

2. An additional representation has been received raising the following:

· Over 1000 brent geese feeding in field east and southeast of Church Barton House every day for at least the last 2 weeks

3. Page 146 RECOMMENDATION first and second bullet point - replace 'association' with 'consultation'

The recommendation has been amended to read:

RECOMMENDATION:

· That delegated authority is granted to the Group Head of Planning in consultation with the Chairman and Vice-Chairman of the Development Control Committee to grant planning permission with conditions and Informatives after the expiration of the 21 day Parish notification period and subject to the completion of the S106 Agreement; and

· That authority is delegated to the Group Head of Planning in consultation with the Chairman and Vice Chairman of the Development Control Committee to make amendments to the S106 Agreement which are substantially in accordance with the heads of terms.

Officer Comments:

There are no changes to conclusions, conditions and reasons shown under Officers Recommendation at the end of the attached report.

**Notes: Changes to recommendations, conditions and / or reasons for refusal will always be reflected in the recommendation section of the attached Officer's Report.**

Recommendation Report for Outline Consent

**REF NO:** P/25/17/OUT

**LOCATION:** Church Barton House  
Horns Lane  
Pagham  
PO21 4NZ

**PROPOSAL:** Outline application with all matters reserved - Erection of up to 65 No. dwellings, access roads, landscaping, open space & associated works.

**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	Outline application with all matters reserved for the construction of up to 65 No. dwellings, access roads, landscaping, open space & associated works.
SITE AREA	Approximately 4.15 hectares.
RESIDENTIAL DEVELOPMENT DENSITY	Approximately 15.66 dwellings per hectare (dph).
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development. It was identified by the Council's Tree Officer that the shelterbelt trees on site should be the subject of a TPO.
BOUNDARY TREATMENT	The northern, western and eastern boundaries of the site feature mature shelterbelt tree lines of poplars, with wooden electricity pylons running along the southern boundary of the site which features grass planting of approximately 1m in height.
SITE CHARACTERISTICS	The application site measures approximately 4.15 hectares and is currently used as an outlying paddock associated with Church Barton House. The site is bounded to the west and south by Horns Lane with Summer Lane situated to the north.
CHARACTER OF LOCALITY	The character of the locality is predominantly rural although residential development is present to the north, east and south.

**REPRESENTATIONS**

**REPRESENTATIONS RECEIVED:**

Pagham Parish Council

Pagham Parish Council

Pagham Parish Council

Below is a summary of the representations received on this application. Full comments are available on the Arun District Council website.

233 Letters of Objection received:

**Sustainability**

- Development is unsustainable.
- The application has not demonstrated that the proposal can be taken alone and/or in conjunction with other proposed development.

- Loss of tourism.

**Agricultural land.**

- Development will result in a loss of high grade agricultural land.
- Land should be retained for agricultural purposes.
- Farmland is required for food production.
- Given the local areas economic importance of farming and market gardening, the loss of farmland is detrimental to the area.
- High light radiation.
- The Ford Airfield application for housing is more sustainable.

**Design and visual amenity**

- Development will adversely impact upon existing character of the locality.
- Development will adversely impact upon strategic gap. Notably that between Elmer and Pagham.
- Development will adversely impact upon character of the village.
- The development is in proportionate in scale to the surrounding area.
- Development will reduce quality of life.
- They remove amenity value in reducing open space.

**Surface water and drainage**

- Site is vulnerable to flooding.
- The Pagham Rife will back up.
- Existing drainage will not cope.
- Existing treatment plant is at capacity.
- Sewage disposal has large clean-up costs.

**Highways**

- Unsustainable traffic volume.
- There is standstill traffic in the mornings and evenings.
- Parking spaces at Chichester Rail station are at a premium.
- It will become difficult to park at Bognor Rail Station.
- The road is unsafe to cross for schoolchildren.
- There are no streetlights along the road.
- Pagham Road is poorly maintained.
- Increase in fatal accidents on Pagham Road.
- There is no Pagham railway station.
- Roads are heavily trafficked and congested.

- Roads are overloaded in peak hours.
- Lack of jobs in Pagham result in high levels of commuting.
- Roads are inadequate and dangerous.
- HGV Lorries and Tractors make using the roads difficult.
- Pagham Road does not feature any pavements.
- Roads are hazardous for cyclists.
- There are no adequate bus routes to support the development.
- Increase in use of 'rat runs'.

#### Infrastructure

- There is no infrastructure in place for the additional dwellings.
- School is currently oversubscribed.
- Doctors' surgery is not able to accommodate existing demand.
- Secondary schoolchildren have to travel away from Pagham already.
- Police services are not able to cope with the increase in crime.
- Dentist surgeries are at a full capacity.
- Staffing at care homes in the locality.
- Internet connection in Pagham is poor.
- No large supermarket in the area to serve the development.
- Insufficient infrastructure to cope with proposed development.
- Lack of employment opportunities for proposed development.
- Poor access to public transport.
- Waste management inadequate to deal additional households.
- Water supply and pressure is overstretched and insufficient.
- Staff shortages at local healthcare centres.
- Local Industrial sites will be required to reduce their noise, which will attract cost.

#### The Environment

- Development will result in loss of ecology.
- Development will adversely impact upon SSSI.
- Loss of land currently home to Pagham Ponies Club.
- The land is an important area for migratory birds.
- The area is rich in archaeological remains.
- The farmland is a breeding ground for Brent Geese.
- Development should be on brownfield sites.
- The development will increase the loss of dark skies.
- Contribute to air pollution.
- Change in the community identity and demographics in the area.
- RSPB do not believe that the survey was adequate.
- Noise disturbance and air pollution at North Mundham School.
- Negative impact on bird life in the area.
- Increase in cats, which hunt wildlife in the area.
- Increase in litter in and around the development.
- There is a WW2 Pillbox on site, which should stand as a local memorial.
- Loss of the common lizard, and hedgehogs.
- Local support Pony sanctuary will be negatively affected.
- The allocated Brent Goose Mitigation land is in a different ownership to the application.

#### Non-material

- Loss of Views.

#### Support

- Need housing for future generations.
- House building is a necessary requirement.

**COMMENTS ON REPRESENTATIONS RECEIVED:**

Comments are noted and will be considered in the conclusion to this report.

**CONSULTATIONS**

- WSCC Strategic Planning
- Environment Agency
- Surface Water Drainage Team
- Environmental Health
- Parks and Landscapes
- Arboriculturist
- Southern Water Planning
- Head of Planning Policy & Cons
- Planning and Housing Strategy
- Sussex Police-Community Safety
- Engineers (Drainage)
- Engineering Services Manager
- Ecology Advisor
- NHS Coastal West Sussex CCG
- Highways England
- Archaeology Advisor
- Historic England
- Natural England
- Cultural Development
- Ecology Advisor
- Chichester District Council
- Highways England
- Natural England
- Sussex Police-Community Safety
- Highways England
- Historic England
- WSCC Strategic Planning
- Southern Water Planning
- Sussex Police-Community Safety
- Ecology Advisor
- Natural England

**CONSULTATION RESPONSES RECEIVED:**

Below is a summary of consultation responses received in relation to this application. Full comments are available on the Arun District Council website.

#### PAGHAM PARISH COUNCIL

- Serious concerns would be raised in relation to traffic, pollution, effect on natural habitat, flooding/surface water issues.
- The development as shown would result in not meeting the guidelines for development along Pagham Road and rural areas given in the Pagham Village Design Statement (November 2007).
- In landscape terms, the proposals do not meet the requirements of landscape related planning policy, GI, sustainable drainage principles and draft policy LAN DM1.
- Development of the site at this density is very unlikely to protect the variety of habitats, vegetation and tree belts that form part of the green infrastructure of the Pagham Strategic Gap and of the landscape character of the Manhood Peninsula, Pagham Lower Coastal Plain and South Coastal Plan.
- Strategic allocations SD1 and SD2 only required to demonstrate that ALP contained sufficient housing sites to meet the requirements over plan period, including allowance for unmet need from Chichester District. Chichester District Council (CDC) now consulting on document setting out intention to meet housing needs in full through additional allocations, therefore delivery of ADC strategic allocations may no longer be required.
- Published HELAA 2018 identifies deliverable sites for 2654 dwellings over next 5 years and Council intends to produce non-strategic sites allocation development plan document.
- Emerging plans, CDC HELAA, Chichester Councillors indicated preference for northern A27 route are material considerations.
- Determination of applications premature and would undermine plan making processes.
- Habitat Regulations Assessments fail to assess effects of developments proposed by CDC.
- Failure to consider alternative sites for the housing proposed to avoid impacts.
- Failure of Cumulative Transport Assessment to assess and mitigate cumulative impact of emerging proposed allocations in Chichester District.
- Cumulative Transport Assessment is out of date and unreliable as basis for decisions, proposed solutions for A27 and other junction improvements not achievable or deliverable.
- Reasons for refusal based on the above suggested.
- Ford allocation SD8 will accommodate at least 1,500 dwellings but does not specify the land/ quantum of the other component uses to be accommodated.
- HELAA for Ford suggests that it can accommodate 2,439 dwellings and the area of land for dwellings should be enlarged to accommodate this number.
- Brownfield sites and sustainable locations should be maximised.
- Procedural breaches.

#### ECOLOGY

Comments received 29th March 2018:

- We require that a full wintering wildfowl survey is completed for the site and submitted for our approval prior to the determination of this application.
- Bat emergence surveys are required to determine if bats are roosting onsite prior to determination.
- If bats are found to be roosting mitigation will be required and a mitigation strategy must be provided before determination.
- Lighting scheme for the site will need to take into consideration the presence of bats.
- The hedgerows on site are used by bats for commuting and foraging and will need to be retained and enhanced for bats.
- If reptiles are present then a mitigation strategy for reptiles will also need to be produced and submitted with the planning application prior to determination.
- The reptile mitigation strategy will need to include details of reptile fencing, translocation methods, the translocation site / enhancements and the timings of the works.
- Activity surveys for Great Crested Newts should be undertaken and if they are found a mitigation



strategy will also need to be produced and submitted with the planning application prior to determination.

- Any works to trees should only be undertaken outside of the bird breeding season which takes place between 1st March - 1st October, unless an ecologist has checked the site before any works take place.
- The site falls within 5km of the Pagham Harbour SPA boundary and will increase the number of visitors to the SPA. Therefore, a contribution towards the implementation of the SAMM will be required.

Comments received 3rd April 2017

- The nesting bird survey submitted demonstrates that no over wintering birds are using the site so we have no further concerns regarding birds.

Comments received 17th October 2018

- We are happy with the recommendations made within the Wintering Bird Survey for a minimum of 38 bird boxes to be installed onsite and that the boundary planting provides suitable nesting habitat for birds. A condition should be used to secure this.
- Following submission of the Bat Emergence Survey Report (June 2017) we are happy that the precautionary measures within section 7.0 are suitable and a condition can be used.
- We are satisfied following further survey work that Great Crested Newts are not present onsite and no further mitigation for this species is required.
- Following submission of the Reptile Presence/Absence Report (June 17) we are satisfied that the mitigation proposed within section 6.0 of the report would be suitable and can be conditioned.

#### ENVIRONMENTAL HEALTH

Comments received 5th April 2017

- Should the foul water drainage not be able to connect to the Southern Water Sewer, Environmental Health would wish to be consulted to enable comment on any solution such as pumping stations.
- The applicant may wish to ensure that the tank at Shipverling Barn will not have an adverse impact upon the development.

Comments received 6th April 2017

- We consider that planning permission could be granted to the proposed development if the following planning conditions are imposed.
- ENV3, ENV5 and ENV6.

#### ENGINEERS (DRAINAGE)

Comments received 10th April 2017

- Please apply conditions ENGD2B, ENGD3A, ENGD4A, ENGD5A and ENGD6A.

#### WSCC FLOOD RISK MANAGEMENT

Comments received 12th April 2017

- Current mapping shows the proposed site is at low risk of flooding.
- The area of the proposed development is shown as being at high risk of ground water flooding based upon current mapping.
- We do not have any records of historic flooding within the confines of the proposed site.
- Current Ordnance Survey mapping shows an ordinary watercourse alongside the south west boundary of the proposed development area.

#### SUSSEX POLICE

Comments received 21st April 2017

- General comments provided in relation to Secured by Design.

Comments received 9th April 2018

- Further comments provided in relation to design and security.

Comments received 10th August 2018

Consultation response requesting financial contributions totalling £8,679.48

#### HIGHWAYS ENGLAND

Comments received 21st April 2017

- No consideration has been given to the cumulative impact of this site with the adjacent strategic development already submitted for Pagham against the operation of the A27 Chichester Bypass and in particular the Whyke Roundabout.
- Until such time as sufficient information has been provided to enable Highways England to obtain a clear view of the cumulative traffic impacts of this proposed development on the SRN, our informal advise is that you should not approved this application because of the potential for severe harm to the Strategic Road Network.

Comments received 21st February 2018

- We are requesting a contribution aligned with the most likely cost divided by the number of proposed dwellings equating to £850 per dwelling, which totals £883,150 based on the total dwellings proposed.
- In relation to this application Highways England is looking to secure £75,500.

Comments received 19th April 2018

- Following liaison with the applicant, Highways England have now received confirmation that the applicant has agreed to contribute £55,250 towards the proposed mitigation improvements at the A27 Whyke Hill junction. As such, Highways England is satisfied that the development proposals can be achieved, subject to certain s106 conditions, without detriment to the safe and efficient operation of the Strategic Road Network.
- Arun District Council will enter into a Section 106 Agreement with the applicant to the effect that prior to the commencement of the development hereby permitted the applicant will enter into a s278 Highways Agreement with Highways England.

#### HISTORIC ENGLAND

Comments received 24th April 2017

- Historic England has concerns regarding the application without a full heritage impact assessment being provided to assess the potential impacts to designated heritage assets from the development.

Comments received 25th April 2018

- Issues and safeguards outlined in advice need to be addressed in order for the application to meet the requirements of paragraph 132 of the NPPF.

#### WSCC STRATEGIC PLANNING

Comments received 26th April 2017

- Additional information is required to enable further consideration of the application.

Comments received 27th September 2017

- The LHA has reviewed the three Cumulative Transport Assessments submitted in support of the current planning applications in Pagham. The CTA's have been prepared in accordance with current best practice and the scope has been agreed with the LHA. Whilst the majority of the conclusions within the CTA's are broadly comparable, there are still in certain places quite notable differences as to the anticipated future operation of the junctions. The most notable of these is the Pagham Road/Sefter Road. A further review of the operation of this junction by the developers is necessary.
- For those junctions where mitigation is required, the proposed works or contributions are considered acceptable in mitigating the severe residual cumulative impacts of the development.

Comments received 30th April 2018

- If the LPA is minded to approve this application, it should be subject to the applicant entering into and completing a suitable S106 Planning Agreement to secure appropriate levels of infrastructure and/or contributions, as required.
- 8 Conditions requested for inclusion with the recommendation.

ARCHAEOLOGY ADVISER

Comments received 26th April 2017

- Although there appear to be no archaeological sites in the vicinity, an area such as this on the coastal plain near to an ancient estuary should be expected to contain deposits of interest associated with early settlement. In the circumstances it would be appropriate to require that the archaeological potential of the site be evaluated by trial trenching ahead of development in order to ensure that the significance of anything of interest this identified might be properly conserved. This process should be secured through the following version of standard planning condition ARC1.

NATURAL ENGLAND

Comments received 26th April 2017

- No Objection - subject to appropriate mitigation being secured.

Comments received 9th April 2018

- The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal further to appropriate mitigation being secured.

Comments received 29th October 2018

- Natural England concurs with the HRA report (EPR, September 2018) that the proposal is likely to have a significant effect on Pagham Harbour SPA/Ramsar through increased recreational disturbance and water quality impacts, in combination with other plans or projects.
- We agree with the conclusions of the Appropriate Assessment, that mitigation measures are available to avoid an adverse effect on the integrity of the SPA/Ramsar.
- Therefore, the following mitigation measures should be secured:
  - Financial contribution to the Pagham Harbour Strategic Access Management and Monitoring (SAMM) Strategy.
  - Greenspace within the development site should be managed to provide recreational space for people and their dogs. A costed management plan should be produced, with a suitable management company identified.
  - Measures to minimise disturbance to brent geese foraging within fields adjacent to the application site.
  - Development should be phased to align with Southern Water's delivery of any necessary sewerage network reinforcement.
  - A detailed surface water drainage strategy addressing both flood risk and water quality should be produced; including a management and maintenance plan, with a suitable management company identified.

WSCC PRINCIPLE RIGHTS OF WAY OFFICER

Comments received 27th April 2017

- The applicant is encouraged to work in an integrated approach with the applicants of nearby planning proposals to ensure the delivery of these wider improvements of the local PROW network. Financial contributions will also be expected towards the delivery of those wider improvements given the increase in user on the local PROW network generated by this proposal.

SOUTHERN WATER

Comments received 27th April 2017

- We request that should this application receive planning approval, the following condition is attached to

the consent: "Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water."

Comments received 4th May 2018

- No Development or new tree planting should be located within 3 metres either side of the external edge of the foul rising main.
- No new soakaways should be located within 5m of a public sewer.
- All existing infrastructure should be protected during the course of construction works.
- Condition requested that requires development to be phased to align with the delivery of sewerage infrastructure to prevent the increased risk of flooding.

#### GREENSPACE

Comments received 4th May 2017

- Comments received concerning public open space, landscape/tree protection and arboriculture.

#### ARBORICULTURIST

Comments received 4th May 2017

- In principle I have no overriding objection.
- I will require the applicants to submit an Arboricultural Method Statement Report & Tree Protection Plan to support a detailed full planning application - as per BS5387 recommendations.
- In the interim I feel that given the importance of these shelterbelts in the local landscape we should be seen to afford them maximum protection so I advise a Tree Preservation Order is made and include TEMPO forms and a plan accordingly.

#### LEISURE SERVICES

Comments received 6th June 2017

- Financial contributions towards Pools, Sports halls and 3G.

#### CHICHESTER DISTRICT COUNCIL

Comments received 8th August 2017

- The traffic generated by the development proposed would, without effective mitigation, result in a severe impact on the roads and junctions within Chichester District, particularly the A27/B2145 junction (Whyke Roundabout) and the A27/A259 junction (Bognor Road Roundabout) on the trunk road network, and the Runction and North Mundham/Hunston roundabouts on the WSCC road network. Mitigation should be secured through the local plan or on a bespoke basis for additional development. Chichester District Council would expect Arun District Council to adopt the same approach in partnership with WSCC and Highways England.
- CDC preference would be for a comprehensive assessment and mitigation strategy for all development allocated at both strategic and neighbourhood level within the emerging Local Plan (as modified).

#### NHS COASTAL WEST SUSSEX CLINICAL COMMISSIONING GROUP

Comments received 28th July 2017

- Financial contribution of £97,525 towards Grove House GP Surgery required to mitigate the impact of the development.

Comments received 13th July 2018

- Amended consultation response requesting a contribution of £71,499 by virtue in reduction in the number of units proposed.

#### WSCC LOCAL DEVELOPMENT DIVISION: S106 RESPONSE

Comments received 28th August 2017

- Financial contributions towards schools, libraries, fire & rescue required.

Comments received 24th April 2018

- Financial contributions towards schools, libraries, fire & rescue required.

## COMMENTS ON CONSULTATION RESPONSES:

Comments noted and will considered in the conclusion to this report.

In response to the comments concerning the cumulative transport assessment being out of date due to the proposed solution for the A27. This matter has been discussed with Highways England and it has been confirmed that the withdrawal of the national scheme from the roads programmed does not affect the financial contribution and mitigation previously agreed towards the A27 for this application, because the mitigation identified is not dependent upon the implementation of the large off-line improvements.

## POLICY CONTEXT

Designation applicable to site:

Within built area boundary

Strategic Allocation SD7

## DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

AHSP2	AH SP2 Affordable Housing
DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
ECCDM1	ECC DM1 Renewable Energy
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM1	ENV DM1 Designated Sites of Biodiversity or geographical imp
ENVDM2	ENV DM2 Pagham Harbour
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
ENVSP1	ENV SP1 Natural Environment
GISP1	GI SP1 Green Infrastructure and Development
HDM1	H DM1 Housing mix
HDM2	H DM2 Independent living and care homes
HERDM1	HER DM1 Listed Buildings
HERDM2	HER DM2 Locally Listed Buildings or Structures of Character
HERDM3	HER DM3 Conservation Areas
HERDM4	HER DM4 Areas of Special Character
HERSP1	HER SP1 The Historic Environment
HSP1	HSP1 Housing allocation the housing requirement
HSP2	H SP2 Strategic Site Allocations

HSP2A	HSP2a Greater Bognor Regis Urban Area
HWBSP1	HWB SP1 Health and Wellbeing
INFSP1	INF SP1 Infrastructure provision and implementation
LANDM1	LAN DM1 Protection of landscape character
OSRDM1	Protection of open space, outdoor sport, comm & rec facilities
OSRSP1	OSR SP1 Allotments
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP1A	SD SP1a Strategic Approach
SDSP2	SD SP2 Built-up Area Boundary
SODM1	SO DM1 Soils
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development
WDM1	W DM1 Water supply and quality
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
WMDM1	WM DM1 Waste Management
WSP1	W SP1 Water

**PLANNING POLICY GUIDANCE:**

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

**SUPPLEMENTARY POLICY GUIDANCE:**

SPD1	Open Space & Recreation Standards
SPD2	Conservation Areas
SPD3	Parking Standards
SPD6	Archaeology
SPD8	Areas of Special Character

**POLICY COMMENTARY**

The Development Plan consists of the Arun Local Plan 2011-2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

**The Neighbourhood Development Plan**

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan.

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton.

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Regulation 14).

In December 2014, the Pagham Neighbourhood Plan was withdrawn from the examination process in order to produce further studies in respect of the impact on the Pagham Harbour SPA/Ramsar Site. This work has been completed and the Regulation 14 'pre-submission consultation & publicity' stage was undertaken between 02/10/15 and 13/11/15. It is therefore necessary, in accordance with paragraph 48 of the NPPF, to have regard to the Draft Neighbourhood Plan as a material planning consideration. Therefore, policies 1, 3, 8 and 9 are considered relevant to the proposed development.

However, the policies contained within the draft Pagham Neighbourhood Plan cannot be attributed any weight by virtue of the lack of progress on the plan since consultation took place in 2015 and the adoption of the Arun Local Plan (2011-2031).

#### **DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

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

The proposal is considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area. The application site also forms part of a strategic allocation within the built-up area boundary.

#### **OTHER MATERIAL CONSIDERATIONS**

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

#### **CONCLUSIONS**

##### **Principle**

The application site falls within the parish of Pagham and the development plan for the determination of this application comprises the Arun Local Plan (2011-2031). The Pagham Neighbourhood Plan (PNP) is currently under preparation and has reached Reg. 14 stage with the consultation period running from the 2nd October 2015 to the 13th November 2015. The PNP has not been made and as such does not form part of the development plan as defined by section 38 of the Planning and Compulsory Purchase Act 2004.

##### **Arun Local Plan (2011-2031)**

The key policy considerations in the determination of this application are considered to be;

Policy H SP1 - establishes the housing requirement within the plan period (2011-2031) of at least 20,000

new homes within the Arun District. This includes SD2 Pagham north (at least 800 dwellings) and SD1 Pagham south (at least 400 dwellings).

Policy H SP2 - identifies that development proposals within the Strategic Site Allocations must be comprehensively planned and should have regard to a masterplan endorsed by the Council for the respective areas which incorporates high quality imaginative design which gives a sense of place.

The comprehensive development of the allocation will need to meet the following key requirements;

- a. Integrate appropriately with surrounding communities through an appropriate design particularly where they adjoin by providing for public realm improvements, shared community uses, and connectivity of transport modes including walking, cycling and public transport.
- b. Ensure a clear and harmonious relationship between town and country including clearly defined boundaries, using physical features that are readily recognisable and likely to be permanent.
- c. Protects, conserves or enhances the natural environment, landscapes and biodiversity.
- d. Incorporate high quality, well connected green spaces, planting within main streets and biodiversity rich open spaces.
- e. Extend, enhance and reinforce strategic green infrastructure and publically accessible open space.
- f. New community hubs where required to be provided, shall be well located taking account of the permeable layout to all transport modes and shall as far as possible cluster retail, commercial and community uses.
- g. Where existing village centres are within or will serve the needs of strategic development sites their improvement as sustainable centres will be required.
- h. Where community buildings are provided these shall be designed and provide for a range of uses such as healthcare, police, faith and community groups.
- i. Integration of community hubs and local centres of an appropriate form and scale into the design and layout of development proposals where identified in the specific allocations policies in H SP2 a-c.
- j. Ensure walkable access to local community, recreational and shopping facilities, jobs and accessible transport.
- k. Address the off-site capacity requirements, that related to that particular allocation, identified in the Arun Transport Assessment (2016 and update 2017 and taking into account subsequent relevant assessments) and the local highway network.
- l. Positively respond to sustainable water management taking particular account of the coastal plain topography which may require strategic surface water solutions.
- m. Maintain and enhance any important features, characteristics and assets of the local area.
- n. Provide for the required infrastructure, which relate to that particular allocation, in accordance with Policy INF SP1 and the Infrastructure Delivery Plan.
- o. Enable strategic District wide infrastructure to be delivered at strategic sites if the location is appropriate for the District.
- p. Consider inclusion of an area of the sites for self-build and custom build.
- q. Consider the delivery of an area as a site for Gypsy and Traveller accommodation.

Policy H SP2a - identifies the strategic allocation of at least 1,200 dwellings in Pagham over the plan period. This includes allocation SD1 (Pagham South) for at least 400 dwellings and allocation SD2 (Pagham North) for the provision of at least 800 dwellings. The policy requires development proposals to meet the following key design and infrastructure requirements;

- a. Ensure no detrimental impact to Pagham Harbour SPA.
- b. Take into account nearby heritage assets.
- c. Provide a new one-form (expandable to two-form) primary school and nursery places.
- d. Provide a care home facility.
- e. Provide a community hub which includes.



- shops and complimentary uses.
  - community building (Tier 7 library, D1/sui generis floor space)
  - provision of land for scout hut, and
  - land for an ambulance community response post
- f. Provision of public open space to include children's play areas, landscaping, drainage, and earthworks.
- g. Contribute to the provision of an enhanced local cycle network by making on site provision and appropriate off site financial contributions
- h. Where possible, provide pedestrian and cycle routes to Bognor Regis town centre in order to enhance the sustainability of the site.

In order to establish the principle of the proposed development it will be necessary to assess the proposed development against the policy requirements of H SP1, H SP2 and H SP2a. Whilst, policies within the PNP have been identified as material considerations in accordance with paragraph 48 of the National Planning Policy Framework they cannot be attributed any weight in the determination of this application by virtue of the lack of progress and the adoption of the Arun Local Plan (2011-2031).

The application site is located within the built-up area boundary (BUAB) as defined by policy SD SP2 and forms part of strategic allocation SD1 (Pagham South) and seeks outline planning permission for up to 65 dwellings. Therefore, this application in conjunction with P/140/16/OUT will equate to a total of 465 dwellings meeting the requirement of at least 400 dwellings as identified by strategic allocation SD1 (H SP2a) and is deemed to accord with Policy H SP1 of the Arun Local Plan (2011-2031).

The application site is situated on the western edge of the allocation and will be access via the previously approved outline application under reference P/140/16/OUT. The indicative layout plans for this application and P/140/16/OUT show that the two sites will be well integrated through pedestrian and cycle linkages as well as two separate vehicular accesses to serve the development. With this application being for outline and being served through connection with the neighbouring development which benefits from outline consent for access only, the development will not be able to come forward prior to the implementation of P/140/16/OUT.

Planning application P/134/16/OUT includes land for the provision of an ambulance community response post and a replacement scout hut which meets the policy requirements of H SP2a (e) (iii) and (iv) of the Arun Local Plan, which means that they are not required to be met using land from this site. The preferred location for the primary school required by H SP2a (c) has been identified as Summer Lane (P/140/16/OUT) by West Sussex County Council (WSSCC) as this would provide a primary school facility closer to the centre of Pagham, so this requirement would not need to be met using land from this site.

Planning application P/140/16/OUT has incorporated 2,000sqm of A1/A2/A3/D1/sui generis floor space which would provide a community hub and address the requirements of H SP2 (i) and (f) and H SP2a (e. i) of the Arun Local Plan. Therefore, there is no requirement for the inclusion of a local centre as part of this application although it will be necessary for the development to provide walkable access to local centres and facilities in accordance with policy H SP2 (j) of the Arun Local Plan. The illustrative masterplan shows pedestrian access to the neighbouring site (P/140/16/OUT) alongside the roads that link the two sites which would provide suitable pedestrian access to new and existing facilities. Therefore, it is considered that the proposed development will enhance integration with existing communities and provide opportunities for walking to nearby facilities and services in accordance with policy H SP2 (g).

The proposed development has been designed with a landscape buffer along the western and southern boundary of the site with the indicative masterplan demonstrating that the development will be outward facing providing a strong boundary and separation between the urban development and rural fringe of Pagham. The proposed development will therefore accord with policy H SP2 (b) and (e) of the Arun

Local Plan.

The application was accompanied by a Heritage Assessment and the impact of the proposals upon the setting of nearby heritage assets has been considered as part of this application. It has been concluded later in the report that the proposals will not result in any significant impact upon nearby heritage assets. Thus, the proposed development is deemed to accord with policies H SP2 (c), (m) and H SP2a (b) of the Arun Local Plan.

The Council's Ecological Advisor has advised that subject to appropriate conditions the proposed development would not result in an unacceptably adverse impact upon biodiversity or ecology at the site. The application site is situated approximately 400m to the north-east of the Pagham Harbour SPA/Ramsar and as such it is necessary, in accordance with the Birds and Habitats Directives, to consider the impact of the proposal upon the integrity of the SPA/Ramsar site. The Local Authority instructed Ecological Planning & Research Ltd (EPR) to undertake a Habitat Regulations Assessment. The Appropriate Assessment has concluded that, providing that the avoidance and mitigation measures are secured and implemented, the development would result in no unacceptably adverse effect upon the integrity of Pagham Harbour SPA/Ramsar. As such the development is deemed to accord with policy H SP2a (a) of the Arun Local Plan. The proposals compliance with Policy ENV DM2 is considered in detail later in the conclusion to this report.

The indicative masterplan has demonstrates how green space has been incorporated throughout the development, with footpaths and cycleways running around and through the development site and a cycle path connecting to the neighbouring site. The design code masterplan (which will be secured via condition) will need to demonstrate how planting will be incorporated throughout the site and within the main streets and open spaces. Financial contributions have been secured as part of the S106 agreement towards the provision of a cycleway linking the development with the strategic allocation West of Bersted and towards Bognor Regis. Therefore, it is considered that the proposal will accord with policy H SP2 (d) and (e) as well as policy H SP2a (f), (g) and (h) of the Arun Local Plan.

A Sustainability Appraisal was undertaken in support of the Arun Local Plan with the site being considered sustainably located. The site is located within acceptable walking distance of existing facilities and those proposed by nearby developments (incorporating a scout hut, primary school and community hub). Bus stops are situated to the south of the application site Rose Green Road within suitable walking distances. Therefore, the proposal accords with policy H SP2 (j) of the Arun Local Plan.

The highway infrastructure improvements, to be secured via the s106 agreements proposed under references P/134/16/OUT, P/140/16/OUT and P/6/17/OUT take into account the impact of the Church Barton Development and are considered sufficient and adequate to mitigate against the highways impacts of the proposed development in accordance with policy H SP2 (k) of the Arun Local Plan. This has been considered in greater detail later in the conclusion to this report.

The Council's Drainage Engineers have been consulted in relation to the proposed drainage strategy and no objection has been raised. A total of 6 conditions have been requested and these have been included in the recommendation. This has included the requirement for winter groundwater monitoring to be undertaken prior to the commencement of development. This work will ensure that the detailed drainage design takes account of site specific considerations. Therefore, subject to the inclusion of these conditions it is considered that the proposed development will accord with policy H SP2 (l) of the Arun Local Plan.

A number of financial contributions will be secured towards infrastructure provision via the S106 agreement. These contributions are detailed in the attached Heads of Terms and considered in detail later in the conclusion to this report. However, based upon the contributions to be secured it is

considered that the proposals will accord with H SP2 (n) of the Arun Local Plan. The Infrastructure Delivery Plan (IDP) 2017 does not identify the requirement for any district wide infrastructure to be incorporated as part of the strategic allocations at Pagham and as such the proposals does not conflict with policy H SP2 (o) of the Arun Local Plan.

No desire has been expressed by the applicants to incorporate self-build or custom build dwellings at the site and no evidence has been submitted in support of the application detailing any considered of the incorporation of an area of Gypsy and Traveller accommodation. However, policy H SP2 only requires consideration and does not require inclusion and as such the proposal is not considered to conflict with policy H SP2 (p) and (q) of the Arun Local Plan.

As identified above, it is considered that the proposed development will accord with policies SD SP3, H SP1, H SP2 and H SP2a of the Arun Local Plan. Therefore, the principle of the proposed development is considered acceptable subject to accordance with relevant policies contained with the Arun Local Plan and the National Planning Policy Framework (NPPF).

#### ILLUSTRATIVE MASTERPLAN

Policy H SP2 of the Arun Local Plan requires that Strategic Site Allocations must be comprehensively planned and should have regard to a masterplan endorsed by the Council for the respective areas incorporating high quality imaginative design giving a strong sense of place and a permeable layout. It also requires strategic allocations to (amongst other matters) integrate with the surrounding communities, provide well connected green spaces, provide improvements to existing village centres, infrastructure and the delivery of infrastructure.

The masterplan provided for the proposed development is indicative but clearly demonstrates how the proposed development could be accommodated on the site whilst securing appropriate open space provision. The development has been designed to be outward facing and incorporates open space along the western and southern boundaries with a 'green finger' running through the centre of the site.

The indicative layout plan shows the site divided into two parcels with the northern and southern areas of the development accessed from two separate accesses from the proposed development to the east (P/140/16/OUT) which was considered by the Development Control Committee on the 24th October 2018. Whilst, the indicative layout plan provides sufficient evidence to demonstrate that the development can be accommodated on site it will be necessary for the applicant to submit a design code masterplan for approval by the Local Planning Authority setting out the key principles of the developments design. This document will be required by condition and will need to take into account the adjoining development to ensure that both sites are integrated and designed to complement one another.

The application site measures approximately 4.15 hectares and as such in conjunction with the adjoining development will have a significant impact upon the established character of the locality. Currently the adjoining site is in agricultural use whilst the application site is a paddock associated with Church Barton House. However, the impact of the proposed developments were considered in the allocation of the site within the Arun District Local Plan (2011-2031) and it is considered that the proposed development (subject to appropriate design and materials) would not result in an unacceptably adverse impact upon the character of the locality.

The proposed development will achieve a gross density of approximately 15.66 dwellings per hectare (dph). The proposed density for the site is marginally lower than that proposed by the adjoining site (P/140/16/OUT). However, this is considered appropriate considering the location of the site and its projection to the west of Pagham.

The existing public rights of way (PRoW) surrounds the site and it is considered that appropriate

mitigation towards the enhancement of the PRoW network have been secured (as set out within the heads of terms). Similarly, the indicative layout of the development is deemed to be well integrated with the existing PRoW network as well as the adjoining development.

With detailed design being a subject for consideration at reserved matters stage there is no requirement at outline stage to undertake a detailed analysis of the indicative information provided. However, it is considered that the indicative information provided adequately demonstrates that the proposed development can be accommodated on the site and designed in a way which will ensure that the established character of the locality is respected in accordance with policies D DM1 and D SP1 of the Arun Local Plan.

#### RESIDENTIAL AMENITY

The proposed development by virtue of its location will not result in any unacceptably adverse impacts upon the residential amenity of existing nearby occupiers. The nearest residential property to the proposed development will be situated approximately 325m to the north-east and as such it is considered that this is sufficient separation to protect the residential amenity of existing nearby occupiers. These separation distances avoid any unacceptably adverse overbearing, overshadowing or overlooking impacts upon existing or future occupiers of the site in accordance with policy D DM1(3) of the Arun Local Plan.

The relationship between the proposed residential development and that of the neighbouring site (as shown on the indicative masterplan) shows sufficient separation between dwellings to avoid any unacceptably adverse residential amenity impacts. However, it will be necessary to be considered this further at reserved matters stage to ensure compliance with relevant development plan policies.

It was concluded under reference P/140/16/OUT (400 dwellings) that the maximum noise changes from the proposed Pagham developments and committed development would be 2.1dB or less and would not cause any change in behaviour or attitude, nor would it have a significant effect on the acoustic character of the area. Therefore, it is considered that the proposed development will accord with policy QE DM1 of the Arun Local Plan.

The application site is situated approximately 544m to the south-south-east of the Pagham Waste Water Treatment Works (WWTW) and as such it is necessary to consider the olfactory impact of this upon future occupiers of the site. Whilst, no specific statement has been provided in support of this application the impact of the Pagham WWTW upon SD1 was provided in support of P/140/16/OUT. Water authorities generally seek to achieve a minimum separation distance of 400m between their works and new sensitive development, as beyond this there is little evidence of significant odours capable of exceeding odour thresholds. Given this application site is situated 544m from the WWTW it exceeds the 400m requirement. The prevailing wind direction in this case is from the southwest, which means that should odours be released from the WWTW they would, for the majority of the year, be blown away from the development site. Therefore, it is considered that the site is unlikely to be exposed to odours that would exceed normal odour thresholds or give rise to complaints.

Policy QEDM2 of the Arun Local Plan requires proposals which involve outdoor lighting to be accompanied by a lighting scheme prepared according to the latest national design guidance and relevant British Standards. A lighting statement has not been provided in support of this application. However, a condition has been included requiring the submission of a scheme for external lighting in accordance with Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light, Obtrusive Light Limitations for Exterior Lighting Installations for Zone E3. Therefore, it is considered that the proposal will accord with policy QE DM2 of the Arun Local Plan.

Paragraphs 112 - 116 of the NPPF refers to advanced, high quality and reliable communications

infrastructure as being essential for economic growth and social well-being. Therefore, it is considered that the provision of broadband for future occupiers on site is essential and as such a condition has been incorporated within the recommendation requiring the submission of a strategy for the provision of broadband to be submitted and approved by the Local Planning Authority prior to the commencement of development.

#### HOUSING MIX

Paragraph 61 of the NPPF identifies that planning policies should secure dwellings of sizes, types and tenures to meet the needs of different groups within the community. This includes but is not limited to, families with children, older people, students, people with disabilities, service families and travellers.

Policy H DM1 identifies a requirement to secure housing that would meet the needs of older people. The 'Updated Housing Needs Evidence - September 2016' (PELVP23) paragraph 5.17 states that there is a requirement to secure both specialist housing for older people as well as residential and nursing home bedspaces (falling within use class C2). The application does not make any care home provision on site and as such it is expected that the development will incorporate a percentage of single level residential accommodation to meet the needs the population and the requirements of policy D DM1 (5) and H DM1 of the Arun Local Plan. A condition has been included to secure this provision.

Therefore, the proposed development is deemed to accord with policies H DM1 and AH SP2 of the Arun Local Plan.

#### HIGHWAYS

##### Access Arrangements

The indicative layout proposes two points of connection with the development to the east (approved under reference P/140/16/OUT). P/140/16/OUT identified two points of connection onto Pagham Road both of which have been granted permission. However, the internal road layout was only indicative and as such the internal road layout has not been approved at this time. Therefore, it is not possible to approve the proposed accesses for the site at this time until these details have been approved as part of a reserved matters application. Therefore, access does not form part of this approval.

##### Cumulative Impacts:

A Cumulative Transport Assessment (CTA) has been prepared in support of P/134/16/OUT, P/140/16/OUT and P/6/17/OUT and this CTA has taken the impact of this development into consideration. The scope of the CTA has been the subject of discussion and agreement with the Local Highway Authority (LHA).

The CTA has considered the impact of the proposed development in conjunction with other developments in Pagham on a number of junctions in and around the application sites.

It has been identified by the LHA that a large number of 3rd party objections submitted to the Local Planning Authority (LPA) regarding delays on the B2166 (Pagham Road) arising from slow moving traffic associated with other uses. Whilst, these comments are acknowledged given that these are existing issues on the highways network, it is not the responsibility of the applicants of the current application to resolve.

The three CTA's submitted in support of P/134/16/OUT, P/140/16/OUT and P/6/17/OUT have been considered by the LHA and have been identified as being in accordance with current best practice. The CTA's submitted in support of the strategic allocations have taken the impact of this development into consideration in the assessment. The majority of the conclusions within the CTA's are broadly comparable; there were notable difference in the anticipated future operation of the junctions. Most notable of which was Pagham Road/Sefter Road and a further review of the operation of this junction

was identified as necessary.

For those junctions where mitigation is required, the proposed works or contributions are considered acceptable in mitigating the severe residual cumulative impacts of the development.

A further technical note has been submitted that reviews the operation of the Pagham Road/Sefter Road junction and this has been considered further by WSCC. The consultation response (from WSCC) dated the 27th March 2018 considered the revised modelling for the Pagham Road/Sefter Road junction which provided a single model of the junction, with the geometry and traffic flows within this having been agreed.

It was confirmed that the modelled results show that the Sefter Road arm of the junction will start to operate at theoretical capacity in the future without taking into account the proposed development. However, it was identified by WSCC that whilst the development would take the junction over capacity, Paragraph 109 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts are severe. Therefore, whilst it was acknowledged by WSCC that drivers will be subjected to additional delays this alone is not considered to constitute a severe impact.

Dougal Baillie Associates - Sensitivity Assessment:

The Local Planning Authority, in order to ensure that the mitigation measures proposed are adequately robust and mitigate the impact of the proposed development upon the highways network, commissioned an independent 'Sensitivity Assessment' undertaken by Dougal Baillie Associates (DBA).

The sensitivity assessment undertaken by DBA confirmed that the proposed mitigation works to the A27 Whyke Hill junction would address the impact of the Pagham developments provided that the works are implemented at the appropriate time. Therefore, the sensitivity analysis was focused upon the following key junctions;

1. B2145/B2166 roundabout;
2. B2166/Vinnetrow Road/Mill Lane roundabout;
3. Pagham Road/B2166 Lower Bognor Road priority junction;
4. Pagham Road/Sefter Road priority junction; and
5. Grosvenor Gardens/Rose Green Road/Nyetimber Lane/Gossamer Lane traffic signals.

The sensitivity assessment in this case has identified that;

1. The junction improvements proposed for junction 1 (above) would not entirely offset the impacts of the Pagham developments. However, relatively modest enhancement of the proposed roundabout approach widening would adequately offset the predicted impact.
2. The proposed physical improvements to junction 2 (above) would be sufficient to offset the cumulative traffic impact of the Pagham sites.
3. The sensitivity assessment revealed that simple signalisation of this junction would not be sufficient to offset development traffic impact, and widening of the southbound approach to two traffic lanes for a distance of 50m would also be required.
4. Signalisation of the existing junction would offset development traffic impact in conjunction with a localised speed limit.
5. The signal timings proposed in the Pagham Transport Assessments would accommodate the additional traffic generated by the proposed developments.

The sensitivity analysis commissioned by the LPA identified supplementary improvements to the following junctions and associated indicative costs;

- B2145/B2166 roundabout - £98,000
  - Pagham Road / Sefter Road - £140,000
  - Pagham Road / Lower Bognor Road - £250,000
- Total: 488,000

In addition to these modified works the following junction improvements identified within the applicants transport assessments are necessary;

- Rose Green Road widening - £81,000
  - B2166/Vinnetrow Rd. widening - £23,000
- Total: £104,000

Following the publication of the DBA sensitivity analysis the developers (for P/134/16/OUT, P/140/16/OUT and P/6/17/OUT) have submitted an amended 'Common Statement of Cumulative Assessments'. Each of the developers has agreed to undertake junction improvement works on behalf of the Local Highway Authority (LHA), as follows;

- P/134/16/OUT - Rose Green Road widening
- P/140/16/OUT - B2166/Vinnetrow Rd. widening
- P/6/17/OUT - B2145/B2166 roundabout

The Common Statement of Cumulative Assessment under table 7.3 identified cumulative contributions for each of the developments taking into account the associated costs of the junction improvements identified within the sensitivity analysis. Therefore, the developments will generate a combined highways contribution of £390,000 and a £100,000 contribution towards improvements of footpaths 101, 104 and 106 to provide a route from Pagham to Chichester via Sidlesham. As such, each developer will make the following adjusted contributions;

- P/134/16/OUT - Land North of Sefter Road - £88,142.29 & Footpath Contribution of £28,572.00
- P/140/16/OUT - Pagham South - £143,632.98 & Footpath Contribution of £40,816.00
- P/6/17/OUT - Land north of Hook Lane - £158,224.73 & Footpath Contribution of £30,612.00

The proposed junction improvements go beyond those originally identified and proposed by the applicants and are intended to achieve no net detriment as a result of the additional development traffic. The Community Infrastructure Levy Regulations 2010 set out that a planning obligation must be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Therefore, it is acknowledged that existing issues are present on the highways network around Pagham but it is not the responsibility of the applicant for this application to resolve these existing issues.

The financial contributions secured from P/134/16/OUT, P/140/16/OUT and P/6/17/OUT address the highways impacts of the Pagham strategic allocations under policy H SP2a. However, planning application P/25/17/OUT (Church Barton) has not contributed towards the cumulative mitigation strategy. Therefore, as an alternative a financial contribution towards sustainable transport measures has been identified - it is intended for this financial contribution to finance the implementation an off-road cycle route linking Sefter Road and the strategic allocation West of Bersted. The financial contribution is proportional to the scale of development and is deemed to meet the policy requirements of H SP2a (h) of the Arun Local Plan.

The highway infrastructure improvements, to be secured via the s106 agreement, from the SD1 and SD2 strategic allocations are considered sufficient and adequate to mitigate against the highways impacts of the proposed development (achieving no net detriment) in accordance with policies T SP1 and H SP2 (k)

of the Arun Local Plan.

#### DRAINAGE & FLOOD RISK

The application site is identified as falling within Flood Zone 1 with the majority of the site identified as at very low risk of surface water flooding, a small area of the site is identified as being at low/medium risk. There is an existing drainage ditch located on site which runs from the centre of the site in an easterly direction.

The surface water drainage strategy has been considered by the Council's Drainage Engineers who have raised no objection to the proposal subject to the inclusion of appropriate conditions. This will include winter groundwater monitoring to inform the detailed design of the drainage strategy. It has also been identified within the Flood Risk Assessment and Drainage Strategy (17110/FRA01) that sustainable drainage techniques should be incorporated but these measures will be considered in greater detail at the detailed design stage.

Subject to compliance with the drainage conditions proposed the surface water drainage scheme will accord with policies W SP1, W DM1, W DM2 and W DM3 of the Arun Local Plan.

Southern Water in their most recent consultation response dated the 3rd May 2018 have stated that a foul connection at the "practical point of connection" as defined in the New Connections Services implemented from the 1st April 2018 would result in an increased risk of flooding unless network reinforcement is undertaken. The reinforcement work will need to be provided by Southern Water and will be funded via the new infrastructure charge.

However, this was considered as part of the Arun Local Plan Examination in Public and it was identified that the agreed approach for addressing waste water treatment capacity for the strategic allocations at Pagham in the Arun Local Plan, is to divert flows to Lidsey and Ford WWTW, with reinforcement works (funded by developer contributions) to plants and pumping mains to be brought forward over time in line with housing delivery.

Southern Water have stated that they will need to work with the developer to understand the development program and review if the delivery of network reinforcement aligns with the occupation of the development. A condition has been requested by Southern Water to secure this and it is considered that this will be necessary to avoid any unacceptably adverse impact upon Pagham Harbour SPA/Ramsar in accordance with policy ENV DM2 of the Arun Local Plan.

#### EDUCATION

Policy INF SP1 of the Arun Local Plan states that the Local Planning Authority will support development proposals which provide or contribute towards the infrastructure and services needed to support development (including the necessary infrastructure set out in the Infrastructure Delivery Plan).

In terms of education provision within the Infrastructure Delivery Plan (IDP) dated February 2017 it is identified that Pagham north and south should make provision of land and contributions towards a new 1FE primary school (expandable to 2FE) to serve Pagham; contributions towards the 10FE Secondary School located centrally within the District; and contributions towards 50 new nursery places to serve Pagham.

The IDP identifies a total cost of £6million for the construction cost of the new primary school and appropriate contributions have been secured from each of the allocated sites in Pagham towards the delivery of the new primary school. West Sussex County Council (WSCC) in their Section 106 contributions response dated the 24th April 2018 identified a financial contribution of £363,675. The required 2 hectares of land has been secured through P/140/16/OUT which is the preferred primary



school site and is suitably located within Pagham and will be accessible by future occupiers of the strategic allocations as well as existing Pagham residents. The financial contribution and school site will be secured via the s106 agreement.

The IDP identifies a total contribution of £1,896,000, from the 1,200 unit Pagham strategic allocation, towards the creation of 50 new nursery places. Therefore, WSCC have requested a proportional financial contribution of £98,752 from this development, in accordance with the IDP 2017, which will be secured via the s106 agreement. This financial contribution will be directed towards early years provision to be provided in conjunction with the new primary school.

The IDP 2017 identifies a financial contribution from the 1,200 unit strategic allocations at Pagham north and south of £5.27 million towards the 10FE Secondary school to serve the district (6FE expandable to 10FE). However, WSCC in their consultation response have requested a calculator based contribution towards expansion of Felpham Community College. When the secondary and sixth form contribution was discussed by the Pagham Advisory Group, it was questioned why the contribution was being directed to Felpham Community College rather than the Regis School. This was raised with WSCC education who advised that with the expansion of Felpham Community College additional capacity would (eventually) be created at the Regis School and that the Regis School as an Academy had expressed no desire for expansion at this time. However, it was advised that consideration would be given to directing the contribution to the Regis School for extension.

The proposed contribution does provide towards the necessary infrastructure identified within the IDP 2017 as required by policy INF SP1. However, it is considered by the LPA that the proposed contribution should be allocated towards the proposed new secondary school identified under policy INF SP2 of the Arun Local Plan in the absence of sufficient justification from WSCC. The contribution will be prescribed for the associated feasibility and design work as well as the provision of access to serve the new school. Therefore the proposed contribution would provide towards the necessary infrastructure identified within the IDP 2017 as required by policy INF SP1.

The proposed development (in terms of education provision and contributions) will accord with policies H SP2(n), H SP2a and INF SP1 of the Arun Local Plan.

#### HEALTH CARE PROVISION

Policy H SP2a (e) (iv) requires the strategic allocations at Pagham (SD1 & 2) to provide contributions towards new healthcare facilities at West of Bersted (SD3) or alternatively where appropriate proposals may make contributions towards new facilities or improvement or expansion of the relevant existing facility, subject to agreement with the Council.

The Consultation response from the Coastal West Sussex Clinical Commissioning Group dated the 20th June 2017 has requested a financial contribution to Grove House GP Surgery for the infrastructure needs of managing GP consultant health care. This proposed project accords with the requirements of policy H SP2a (e) (iv) of the Arun Local Plan and accords with the requirements of the IDP 2017.

However, in order to ensure that the needs of future residents are best met through health care provision the Section 106 agreement has been worded to secure various potential health care solutions. This includes the provision of a new health care facility as part of the West of Bersted (SD3) strategic allocation; the expansion or improvement of Grove House GP Surgery; or the expansion or relocation of Sir Arthur Griffith clinic located in Pagham.

Therefore, it is considered that the proposal would accord with policy INF SP1 of the Arun Local Plan.

#### ADDITIONAL INFRASTRUCTURE CONTRIBUTIONS

Additional infrastructure contributions have been secured towards libraries, fire & rescue, police and leisure facilities. These financial contributions and the identified projects are deemed to accord with the Community Infrastructure Levy Regulation 123 and meet the demand and need generated by the proposed development in accordance with policy INF SP1 of the Arun Local Plan.

Full details of the contributions secured are provided in the heads of terms attached to this report.

#### AGRICULTURAL LAND

The Natural England 'Agricultural Land Classification map London and the South East (ALC007)' identifies the site being classified as Grade 2 to the east with a small portion of the site to the west classified as Grade 3 agricultural land.

The Ministry of Agriculture, Fisheries and Food 'Agricultural Land Classification - October 1988' identifies Grade 2 as 'very good quality' and Grade 3 as 'good to moderate quality'. The NPPF (paragraph 170b) requires that the Local Planning Authority takes into account the economic and other benefits of this type of land. However, it should be noted that the existing site is a residential property and associated paddocks with no agricultural use currently being undertaken.

The application site has been allocated for residential development under policies H SP1 and H SP2a of the Arun Local Plan and has been the subject of significant assessment prior to allocation. This provides evidence that alternative options for the location of this strategic allocation have been explored and subjected to a Sustainability Appraisal process to select the most sustainable sites. The Arun Local Plan (2011-2031) Sustainability Appraisal recognised that most of the undeveloped coastal plain within the District is high grade agricultural land and that the majority of the strategic allocations would have a significant negative effect on the objective of avoiding the loss of 'best and most versatile' (BMV) land. The loss of BMV is one factor in the site selection and decision making process.

Policy SO DM1 of the Arun Local Plan states that development will not be permitted on this type of land unless 'designated by this plan' or unless the need for the development outweighs the need to protect such land in the long term. As the site is a strategic allocated within the Local Plan the proposal would not be the subject of assessment under policy SO DM1.

#### AFFORDABLE HOUSING

For all developments over 11 residential units the Council requires a minimum of 30% affordable housing on site, as set out in Policy AH SP2 of the Arun Local Plan. Policy AH SP2 of the Arun District Local Plan (2011-2031) identifies the following mix of affordable homes (unless evidence indicates otherwise):

- 1 Bed - 35-40%
- 2 Bed - 30-35%
- 3 Bed - 20-25%
- 4 Bed - 5-10%

The proposed affordable housing provision has been considered by the Housing Strategy and Enabling Manager and a tenure mix of 75% Affordable Rented Housing and 25% Intermediate Housing has been requested. The development proposes to provide 30% affordable housing which equates to 19 units on a scheme of 65 dwellings. The affordable housing provision is deemed to be acceptable and will be secured via the Section 106.

#### ECOLOGY AND BIODIVERSITY

The application was accompanied by a number of ecological surveys and statements which have considered the ecological interest of the application site and the importance of habitats present in accordance with national guidance.

The proposed development has been the subject of consultation with the Council's Ecological Advisor who has confirmed that they are satisfied with the precautionary and mitigation measures proposed within the ecological statements. This includes wintering birds, bats and reptiles subject to the inclusion of appropriately worded conditions.

Therefore, the proposed development will not give rise to any unacceptably adverse effects to ecology and biodiversity at the site. The proposed development subject to appropriate conditions (included with this recommendation) is deemed to accord with policy ENV SP1, ENV DM1 and ENV DM5 of the Arun Local Plan.

#### PAGHAM HARBOUR SPA/RAMSAR

Policy H SP2a (a) (SD1 and SD2) identifies that proposals will need to ensure no detrimental impact to Pagham Harbour SPA through compliance with policy ENV DM2 and its supporting text.

Policy ENV DM2 of the Arun District Local Plan states that within Zone B (0-5km) all new residential development which is likely to have an impact on Pagham Harbour will be required to;

- i. Make developer contributions towards the agreed strategic approach to access management at Pagham Harbour.
- ii. Create easily accessible new green spaces for recreation within or adjacent to the development site. These shall be capable of accommodating the predicted increases in demand for local walking, including dog walking. Good pedestrian links shall be provided between existing housing areas and new and existing green spaces in order to discourage car use.

The supporting text under Paragraphs 17.1.18 - 17.1.22 of the Arun Local Plan includes relevant background information on the Pagham Harbour SPA/Ramsar and the means by which the Local Plan policies will ensure its protection.

Paragraph 12.1.15 of the supporting text for policy H SP2a within the Arun Local Plan identifies that the Pagham South (SD1) allocation is within close proximity to Pagham Harbour, which is an important and sensitive natural site within the wider Bognor Regis area. Development from this allocation should reduce any impacts from loss of supporting habitat or recreational disturbance that may arise.

The application is supported by a 'Habitats Regulation - Appropriate Assessment (LLD1531.HornsLane.Pagham/HRA.Rev00.29.08.18)' prepared on behalf of the applicant. The Local Planning Authority (LPA) had originally screened out the application by virtue of the mitigation measures proposed being integral to the proposal, in accordance with the approach derived from the Hart District Council v Secretary of State for Communities & Local Government .

However, the decision of the ECJ in case C-323/17 concluded that it was not appropriate to take account of measures intended to avoid or reduce the harmful effects of the plan or project at the screening stage of the Habitats Regulation Assessment process.

Whilst, some inconsistencies exist between this judgement and previous ECJ case law, it was nevertheless necessary to consider the efficacy of impact avoidance and mitigation measures such as the strategic access management and monitoring (SAMM) through an Appropriate Assessment.

The Local Planning Authority (LPA) appointed Ecological Planning & Research Ltd (EPR) to undertake the Appropriate Assessment (AA) for the planning application. The purpose of an Appropriate Assessment (AA) is to further analyse likely significant effects identified during the screening stage. The AA evaluates the implications of the plan or project, in light of the conservation objectives of the affected

International Sites and includes a test as to if the plan or project would result in significant adverse effects on site integrity.

Consideration within the AA has also been given to 'in combination effects' where other nearby plans or projects may have the potential to cause negative effects on the integrity of the International Site. These negative effects may act in combination, with those of this planning application, potentially leading to a 'likely significant effect' (LSE) becoming significant. Therefore consideration has been given to whether this application could contribute to effects generated by other plans or projects and vice versa.

The Habitats Regulations Assessment (18/32-4B) dated 19th September 2018 prepared by EPR (on behalf of the LPA) concludes (under paragraph 5.60) that the proposed mitigation measures are suitable and Arun District Council can be confident that they will avoid or mitigate an adverse effect on the integrity of Pagham Harbour SPA/Ramsar, alone and in-combination with other plans or projects.

In order to mitigate adverse effects through recreational pressure an appropriate financial contribution will be secured the strategic access management and monitoring (SAMM) tariff and provision of suitable greenspace within the development through the s106 agreement. It will also be necessary to secure (prior to the commencement of development) a 25 year management plan for the open space and secure appropriate ownership and funds for the 25 year management. In terms of water pollution the Appropriate Assessment requires the inclusion of a condition requiring occupation to be phased in line with network reinforcement.

The above measures have been secured to ensure that the proposals will accord with the impact avoidance and mitigation strategy set out in the Arun Local Plan under policy ENV DM2 and as such there will be no adverse effect on the integrity of Pagham Harbour SPA/Ramsar.

#### HERITAGE AND LISTED BUILDINGS

Paragraphs 20(d) of the National Planning Policy Framework (NPPF) states that the planning system should contribute to and enhance the natural and local environment. The application was accompanied by a Heritage Impact Assessment which was deemed to provide sufficient detail to accord with paragraph 189 of the NPPF.

Paragraph 190 of the NPPF identifies that the LPA should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including development which may affect the setting of a heritage asset), taking into account any available evidence and necessary expertise.

Paragraph 192 of the NPPF states that in the determination of planning applications the LPA should take account of the desirability of sustaining and enhancing the significance of a heritage asset; the positive contribution that conservation of heritage assets can make to sustainable communities; and the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be. Irrespective of whether any potential harm amounts to substantial harm.

Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of the designated heritage asset, this harm should be weighed against the public benefits of the proposal.

To the north-east of the application site is a cluster of listed buildings and the Barton Close area of special character (ASC).

The application has been the subject of consultation with the Council's Conservation and Design Officer who has raised no objection. It was acknowledged that the application site is situated some distance to the south-west of the ASC by the Council's Conservation Officer, that there are few long terms views into the ASC, and as such the proposed development will have little impact upon its locally distinctive qualities.

There are a number of listed buildings situated within close proximity to the application site. White Rock (21 Pagham Road) is situated to the south-east of the application site. The proposed development will be situated approximately 391m to the north-west of White Rocks and by virtue of this separation distance and development proposed under reference P/140/16/OUT, it is considered that the proposal will not result in harm to the significance or setting of White Rock.

Approximately 600m to the south of the application site is St Thomas a Becket, a Grade I listed medieval church which was restored in 1837. The listed building sits within a verdant churchyard on Church Lane and enjoys a sense of enclosure from the boundary walls and mature trees. The church is situated on the edge of the built up area boundary and is accessed via a semi-rural lane. Further to the south and separated from the church by Church Farm Holiday Village is Becket's Barn, the remains of a former archbishop's palace designated as a scheduled monument and listed building. The church and former archbishop's palace have a clear historic relationship and reflect the medieval importance of the settlement of Pagham.

Immediately adjacent to the church is Old Cottage, an 18th Century thatched cottage which together with the church forms a picturesque grouping. Despite the more modern infill bungalows along Church Lane, it has been identified that the church and other cottages along the lane keep the old character remarkably well. This small group of listed buildings along Church Lane and Pagham Road forms the 'historic core of Pagham'. The rural character of the lane and open fields to the north assist in helping to understand and appreciate the origins of St Thomas a Becket church and the historic core of Pagham and contributes positively to their setting.

The impact of the proposed residential development has been considered by Historic England in their consultation response of the 24th April 2017, which advised that a full heritage impact assessment should be provided to assess the potential impacts to designated heritage assets from the development.

A Heritage Impact Assessment was submitted in support of the application which was prepared by Orion Heritage Ltd and dated March 2018 under reference PN-1395/2. The report concludes under paragraph 5.4 that 'on balance it is considered that as a result of the availability of long distance views from the wider environs and remaining open land to the south of the study site, any impact in terms of setting would therefore cause less than substantial harm'. It was further concluded under paragraph 5.7 that by virtue of the overall scale of the development will maintain the semi-rural setting and with adequate screening and buffering, harm in terms of views can be minimised.

A subsequent consultation response was received from Historic England on the 24th April 2018. This consultation response identified that the current rural character and appearance of the setting of the church contributes to its significance and that the proposed development will cause harm to that contribution. It is acknowledged that the level of harm is not definitely set out, as the application is in outline and further measures that may minimise the harm are not definitely set out at this stage of the process.

Views of the church spire are possible from the north along Summer Lane and footpath 100. However, existing screening is present along the northern boundary of the site which restricts views of the church and as such the development will have a restricted impact upon views from the north beyond those

already possible. Views will also be interrupted from the north by the proposed development under reference P/140/16/OUT but it is considered that in combination will result in less than substantial harm to the listed building.

It is acknowledged that the rural character of the site will be affected by the proposed development which will impact upon the setting of the Grade I listed building. However, the proposed development will be separated from the listed building by approximately 600m with the agricultural fields between being retained and the agricultural land to the north-west of the church also being retained. Therefore, the setting of the listed building will remain rural in appearance and as such it is considered that the proposed development will result in less than substantial harm to the significance of nearby heritage assets.

Given the less than substantial harm which has been identified above it will be necessary to assess the development against the requirements of paragraph 196 of the NPPF which requires the harm to be balanced against the public benefits of the scheme. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 required that in considering whether to grant planning permission for development which affects a listed buildings or its setting, the LPA shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses. It is also identified under paragraph 193 of the NPPF it is identified that when considering the proposed developments impact on the significance of a designated heritage asset, great weight should be given to the asset's conservation, this is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

In the weighted consideration of the proposal in light of the above it is deemed that the benefits of the proposal, namely its contribution towards the housing land supply of Arun District outweighs the less than substantial impact upon significance. Therefore, in accordance with paragraph 196 of the NPPF the proposal is deemed to be acceptable and will accord with policies HER SP1, HER DM1 and HER DM4 of the Arun Local Plan.

#### ARCHAEOLOGY

The proposal has been considered by the Council's Archaeology Adviser who has stated that the potential of the proposed development to impact on unknown remains of archaeological importance justifies an investigation of the site and would be best secured via a suitably worded condition. This condition has been included as part of the recommendation and it is considered that by virtue of this the proposed development will accord with policy HER DM6 of the Arun Local Plan.

#### RENEWABLE ENERGY

Policy ECC SP2 of the Arun Local Plan identifies that major developments must produce 10% of the total predicted energy requirements from renewable or low carbon energy generation on site, unless it can be demonstrated that this is unviable. A condition has been included with this recommendation report requiring the submission of details for approval by the Local Planning Authority as to how this will be achieved on site.

Policy QE DM3 (c) of the Arun Local Plan requires the inclusion of on site electric car charging points to encourage the use of cleaner transports fuels. The sale of new petrol and diesel vehicles will cease from 2040 and in order to mitigate the impact of this upon future residents a condition has been included requiring the provision of electric vehicle charging points to serve each dwelling.

#### SUMMARY

The proposed development is considered to be acceptable in principle as has been established above and it has been identified within the report that the proposal will not conflict with the development plan.

The impact of the proposed development upon existing infrastructure has been mitigated through financial contribution and the provision of services and facilities. Adequate mitigation measures have also been identified which will mitigate the impact of the development upon the Pagham Harbour SPA/Ramsar site to the south-west of the application site. The developer has also agreed to provide 30% affordable housing which equates to 19 affordable units (for a 65 dwelling development).

Therefore, the proposed development is deemed to accord with the requirements of policy H SP2 and will cumulatively meet the requirements of H SP2a (SD1 & SD2) in conjunctions with planning applications P/134/16/OUT, P/140/16/OUT and P/6/17/OUT.

A notification has been sent to the Parish Council advising them of the amendment to the description of the development to exclude access and the Parish Council have a period of 21 days to respond prior to determination of the application.

**HUMAN RIGHTS ACT**

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

**DUTY UNDER THE EQUALITIES ACT 2010**

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

**SECTION 106 DETAILS**

See Heads of Terms for breakdown of financial contributions.

**RECOMMENDATION**

**APPROVE CONDITIONALLY SUBJECT TO A SECTION 106 AGREEMENT**

- 1 The permission hereby granted is an outline permission under s92 of the Town and Country Planning Act 1990 (as amended) and an application for the approval of the Local Planning Authority to the following matters must be made not later than the expiration of 3 years beginning with the date of this permission:-

- (a) Access;
- (b) Layout;
- (c) Scale;
- (d) Appearance; and
- (e) Landscaping.

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 (as amended).

- 2 The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission, or before the expiration of 2 years from the date of the approval of the last of the reserved matters to be approved, whichever is the later.

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 (as amended).

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans:

- Location Plan - TSP 591 FS06

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy D DM1 of the Arun Local Plan (2011-2031).

- 4 No development shall take place until a detailed scheme of phasing for the construction of the dwellings and associated highways and public areas has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a schedule identifying the order of anticipated commencement and completion within each phase of construction.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the phasing of the development needs to be satisfactory before work commences.

- 5 No development in any phase shall be carried out unless and until a schedule of materials and finishes to be used for that phase for external walls and roofs of the proposed buildings has been submitted to and approved by the Local Planning Authority. No development in any phase shall be carried out unless and until a 'statement of detail' for that phase has been submitted to and approved setting out details of proposed windows and doors, details of the depth of recess/reveal from the brickwork, sills and lintels, brick bonding, brick detailing, eaves detailing and rainwater goods. The materials and 'statement of details' so approved shall be used in the construction of the buildings.

Reason: To enable the Local Planning Authority to control the development in details in the interests of amenity by endeavouring to achieve buildings of visual quality in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the use of satisfactory external materials goes to the heart of the planning permission.

- 6 Prior to the submission of any reserved matters application a design code masterplan shall be submitted to, and approved in writing, by the Local Planning Authority. This document shall demonstrate how the detailed proposals will reflect the objectives of the;

- Masterplan - FS06 - Rev. C - January 2017



- Planning Statement - 17028/PS01 - March 2017

The design code masterplan will provide further details on matters such as character areas, street hierarchy, building typologies, key buildings, the approach to car parking, structural planting, street furniture, lighting and treatment of the public realm. The development shall be carried out in accordance with the approved design code.

Reason: To enable the Local Planning Authority to control the development in details in the interests of amenity by endeavouring to achieve buildings of visual quality in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the design of the scheme goes to the heart of the planning permission.

7 The landscaping and layout particulars to be submitted in accordance with Condition 1 shall include:

- i. Details of all existing trees and hedgerows on the land, showing which are to be retained and which removed;
- ii. Details of the positions, height, design, materials and type of boundary treatment to be provided;
- iii. Details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree
- iv. The detailed landscape design for the development including the layout and design of the public realm within the development;
- v. Details of the surfacing, lighting and signage of all footpaths, cycle routes and a phasing plan for their provision;

No hedge or tree shall be felled, uprooted or otherwise removed before, during or after the construction period except where removal is indicated on a plan approved by the Local Planning Authority.

Reason: In the interests of amenity and of the environment of the development in accordance with Policy ENV DM4 of the Arun Local Plan.

8 Landscaping (hard and soft) shall be carried out in accordance with the approved details. All planting, seeding or turfing comprised in the approved details shall be carried out in the first planting and seeding seasons following the first occupation of each phase or sub phase of the development hereby permitted or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the phase or sub-phase die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of amenity and of the environment of the development in accordance with Policy D DM1 of the Arun Local Plan.

9 Prior to the commencement of each phase of the development an Arboricultural Method Statement and Tree Protection Plan shall be submitted for that phase to and approved in writing by the Local Planning Authority and the development shall be undertaken in strict accordance with the details so approved.

Reason: To ensure the retention and maintenance of trees and vegetation which are an important feature of the area in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the protection and

retention of trees goes to the heart of the planning permission.

10 Development shall not commence until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the local planning authority, and shall include;

- The design should following the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDs Manuel Produced by CIRIA. Winter groundwater monitoring to established highest annual ground water levels and percolation testing to BRE 365, or similar approved, will be required to support the design of any infiltration drainage.

- The development shall not proceed until formal consent has been approved in writing from the Lead Local Flood Authority (WSSC) or its agent (ADC) for the discharge of any flows to watercourses, or the culverting, diversion, infilling or obstruction of any watercourses on the site. Any discharge of watercourse must be at a rate no greater than the pre-development run off values.

- Arrangements for future access and maintenance of any watercourse or culvert (piped watercourse) crossing or abutting the site.

No building shall be occupied until the complete surface water drainage system serving it has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure that the surface water disposal scheme is agreed before construction commences and to protect existing watercourses prior to the commencement of development.

11 Development shall not commence until full details of the maintenance and management of the surface water drainage system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. Upon completed construction of the surface water drainage system, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure that the future maintenance and funding arrangements for the surface water disposal scheme are agreed before construction commences.

12 Upon completed construction of the surface water drainage system but prior to occupation of any part of the scheme, the owner or management company shall either provide the local planning authority with an updated copy of the management manual incorporating any changes as a result of construction/implementation or confirm in writing that no changes are required to the manual.

No further changes shall be made to the approved surface water drainage system Maintenance & Management Plan/Regime including the management company responsible or the financial arrangements between the owners of the dwellings & the management company

other than with the written consent of the Local Planning Authority.

The owner or management company shall thereafter strictly adhere to and implement the recommendations contained within the manual to ensure that the system is maintained in perpetuity.

Reason: To ensure the efficient maintenance and on-going operation of the surface water drainage system and to ensure the best practice in line with guidance set out in 'The SuDS Manual' CIRIA publication ref: C753 Chapter 32, in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan.

- 13 Before the development hereby permitted is commenced, details of a proposed foul drainage system shall be submitted to and approved in writing by the Local Planning Authority (including details of its siting, design and subsequent management/maintenance, if appropriate) and no dwelling shall be occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details.

Reason: To ensure adequate infrastructure is provided to enable the scheme to be satisfactorily drained in accordance with Policies D DM1, W DM1 and W SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the foul drainage system goes to the heart of the planning permission.

- 14 Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development.

Reason: To ensure adequate foul capacity is available to satisfactorily drain the development and avoid adverse impacts upon the Pagham Harbour SPA/Ramsar in accordance with policies D DM1, W DM1, W SP1, ENV DM2 and H SP2a of the Arun Local Plan.

- 15 Prior to the commencement of construction works or any preparatory works an Ecological Management and Mitigation Plan including a Schedule of Works shall be submitted to the LPA for approval and will be based on the recommendations within the supporting document:

- Preliminary Ecological Appraisal - LLD1110 - Rev. 00 - 02/02/2017

All approved details shall then be implemented in full and in accordance with the agreed timings and details.

Reason: This condition is necessary to ensure the protection of wildlife and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site in line with national guidance and Policy ENV SP1 and ENV DM5 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because of the need ensure measures are in place to protect wildlife and habitats on site prior to any disturbance.

- 16 Prior to the occupation of any dwelling of a particular phase, a scheme for external lighting shall be submitted and approved in writing by the Local Planning Authority. The scheme shall ensure that the lighting is sensitive to bats by minimising the lighting of the woodland along the southern and western boundaries and shall comply with Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light, Obtrusive Light Limitations for Exterior Lighting Installations for Zone E3.

Reason: To control the residential amenities of the local environment in accordance with Policies D DM1 and QE DM2 of the Arun Local Plan.

17 Prior to the commencement of development, including any works of demolition, a Construction Management Plan shall be submitted for approval in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:

- The anticipated number, frequency and types of vehicles used during construction,
- The method of access and routing of vehicles during construction,
- Full details of the construction compound,
- Soil resources plan,
- Dust mitigation measures,
- Noise reduction measures,
- The parking of vehicles by site operatives and visitors,
- The loading and unloading of plant, materials and waste,
- The storage of plant and materials used in construction of the development,
- The erection and maintenance of security hoarding,
- The provision of effective wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- Details of public engagement both prior to and during construction works.

Reason: In the interests of highway safety and the amenities of the area in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because of the safety and amenity issues that need to be addressed.

18 During the construction phase no machinery/vehicles or plant shall be operated on the site, no process shall be carried out and no deliveries taken at or despatched except between the hours of:

7.00 a.m. and 6.00 p.m. on Mondays to Fridays inclusive

8.00 a.m. and 1.00 p.m. on Saturday

Not at any time on Sundays or Public Holidays

Reason: In the interests of amenity in accordance with Policies D DM1 and QE DM1 of the Arun Local Plan.

19 No raw materials, finished or unfinished products or parts, crates, packing materials or waste shall be stacked or stored on the site except within the storage areas identified in the Construction Management Plan at any time approved by the Local Planning Authority.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy D DM1 of the Arun Local Plan.

20 Prior to commencement of development the applicant shall prepare and submit for approval an Employment and Skills Plan for the construction phase of development. Following approval of the Employment and Skills Plan the developer will implement and promote the objectives of the approved plan.

Reason: in accordance with Policy SKILLS SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to as it relates to the construction phase of development.

21 The vehicular and pedestrian accesses and bus stop lay by as indicatively shown on drawing no.1616/01 Rev L ("the Northern Access") including appropriate visibility splays shall be

completed in accordance with the requisite Agreement under s278 of the Highways Act 1980 with the local highway authority prior to the occupation of any phase of the development served by the Northern Access. Once provided the visibility splays for said access shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metres above the adjoining carriageway level or as otherwise agreed.

Reason: In the interests of amenity and to avoid unacceptable harm to highway safety in accordance with policy T SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as establishing an access to the site goes to the heart of the planning permission.

- 22 Before development commences a scheme identifying the principles to be incorporated into detailed building design as the means of energy conservation, together with on-site energy renewable devices, shall be submitted to and agreed with the Local Planning Authority. Such scheme as is submitted shall seek as a target the provision of on-site renewable energy which will generate an estimated 10% of annual energy requirements of the buildings granted planning permission. In determining the provision of on-site energy generation account will be taken of the impact on the viability of the development. Such scheme as is approved will be implemented in accordance with the scheme.

Reason: In accordance with Policy ECC SP2 of the Arun Local Plan. It is considered necessary for this be a pre-commencement condition as sustainability goes to the heart of the approval.

- 23 Prior to the commencement of development, a strategy for the provision or facilitation of broadband provision to future occupants of the site shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall seek to ensure that upon occupation of a dwelling, either a landline or ducting to facilitate the provision of a broadband service to that dwelling from a site-wide network, is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway. Unless evidence is put forward and agreed in writing by the Local Planning Authority that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure, the development of the site shall be carried out in accordance with the approved strategy.

Reason: To ensure that the needs of future residents to connect to the internet does not necessarily entail engineering works to an otherwise finished and high quality living environment in accordance with Policy TEL SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the provision of broadband needs to be incorporated into the design for the site.

- 24 No part of the development shall be first occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan once approved shall thereafter be implemented as specified within the approved document. The Travel Plan shall be completed in accordance with the latest guidance and good practice documentation as published by the Department for Transport or as advised by the Highway Authority.

Reason: To encourage and promote sustainable transport in accordance with Policies D DM1 and T SP1 of the Arun Local Plan.

- 25 No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

Reason: The site has the potential to contain unknown remains of archaeological importance

therefore in accordance with Policies D DM1 and HER DM6 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because archaeology can only be investigated before construction commences.

- 26 Prior to the commencement of development, an Electric Vehicle Charging Strategy will be prepared and submitted to the Local Planning Authority which identifies the nature, form and location of electric charging infrastructure to be provided across the development. The electric vehicle strategy shall then be implemented in accordance with the approved details.

Reason: New petrol and diesel cars/vans will not be sold beyond 2040, and to mitigate against any potential adverse impact of the development on local air quality, in accordance with Policy D DM1 and Policy QE DM3 (c) of the Arun Local Plan and the NPPF. It is considered necessary for this to be a pre-commencement condition to ensure that the requisite charging infrastructure is designed into the housing development and it is implemented.

- 27 No development shall commence until the applicant has submitted and the Local Planning Authority (in consultation with Natural England) has approved the detailed management and maintenance scheme for the adjacent Paghham Harbour SPA Enhancement Land (as defined and referred to within the Agreement under s106 of the Town and Country Planning Act associated with the permission) which shall provide for:

- (a) The delivery of habitat enhancements (including some areas of additional planting) for Brent Geese on said land so as to achieve no net loss of foraging habitat for Brent Geese due to the development proposals;
- (b) The management of field boundary vegetation, associated with specific adjoining fields to enhance sight lines for Brent Geese, making this field matrix more suited to use by them; and
- (c) Cessation of bird scaring initiatives on said land;

said measures and scheme to substantially accord with the details set out in "Preliminary Ecological Appraisal - LLD1110 - Rev. 00 - 02/02/2017 - Evaluation - 5.2" submitted in support of the application.

Reason: This condition is necessary to ensure that the management and maintenance of the Pgham Harbour SPA Enhancement Land accords with national guidance and Policy ENV DM2 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because of the need ensure measures are in place to avoid any detrimental impact of the development upon the SPA/Ramsar prior to development commencing.

- 28 At least fifteen percent (15%) of all dwellings shall be designed and constructed to m4(2) standard and twenty (20) dwellings shall be designed and constructed to m4(3) standard in accordance with 'Access to and use of buildings: Approved Document M'.

Reason: To ensure that dwellings are adaptable and meet the diverse needs of future occupiers in accordance with Policy D DM1 of the Arun Local Plan and Paragraph 61 of the NPPF.

- 29 No development shall commence until 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 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 thereafter shall be carried out in accordance with the approved details.

Reason: To ensure that a satisfactory relationship results between the new development and

adjacent buildings and public areas in accordance with policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as these details relate to the construction of the development and thus go to the heart of the planning permission.

- 30 INFORMATIVE: The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981, with only a few exceptions, it is an offence for any person to intentionally take, damage or destroy the nest of any wild birds while the nest is in use or being built. Birds nest between March and September and therefore removal of dense bushes, ivy or trees or parts of trees etc. during this period could lead to an offence under the act.
- 31 INFORMATIVE: This notice does not give authority to destroy or damage a bat roost or disturb a bat. Bat species are protected under Section 39 of the 1994 Conservation (Natural Habitats etc ) Regulations (as amended), the 1981 Wildlife and Countryside Act (as amended) and the 2000 Countryside and Rights of Way Act. It is illegal to damage or destroy any bat roost, whether occupied or not, or disturb or harm a bat. If you are aware that bats roost in a tree(s) for which work is planned, you should take further advice from Natural England (via the Bat Conservation Trust on 0845 1300228) or an ecological consultant before you start. If bats are discovered during the work, you must stop immediately and contact Natural England before continuing.
- 32 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

## DECISION NOTICE

Application Ref: P/25/17/OUT

**1 To Addressee**

Genesis Town Planning  
26 Chapel Street  
Chichester  
PO19 0DL

**2 Site Address**

Church Barton House  
Horns Lane  
Pagham  
PO21 4NZ

**3 Description of Development**

Outline application with all matters reserved - Erection of up to 65 No. dwellings, access roads, landscaping, open space & associated works.

**4** In pursuance of their powers under this Act and related Orders and Regulations the Council **PERMIT** this development to be carried out in accordance with the application and plans and subject to compliance with the following conditions and Section 106 Agreement.

1 The permission hereby granted is an outline permission under s92 of the Town and Country Planning Act 1990 (as amended) and an application for the approval of the Local Planning Authority to the following matters must be made not later than the expiration of 3 years beginning with the date of this permission:-

- (a) Access;
- (b) Layout;
- (c) Scale;
- (d) Appearance; and
- (e) Landscaping.

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 (as amended).

2 The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission, or before the expiration of 2 years from the date of the approval of the last of the reserved matters to be approved, whichever is the later.



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 (as amended).

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans:

- Location Plan - TSP 591 FS06

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy D DM1 of the Arun Local Plan (2011-2031).

- 4 No development shall take place until a detailed scheme of phasing for the construction of the dwellings and associated highways and public areas has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a schedule identifying the order of anticipated commencement and completion within each phase of construction.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the phasing of the development needs to be satisfactory before work commences.

- 5 No development in any phase shall be carried out unless and until a schedule of materials and finishes to be used for that phase for external walls and roofs of the proposed buildings has been submitted to and approved by the Local Planning Authority. No development in any phase shall be carried out unless and until a 'statement of detail' for that phase has been submitted to and approved setting out details of proposed windows and doors, details of the depth of recess/reveal from the brickwork, sills and lintels, brick bonding, brick detailing, eaves detailing and rainwater goods. The materials and 'statement of details' so approved shall be used in the construction of the buildings.

Reason: To enable the Local Planning Authority to control the development in details in the interests of amenity by endeavouring to achieve buildings of visual quality in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the use of satisfactory external materials goes to the heart of the planning permission.

- 6 Prior to the submission of any reserved matters application a design code masterplan shall be submitted to, and approved in writing, by the Local Planning Authority. This document shall demonstrate how the detailed proposals will reflect the objectives of the;

- Masterplan - FS06 - Rev. C - January 2017  
- Planning Statement - 17028/PS01 - March 2017

The design code masterplan will provide further details on matters such as character areas, street hierarchy, building typologies, key buildings, the approach to car parking, structural planting, street furniture, lighting and treatment of the public realm. The development shall be carried out in accordance with the approved design code.

Reason: To enable the Local Planning Authority to control the development in details in the interests of amenity by endeavouring to achieve buildings of visual quality in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the design of the scheme goes to the heart of the planning permission.

- 7 The landscaping and layout particulars to be submitted in accordance with Condition 1 shall include:

- i. Details of all existing trees and hedgerows on the land, showing which are to be retained and which removed;
- ii. Details of the positions, height, design, materials and type of boundary treatment to be provided;
- iii. Details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree
- iv. The detailed landscape design for the development including the layout and design of the public realm within the development;
- v. Details of the surfacing, lighting and signage of all footpaths, cycle routes and a phasing plan for their provision;

No hedge or tree shall be felled, uprooted or otherwise removed before, during or after the construction period except where removal is indicated on a plan approved by the Local Planning Authority.

Reason: In the interests of amenity and of the environment of the development in accordance with Policy ENV DM4 of the Arun Local Plan.

- 8 Landscaping (hard and soft) shall be carried out in accordance with the approved details. All planting, seeding or turfing comprised in the approved details shall be carried out in the first planting and seeding seasons following the first occupation of each phase or sub phase of the development hereby permitted or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the phase or sub-phase die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of amenity and of the environment of the development in accordance with Policy D DM1 of the Arun Local Plan.

- 9 Prior to the commencement of each phase of the development an Arboricultural Method Statement and Tree Protection Plan shall be submitted for that phase to and approved in writing by the Local Planning Authority and the development shall be undertaken in strict accordance with the details so approved.

Reason: To ensure the retention and maintenance of trees and vegetation which are an important feature of the area in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the protection and retention of trees goes to the heart of the planning permission.

- 10 Development shall not commence until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the local planning authority, and shall include;
  - The design should following the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDs Manuel Produced by CIRIA. Winter groundwater monitoring to established highest annual ground water levels and percolation testing to BRE 365, or similar approved, will be required to support the design of any infiltration drainage.
  - The development shall not proceed until formal consent has been approved in writing from the Lead Local Flood Authority (WSCC) or its agent (ADC) for the discharge of any flows to watercourses, or the culverting, diversion, infilling or obstruction of any watercourses on the site. Any discharge of watercourse must be at a rate no greater than the pre-development run off values.

- Arrangements for future access and maintenance of any watercourse or culvert (piped watercourse) crossing or abutting the site.

No building shall be occupied until the complete surface water drainage system serving it has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure that the surface water disposal scheme is agreed before construction commences and to protect existing watercourses prior to the commencement of development.

- 11 Development shall not commence until full details of the maintenance and management of the surface water drainage system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. Upon completed construction of the surface water drainage system, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure that the future maintenance and funding arrangements for the surface water disposal scheme are agreed before construction commences.

- 12 Upon completed construction of the surface water drainage system but prior to occupation of any part of the scheme, the owner or management company shall either provide the local planning authority with an updated copy of the management manual incorporating any changes as a result of construction/implementation or confirm in writing that no changes are required to the manual.

No further changes shall be made to the approved surface water drainage system Maintenance & Management Plan/Regime including the management company responsible or the financial arrangements between the owners of the dwellings & the management company other than with the written consent of the Local Planning Authority.

The owner or management company shall thereafter strictly adhere to and implement the recommendations contained within the manual to ensure that the system is maintained in perpetuity.

Reason: To ensure the efficient maintenance and on-going operation of the surface water drainage system and to ensure the best practice in line with guidance set out in 'The SuDS Manual' CIRIA publication ref: C753 Chapter 32, in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan.

- 13 Before the development hereby permitted is commenced, details of a proposed foul drainage system shall be submitted to and approved in writing by the Local Planning Authority (including details of its siting, design and subsequent management/maintenance, if appropriate) and no dwelling shall be occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details.

Reason: To ensure adequate infrastructure is provided to enable the scheme to be satisfactorily drained in accordance with Policies D DM1, W DM1 and W SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the foul drainage system

goes to the heart of the planning permission.

- 14 Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development.

Reason: To ensure adequate foul capacity is available to satisfactorily drain the development and avoid adverse impacts upon the Pagham Harbour SPA/Ramsar in accordance with policies D DM1, W DM1, W SP1, ENV DM2 and H SP2a of the Arun Local Plan.

- 15 Prior to the commencement of construction works or any preparatory works an Ecological Management and Mitigation Plan including a Schedule of Works shall be submitted to the LPA for approval and will be based on the recommendations within the supporting document:

- Preliminary Ecological Appraisal - LLD1110 - Rev. 00 - 02/02/2017

All approved details shall then be implemented in full and in accordance with the agreed timings and details.

Reason: This condition is necessary to ensure the protection of wildlife and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site in line with national guidance and Policy ENV SP1 and ENV DM5 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because of the need ensure measures are in place to protect wildlife and habitats on site prior to any disturbance.

- 16 Prior to the occupation of any dwelling of a particular phase, a scheme for external lighting shall be submitted and approved in writing by the Local Planning Authority. The scheme shall ensure that the lighting is sensitive to bats by minimising the lighting of the woodland along the southern and western boundaries and shall comply with Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light, Obtrusive Light Limitations for Exterior Lighting Installations for Zone E3.

Reason: To control the residential amenities of the local environment in accordance with Policies D DM1 and QE DM2 of the Arun Local Plan.

- 17 Prior to the commencement of development, including any works of demolition, a Construction Management Plan shall be submitted for approval in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:

- The anticipated number, frequency and types of vehicles used during construction,
- The method of access and routing of vehicles during construction,
- Full details of the construction compound,
- Soil resources plan,
- Dust mitigation measures,
- Noise reduction measures,
- The parking of vehicles by site operatives and visitors,
- The loading and unloading of plant, materials and waste,
- The storage of plant and materials used in construction of the development,
- The erection and maintenance of security hoarding,
- The provision of effective wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- Details of public engagement both prior to and during construction works.

Reason: In the interests of highway safety and the amenities of the area in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because of the safety and amenity issues that need to be addressed.

- 18 During the construction phase no machinery/vehicles or plant shall be operated on the site, no process shall be carried out and no deliveries taken at or despatched except between the hours of:

7.00 a.m. and 6.00 p.m. on Mondays to Fridays inclusive

8.00 a.m. and 1.00 p.m. on Saturday

Not at any time on Sundays or Public Holidays

Reason: In the interests of amenity in accordance with Policies D DM1 and QE DM1 of the Arun Local Plan.

- 19 No raw materials, finished or unfinished products or parts, crates, packing materials or waste shall be stacked or stored on the site except within the storage areas identified in the Construction Management Plan at any time approved by the Local Planning Authority.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy D DM1 of the Arun Local Plan.

- 20 Prior to commencement of development the applicant shall prepare and submit for approval an Employment and Skills Plan for the construction phase of development. Following approval of the Employment and Skills Plan the developer will implement and promote the objectives of the approved plan.

Reason: in accordance with Policy SKILLS SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to as it relates to the construction phase of development.

- 21 The vehicular and pedestrian accesses and bus stop lay by as indicatively shown on drawing no.1616/01 Rev L ("the Northern Access") including appropriate visibility splays shall be completed in accordance with the requisite Agreement under s278 of the Highways Act 1980 with the local highway authority prior to the occupation of any phase of the development served by the Northern Access. Once provided the visibility splays for said access shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metres above the adjoining carriageway level or as otherwise agreed.

Reason: In the interests of amenity and to avoid unacceptable harm to highway safety in accordance with policy T SP1 of the Arun District Local Plan. It is considered necessary for this to be a pre-commencement condition as establishing an access to the site goes to the heart of the planning permission.

- 22 Before development commences a scheme identifying the principles to be incorporated into detailed building design as the means of energy conservation, together with on-site energy renewable devices, shall be submitted to and agreed with the Local Planning Authority. Such scheme as is submitted shall seek as a target the provision of on-site renewable energy which will generate an estimated 10% of annual energy requirements of the buildings granted planning permission. In determining the provision of on-site energy generation account will be taken of the impact on the viability of the development. Such scheme as is approved will be implemented in accordance with the scheme.

Reason: In accordance with Policy ECC SP2 of the Arun Local Plan. It is considered necessary for this be a pre-commencement condition as sustainability goes to the heart of the approval.

- 23 Prior to the commencement of development, a strategy for the provision or facilitation of broadband provision to future occupants of the site shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall seek to ensure that upon occupation of a dwelling, either a landline or ducting to facilitate the provision of a broadband service to that dwelling from a site-wide network, is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway. Unless evidence is put forward and agreed in writing by the Local Planning Authority that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure, the development of the site shall be carried out in accordance with the approved strategy.

Reason: To ensure that the needs of future residents to connect to the internet does not necessarily entail engineering works to an otherwise finished and high quality living environment in accordance with Policy TEL SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the provision of broadband needs to be incorporated into the design for the site.

- 24 No part of the development shall be first occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan once approved shall thereafter be implemented as specified within the approved document. The Travel Plan shall be completed in accordance with the latest guidance and good practice documentation as published by the Department for Transport or as advised by the Highway Authority.

Reason: To encourage and promote sustainable transport in accordance with Policies D DM1 and T SP1 of the Arun Local Plan.

- 25 No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

Reason: The site has the potential to contain unknown remains of archaeological importance therefore in accordance with Policies D DM1 and HER DM6 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because archaeology can only be investigated before construction commences.

- 26 Prior to the commencement of development, an Electric Vehicle Charging Strategy will be prepared and submitted to the Local Planning Authority which identifies the nature, form and location of electric charging infrastructure to be provided across the development. The electric vehicle strategy shall then be implemented in accordance with the approved details.

Reason: New petrol and diesel cars/vans will not be sold beyond 2040, and to mitigate against any potential adverse impact of the development on local air quality, in accordance with Policy D DM1 and Policy QE DM3 (c) of the Arun Local Plan and the NPPF. It is considered necessary for this to be a pre-commencement condition to ensure that the requisite charging infrastructure is designed into the housing development and it is implemented.

- 27 No development shall commence until the applicant has submitted and the Local Planning Authority (in consultation with Natural England) has approved the detailed management and maintenance scheme for the adjacent Paghham Harbour SPA Enhancement Land (as defined and referred to within the Agreement under s106 of the Town and Country Planning Act associated with the permission) which shall provide for:

(a) The delivery of habitat enhancements (including some areas of additional planting) for Brent Geese on said land so as to achieve no net loss of foraging habitat for Brent Geese due to the development proposals;

- (b) The management of field boundary vegetation, associated with specific adjoining fields to enhance sight lines for Brent Geese, making this field matrix more suited to use by them; and
- (c) Cessation of bird scaring initiatives on said land;

said measures and scheme to substantially accord with the details set out in "Preliminary Ecological Appraisal - LLD1110 - Rev. 00 - 02/02/2017 - Evaluation - 5.2" submitted in support of the application.

Reason: This condition is necessary to ensure that the management and maintenance of the Pgham Harbour SPA Enhancement Land accords with national guidance and Policy ENV DM2 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because of the need ensure measures are in place to avoid any detrimental impact of the development upon the SPA/Ramsar prior to development commencing.

- 28 At least fifteen percent (15%) of all dwellings shall be designed and constructed to m4(2) standard and twenty (20) dwellings shall be designed and constructed to m4(3) standard in accordance with 'Access to and use of buildings: Approved Document M'.

Reason: To ensure that dwellings are adaptable and meet the diverse needs of future occupiers in accordance with Policy D DM1 of the Arun Local Plan and Paragraph 61 of the NPPF.

- 29 No development shall commence until 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 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 thereafter shall be carried out in accordance with the approved details.

Reason: To ensure that a satisfactory relationship results between the new development and adjacent buildings and public areas in accordance with policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as these details relate to the construction of the development and thus go to the heart of the planning permission.

INFORMATIVE: The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981, with only a few exceptions, it is an offence for any person to intentionally take, damage or destroy the nest of any wild birds while the nest is in use or being built. Birds nest between March and September and therefore removal of dense bushes, ivy or trees or parts of trees etc. during this period could lead to an offence under the act.

INFORMATIVE: This notice does not give authority to destroy or damage a bat roost or disturb a bat. Bat species are protected under Section 39 of the 1994 Conservation (Natural Habitats etc ) Regulations (as amended), the 1981 Wildlife and Countryside Act (as amended) and the 2000 Countryside and Rights of Way Act. It is illegal to damage or destroy any bat roost, whether occupied or not, or disturb or harm a bat. If you are aware that bats roost in a tree(s) for which work is planned, you should take further advice from Natural England (via the Bat Conservation Trust on 0845 1300228) or an ecological consultant before you start. If bats are discovered during the work, you must stop immediately and contact Natural England before continuing.

INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out

within the National Planning Policy Framework.



Neil Crowther  
Group Head of Planning

Case Officer: Mr D Easton

Decision Issued: **5th September 2019**

Arun District Council  
The Arun Civic Centre  
Maltravers Road  
Littlehampton  
West Sussex BN17 5LF

**IT IS IMPORTANT THAT YOU READ THE NOTES ATTACHED TO THIS DOCUMENT**



## **APPEALS TO THE SECRETARY OF STATE**

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, and you want to appeal against this planning application decision, then you must do so within 28 days of the date of this notice.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and you want to appeal against this planning application decision, then you must do so within 28 days of the date of service of the enforcement notice, or within 12 weeks of the date of this notice, whichever period expires earlier.

Otherwise, if you want to appeal against this decision then you must do so within 6 months of the date of this notice.

Appeals must be using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at <http://acp.planninginspectorate.gov.uk>

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

## **PURCHASE NOTICES**

If either the local planning authority or the Secretary of State refused permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (that is, where the land is situated in a National Park, the National Park authority for the Park, or in any other case the district council in whose area the land is situated). This notice will require the Council to purchase the owner's interest in the land in accordance with the provisions of Chapter 1 of Part VI of the Town & Country Planning Act 1990.

Please note that this decision notice only relates to matters under the Planning Acts and does not give consent under any other legislation that may apply to the development. You will need to carry out your own checks to determine whether any other consents or permissions are required. For example, the Building Regulations are likely to apply to most developments, and a Highways Licence may be required from West Sussex County Council for any development within the public highway (including the placing of skips on highway land).

## REPORT UPDATE

Application No: P/30/19/OUT

### Reason for the Update / Changes

Reason for Update/Changes:

1. Natural England provided a consultation response on the 22nd July 2019 providing the following comments:

#### NO OBJECTION SUBJECT TO MITIGATION

Agree with the conclusion of the Appropriate Assessment, that mitigation measures are available to avoid an adverse effect on the integrity of the SPA/Ramsar. Therefore, in line with these conclusions, the following mitigation measures should be secured:

- Financial contribution to the Pagham Harbour SAMM Strategy;
- Greenspace totalling 6.65ha within the development site, managed to provide recreational space for people and their dogs;
- Development to be phased to align with Southern Water's delivery of sewerage network reinforcement.
- A detailed surface water drainage strategy addressing both flood risk and water quality should be produced.
- A construction environment management plan should set out the best practice measures to avoid pollution.

2. Four Letters of representation received following the publication of the recommendation report.

The following points have been raised:

- Brent Geese use this site during the winter period.
- The changes to the access are not substantive enough to make a difference.
- Loss of best and most versatile growing land.
- Road infrastructure is already over burdened and cannot cope with additional housing.
- This field regularly floods in winter and is unsuitable for development.

Two letters of representation received from Pagham Parish Council:

- Applicants ecological surveys are all dated 2015-2017 and have not been updated.
- No comments from Chichester District Council which is significant given their previous comments in relation to P/6/17/OUT.
- The applicants heritage statement does not consider all relevant Listed Buildings.
- Drainage concerns.
- Application should not be dealt with in Outline.
- The Officers report includes inaccuracies, assertions and misrepresentations (no details provided).
- Object to the plan.

#### 3. TREE PRESERVATION ORDER

A Tree Preservation Order under reference TPO/P/1/19/ has been made for a Pedunculate Oak situated on the eastern boundary of the site in accordance with the request of the Council's Tree Officer. The proposed site access onto Hook Lane does not have an impact upon this tree and the tree was identified within the submitted Arboricultural Assessment as being retained.

4. RECOMMENDATION

That delegated authority is granted to the Group Head of Planning to make minor amendments to the S106 Agreement that are substantially in accordance with the Heads of Terms and to grant planning permission subject to the S106 Agreement, Conditions and Informatives.

Officers Comment:

1. The consultation response from Natural England supports the conclusions of the Officers recommendation.
2. The additional letters of representation do not raise any points which have not already been previously considered.
3. No additional comments.
4. No additional comments.

**Notes: Changes to recommendations, conditions and / or reasons for refusal will always be reflected in the recommendation section of the attached Officer's Report.**

Recommendation Report for Outline Consent

**REF NO:** P/30/19/OUT

**LOCATION:** Land north of Hook Lane  
Pagham

**PROPOSAL:** Outline application with some matters reserved for the construction of up to 300 No. new homes, a care home of up to 80 beds, D1 uses of up to 4,000 sqm including a 2 form entry primary school, the formation of new means of access onto Hook Lane & Pagham Road, new pedestrian & cycle links, laying out of open space, new strategic landscaping, habitat creation, drainage features & associated ground works & infrastructure. This application may affect the setting of a listed building (resubmission following P/6/17/OUT).

<b>SITE AND SURROUNDINGS</b>
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DESCRIPTION OF APPLICATION	The application seeks outline permission with all matters reserved except access for the construction of up to 300No. new homes, care home of up to 80No. beds, D1 uses of up to 4000sqm including a 2 form entry Primary School, formation of new means of access onto Hook Lane & Pagham Road, new pedestrian & cycle links, the laying out of open space, new strategic landscaping, habitat creation, drainage features & associated ground works & infrastructure.
SITE AREA	Approximately 17.5 hectares.
RESIDENTIAL DEVELOPMENT DENSITY	Approximately 17.14 dwellings per hectare (based on overall site area). 30 dwellings per ha based on net developable area.
TOPOGRAPHY	Predominantly flat.

TREES	Trees are situated along the boundaries of the site. No trees of any significance are affected by the proposed development.
BOUNDARY TREATMENT	The western and northern boundaries of the site feature mature trees and hedgerow planting of between 2 and 5 metres in height. The eastern boundary (adjacent to Hook Lane) primarily consists of hedgerow planting measuring approximately 2m in height. However, there are portions of the eastern boundary which feature hedgerow planting measuring <1.2m and sections which are devoid of any hedgerow planting.
SITE CHARACTERISTICS	<p>The existing land use is a greenfield site in agricultural use and is situated within the built up area boundary of Pagham. The application site is situated to the east of Pagham Road and measures approximately 17.5 hectares. Further agricultural land is situated to the west of the application site, with the Pagham Harbour situated approximately 1.9km to the south-west.</p> <p>Pagham Road runs along the western boundary of the site, with Sefter Road to the north and Hook Lane to the east and south-east. The site is identified as falling within Flood Zone 1 with the exception of a portion of the site measuring approximately 22m<sup>2</sup> in the north-western corner of the site identified as Flood Zone 2.</p>
CHARACTER OF LOCALITY	<p>The locality of the site is predominantly rural in character but on the edge of the existing built up area. However, development is present to the east of Pagham Road which is characterised predominantly by two storey dwellings and bungalows of various designs and styles which are set back from the highway. A cluster of two storey residential development is situated to the north-west of the application site.</p> <p>Bus stops are situated along the western boundary of the site along Pagham Road.</p>

<b>RELEVANT SITE HISTORY</b>
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P/6/17/OUT	Outline application with some matters reserved for construction of up to 300No. new homes, Care home of up to 80No. beds, D1uses of up to 4000sqm including a 2 form entry Primary School, formation of new means of access onto Hook Lane & Pagham Road, new pedestrian & cycle links, the laying out of open space, new strategic landscaping, habitat creation, drainage features & associated ground works & infrastructure.	Refused 24-01-19
P/25/17/OUT	Outline application with all matters reserved - Erection of	

up to 65 No. dwellings, access roads, landscaping, open space & associated works.

P/140/16/OUT	Outline application for access only - mixed use development comprising of up to 400 dwellings, a care home with up to 70 beds, a Local Centre comprising up to 2000sqm of A1/A2/A3/D1/sui generis floorspace, provision of land for a 1FE primary school (with sufficient space to ensure that it is expandable to 2FE), provision of land for a scout hut, safeguarding of land to help link the site to the Pagham Harbour Cycle Route & other community uses including public open space & allotments with some matters reserved.	App Cond with S106 22-11-18
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P/134/16/OUT	Outline application for the development of up to 280 dwellings (including affordable homes), land for a replacement scout hut, land for an Ambulance Community Response Post Facility and land for either a 1FE primary school or care home. Provision of a primary vehicular access from Sefter Road and demolition of No. 80 Rose Green Road and creation of a pedestrian and emergency only access. Provision of Public Open Spaces including associated children's play areas, landscaping, drainage and earthworks. This application also falls within the parish of Aldwick
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P/14/99/	Outline application for development of land to provide a maximum of 175 dwellings (6.55ha), public open space (1.42ha) and structural landscaping (1ha). (Departure from the Development Plan)	NON DET APPEAL 28-03-00
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**Appeal: Dismissed**  
**05-09-00**

P/6/17/OUT was refused on highways ground and is now the subject of an appeal which is due to be heard at a public inquiry on 22-25 October 2019.

The application was refused by the Development Control Committee against officer recommendation for the following reason:

"The increased vehicle movements generated by the application will exacerbate the capacity issues on the local highway network and the mitigation measures proposed are insufficient to overcome the safety concerns resulting from the additional vehicle movements contrary to policy TSP1 of the Arun Local Plan."

Members should note that the applications for all of the sites that comprise the strategic allocation prepared a cumulative Transport Assessment. This was assessed by West Sussex County Council (as Local Highway Authority), Highways England as well as independent highways consultants (appointed by the Council). In the determination of planning applications P/134/16/OUT, P/140/16/OUT, P/6/17/OUT

and P/25/17/OUT the committee concluded that three applications were acceptable in highways terms when assessed against the cumulative transport assessment. However, the committee concluded that P/6/17/OUT was unacceptable based upon the same highways assessment.

The appeal under reference P/14/99/ was dismissed on the 5th September 2000 as the Inspector Considered that the site performed poorly on sustainability grounds, had a potential role in helping to retain the separate identity of and amenity of settlements, and that the merits of the site should have been examined in the context of the local plan.

## **REPRESENTATIONS**

### **REPRESENTATIONS RECEIVED:**

Pagham Parish Council

Pagham Parish Council

- It has not been demonstrated that the scheme will deliver development of the type envisaged by the Arun Local Plan (ALP) Policy SP1a or a comprehensive, master planned and integrated development which will accord with ALP policies H SP2 and H SP2a and related national policy in the NPPF 2019.
- Given the scale of the development proposed for the site it has not been demonstrated that the site can be developed in a manner that will preserve or enhance the quality and landscape character of its environs, the Bognor Regis to Chichester Gap or existing Green Infrastructure assets or contribute positively to the quality of the environment contrary to policies H SP2, H SP2a, LAN DM1, SD SP3, GI SP1, D SP1, QE SP1 and ENV DM4 of the Arun Local Plan (2018) and related national policy in the NPPF 2019.
- Given the scale of the development proposed for the site it has not been demonstrated that the site can be developed in a manner that will preserve heritage assets including the setting of the nearby Grade II listed Rookery Farm and Grade II listed Nyetimber Windmill, contrary to policies, HER SP1, HER DM1 and H SP2a (b) of the Arun Local Plan (2018) and related standing advice from Historic England and national policy in the NPPF 2019.
- It has not been demonstrated that the development of the site can be undertaken in a manner that will safeguard the water quality of Pagham Harbour or on site habitats for protected species contrary to policies H SP2a, ENV DM2, ENV DM4 and ENV DM5 of the Arun Local Plan (2018) and related standing advice from Natural England and national policy in the NPPF 2019.
- It has not been demonstrated that the scheme will provide for the necessary infrastructure requirements of policies H SP2, INF SP1, INF SP2, T SP1, T DM1, T SP3, W SP1, W DM1 and W DM3.

### **ALDWICK PARISH COUNCIL:**

- Members strongly oppose the application on the grounds that it is in direct conflict with Policies SD SP1 A; SD SP1 J; ECC SP1; HER SP1; 6.24;8.11.1; ENV DM4; SP1 A (K); T DM1; and TSP1, of the Arun Local Plan 2011-2031.
- Flood risk, drainage issues, not got the required infrastructure to sustain such a development. Biodiversity is not sufficient as the development does not retain significant open or wooded areas which would make a positive contribution to the local environment. Loss of habitat. Road safety, risk to pedestrians and car users.

### **NORTH MUNDHAM PARISH COUNCIL**

Objection on the basis concerns lie with the potential for increased traffic through the parish mainly, but not exclusively, on the B2166 and Vinnetrow Road - the volume of traffic on Marsh Lane is already an additional issue for local residents. Also expressing concerns about drainage, the lack of provision of cycle routes, pedestrian safety, traffic pollution (air and noise) and the effect on the environment.

310 letters of objection. Below is a summary of the key issues raised:

#### Sustainability

- Loss of tourism.
- Reduces the diversity of the landscapes
- Strain on the local market to supply food to the people moving into the area.

#### Agricultural land

- The development will result in a loss of high-grade agricultural land.
- Farmland is required for food production.
- The land should be kept for agricultural purposes.

#### Design and visual amenity

- The area will become overdeveloped.
- Development will adversely impact upon rural character.
- Development will adversely impact upon existing character of the locality.
- Development will adversely impact upon strategic gap.
- Loss of green space and areas for children to play.
- Development of this kind leads to boring and unimaginative house designs with tiny gardens and limited parking.

#### Development plan

- Not in line with the current development plan.

#### Surface water and drainage

- Existing drainage will not cope.
- Site is vulnerable to flooding.
- Extra water on a system that already struggles will cause raw sewage to be pumped into the sea.

#### Highways

- Roads are heavily trafficked and congested.
- Pedestrian safety trying to cross roads at or near the already busy junctions (Walnut Tree junction).
- Lack of proposals to address the provision of enhanced cycle routes.
- B2166 and B2145 are unsuitable and unsafe for cyclists.
- Issues regarding the A27 should be resolved prior to the development taking place.
- Increased traffic and congestion will cause emergency services to take longer to arrive.
- Increased level of noise pollution.
- Increase in the use of 'rat runs' through existing housing.
- Chichester A27 options rejected. Therefore, Cumulative TA work is out of date.
- Cumulative TA does not take account of the Chichester District Council draft Local Plan.

#### Infrastructure

- Schools are currently oversubscribed.
- Doctors surgery cannot accommodate existing demand.
- Dental surgery cannot accommodate existing demand.
- Hospitals in the local area struggling with the current demand.
- Bus services being scaled down leading to public services to be under strain already.
- Emergency services fully stretched already.
- Stress on all utilities will be unsustainable.
- No major source of local employment.
- The internet connection as is struggles and drops out.

#### Biodiversity and Ecology

- Development will result in an increase in air pollution.
- Increased light pollution and the impact on wildlife that comes with it.
- Threat to the environment of Pagham Harbour.
- Eliminate the ability of the land to store carbon.
- The farmland is a breeding ground for Brent Geese.
- Development will increase the loss of dark skies.
- The development would be in the flight path for bats causing further disruption to the wildlife.
- Habitats Regulation Assessment does not incorporate Chichester District Council developments.
- Arun District Council should have considered alternative locations in the district for housing with no impacts on the Pagham Harbour Ramsar/Special Protection Area (SPA).
- Arun District Council has not satisfied itself that all adverse impacts on the Pagham Harbour Ramsar/SPA can be mitigated.

#### Other

- Chichester District Council intend to meet their objectively assessed need and as such Arun District Council allocation are not longer required.
- Arun District Council have not met the Parish Council's legitimate expectations regarding involvement and consultation regarding the still emerging draft s106.

#### Non-Material

- Leaving the European Union means we will need to be more self-sufficient and not loose high-grade soils for food.
- Disruption of community cohesion.
- Development has already been refused on this site.
- Poor water pressure during busy times.
- Likely to lead to an increase in anti-social behaviour.
- Loss of views (looking at a mound of dirt).
- Unaffordable housing for local people.
- Impact on the quality of life for elderly residents who may not see the construction completed.
- More suitable areas for the development to occur.

#### **COMMENTS ON REPRESENTATIONS RECEIVED:**

The following comments are provided in response to the consultation response from Pagham Parish Council:

i. The proposed development accords with policy H SP1, HSP2 and H SP2a of the Arun District Local Plan. In terms of the master planning of the site this matter was the subject of Judicial Review by the Parish Council following determination of planning application P/140/16/OUT. In this case it was concluded in the Judgement (following the renewal hearing) that the indicative masterplan and condition securing the provision of a Design Code Masterplan was adequate to address the policy requirement of H SP2 for sites to be comprehensively master planned. The above approach has also been accepted in resolving to grant planning permission on the other sites within the Strategic Allocation.

ii. It has been adequately demonstrated that the site can be developed in a manner that will preserve or enhance the quality and landscape character of its environs. The site does not fall within the Bognor Regis to Chichester Gap and as such policy SD SP3 is not relevant to the determination of this application. The proposed development will accord with policy H SP2, H SP2a, LAN DM1, GI SP1, D SP1, QE SP1 and ENV DM4 of the Arun Local Plan and related national policy in the National Planning Policy Framework (NPPF).



iii. The impact of the proposed development upon the preservation of heritage assets, including the setting of nearby Grade II listed buildings have been considered and accord with policies HER SP1, HER DM1 and H SP2a (b) of the Arun Local Plan and related standing advice from Historic England and national policy in the NPPF.

iv. Adequate evidence is available to the LPA and suitably worded conditions will ensure that the development can be undertaken in a manner that will safeguard the water quality of Pagham Harbour and on site habitats for protected species and as such the development would accord with policies H SP2a, ENV DM2, ENV DM4 and ENV DM5 of the Arun Local Plan and related standing advice from Natural England (who have raised no objection to the proposed development) and national policy in the NPPF.

v. The proposed development on the basis of consultation responses from statutory consultees as well as independent studies commissioned by the Council has demonstrated that the proposal will provide for the necessary infrastructure requirements of policies H SP2, INF SP1, INF SP2, T SP1, T DM1, W SP1, W DM1 and W DM3 of the Arun Local Plan. Reference has been made by Pagham Parish Council to policy T SP3 which is not relevant to the determination of this planning application.

All other comments are noted and will be considered in greater detail in the conclusion to this report.

## CONSULTATIONS

WSCC Strategic Planning

Conservation Officer

Highways England

Natural England

Chichester District Council

Ecology Advisor

Southern Water Planning

Environment Agency

Archaeology Advisor

Environmental Health

Planning and Housing Strategy

Parks and Landscapes

NHS Coastal West Sussex CCG

Sussex Police-Community Safety

Engineering Services Manager

Engineers (Drainage)

Economic Regeneration

Surface Water Drainage Team

## CONSULTATION RESPONSES RECEIVED:

### HOUSING STRATEGY AND ENABLING MANAGER

- The Council aims to ensure that 30% affordable housing is achieved on all new residential development in the district where more than 11 dwellings are proposed.
- The applicants are proposing to provide 90 dwellings (30%) of the 300 dwellings for affordable housing,

which accords with policy AH SP2 in the Arun Local Plan.

- However, the Council's Affordable Housing Policy extends to C2 developments, so in addition we would expect to see the proposed care home providing 30% affordable dwellings.
- The Council's Affordable Housing policy requires a tenure split of 75% rented and 25% intermediate housing.
- The proposals should accord with the 'Provision of Accommodation suitable for older people and people with disabilities', agreed by the Planning Policy sub-committee on the 27th February 2019.
- There is high demand for affordable housing throughout the Arun District for all types of housing. As at May 2019 there were 845 households in housing need on the Council's housing register.
- All of the affordable housing requirements would need to be included in the S106 planning obligation not secured by planning condition.

#### HIGHWAYS ENGLAND

No material matters that would change previous position. Proposed mitigation contribution of £255,000 towards A27 Whyke Hill junction satisfies HE that development proposals can be achieved without detriment to safe and efficient operation of Strategic Road Network.

Previous comments apply (received 27th January 2017 in relation to P/6/17/OUT) as follows:

Comments received 18th April 2018:

- Following our liaison with the applicant, we have now received confirmation that the applicant has agreed to contribute £255,000 towards the proposed mitigation improvements at the A27 Whyke Hill junction. As such, Highways England is now satisfied that the development proposals can be achieved, subject to certain necessary s106 obligations.
- On the basis that it has been agreed that Arun District Council will enter into a s106 Agreement with the applicant to the effect that 'prior to the commencement of the development hereby permitted the applicant will enter into a s278 Highways Agreement with Highways England for a contribution of £255,000 towards the improvement of the A27 Whyke Hill junction as shown on RPS drawing JNY8840-19 Revision B (or such other scheme of works substantially to the same effect, as may be approved in writing by the local planning authority in consultation with Highways England).
- Provided that it will be a term of the Highways Agreement that not more than 10 dwelling units will be occupied until the Highways England Contribution has been paid to Highways England.

#### SUSSEX POLICE

- Guidance for designing out crime provided - no objection raised.

Previous comments received in relation to P/6/17/OUT

- Request for contribution towards infrastructure of £47,108 - NO UPDATED COMMENTS

#### WSCC STRATEGIC PLANNING - LOCAL HIGHWAY AUTHORITY

Comments received 23rd April 2019

LHA offered no objection to previously refused application P/6/17/OUT. No material change in circumstances that may change advice. Previous comments re-iterated as follows:

##### Access

- Accesses designed to appropriate standards and guidance and reviewed by Stage One Road Safety Audit.
- Condition recommended to ensure pedestrian crossing points connect to footways opposite.

##### Highway Capacity

- Mitigation identified in previously agreed cumulative assessment is still appropriate and took account of all Pagham sites.
- Trip generation data used in the assessment is robust and principles of traffic modelling established

through P/6/17/OUT.

- Various elements still require consideration including - trips from D1 use routing through site and other local junctions; trip distribution diagrams showing development only trips; details of traffic routing in light of three proposed accesses.
- Hook Lane was to provide the B2166/ Vinnetrov Road roundabout improvement - details of the required improvement shown on drawing number 1616/14 need to be submitted with the application with requirement to undertake the works in the S106 agreement.

#### Accessibility by sustainable modes

- Previously agreed methodology for seeking proportionate contributions towards proposed off road cycle route between Pagham and South Mundham still applies, application would contribute £30,612.
- Consideration should be given to infrastructure improvements to encourage use of bus e.g. improved real time bus information or waiting facilities.
- Travel plan to be secured through a condition.
- In principle, satisfied that future residents have realistic choice of travel without reliance on private car.

#### Conclusion

WSCC has previously assessed and accepted the highways and transport impacts arising from P/6/17/OUT. This scheme reflect the application presently under consideration, and as such the principle remains acceptable. There are however certain aspects though that require further consideration. This includes;

- Consideration of trips from the proposed D1 use routing through the site access and other local junctions;
- The provision of trip distribution diagrams showing the development only trips (this should account for trips from D1 uses too);
- Details of traffic routing in light of the three proposed development accesses;
- An agreement that those contributions and works required to mitigate the cumulative impact of the developments are still proposed. This should include the resubmission of any associated plans.

#### Comments received 10th July 2019

- It has been confirmed that the development will have two points of access (one from Pagham Road and a second from Hook Lane) rather than the three as suggested within the initial application.
- Confirmation has also been provided by the safety auditor that the safety audit meets current standards.
- Trip generation from the residential uses has been agreed. Trip generation from the 4,000 sqm D1 uses was questioned.

#### Comments received 16th July 2019

- The exact mix of D1 uses is unknown at this time. Assumptions have therefore been applied to determine potential trip generation and impact on the local highway network. For the purposes of the current application additional modelling has been provided based on a 3,000sqm health centre and 1,000sqm children's nursery. Junctions in the immediate vicinity of the site have been modelled and the results indicate that the alternate D1 uses would have minimal consequences upon the surrounding highway network.
- The applicant has confirmed that the mitigation intended to be provided in connection with this development and as listed in the Common Statement of Cumulative Assessment (dated 3rd April 2018) will be provided.
- Therefore, the Local Highway Authority have raised no objection to the proposals and have concluded that the development would not result in any unacceptable safety or any other such impacts that could be considered severe.

WSCC FLOOD RISK MANAGEMENT:

- Modelled surface water flood risk - low risk. Any existing surface water flow paths across the site should be maintained or appropriate mitigation strategies proposed.
- Modelled ground water flood risk susceptibility - high risk. The area is shown to be at high risk of ground water flooding based on current mapping.
- Records of any historic flooding - no. We do not have any records of historic flooding within the confines of the proposed site but in June 2012 Hook Lane and the surrounding area suffered extensive flooding.
- Ordinary water courses on site - yes. No development should take place within 3m of any ordinary watercourse.

#### DRAINAGE ENGINEERS:

- Proposed surface water drainage through attenuated discharge to local watercourse.
- Shallow infiltration testing should be carried out in winter to establish if shallow infiltration appropriate
- Drainage design should follow hierarchy of preference (exploring infiltration first, then drainage via restricted discharge to local watercourse), advice on design of systems given.
- Conditions recommended to ensure: submission and approval of full drainage details prior to commencement; approval of any discharge to watercourses and ensuring riparian maintenance; submission and approval of details for future management and maintenance of the drainage; and provision of completion report when implemented. Plus three informatives.

#### GREENSPACE

- The minimum open space requirement for a site of this size would be 2.3ha. The open space indicated would appear to be largely in periphery locations which would allow for the protection of existing trees, particularly those situated to the east of the development. However, areas of centrally situated open space would be welcome additions to the scheme.
- Detailing of the onsite play provision or offsite contributions to be approved by the LPA.
- The landscape proposals will need to make provision for new planting that will subsequently reinforce screening of the site, improve biodiversity and enhance the landscape character of the site and its surroundings.
- The care home element of this application will pose a separate set of demands and requirements regarding suitable outdoor space provision to meet the needs of residents, carers and visitors.

#### NATURAL ENGLAND

No comments received.

#### ECOLOGY

##### Habitat Regulations Assessment

- Due to the scale of the site and its location to Pagham Harbour SPA we require a Habitat Regulations Assessment is undertaken for the site.

##### Water Voles

- Phase one surveys on site have demonstrated that water voles are using ditches within the proposed site.
- Ecological Appraisal by FCBR (2017) has stated that more surveys need to be undertaken closer to the time of construction to help assess the population dynamics, however we require that these surveys are undertaken prior to determination.
- Natural England licence will be required and though two methods have been proposed we require the full details of the chosen methodology so we can ensure the mitigation would be suitable for the site.
- We would not recommend that these further surveys are conditioned as depending upon the findings, the site layout may need to change to accommodate the requirements of the mitigation strategy.

##### Bats

- Hedgerows on site are used by bats for commuting and foraging and will need to be retained and enhanced for bats.
- Lighting scheme for the site will need to take into consideration the presence of bats in the local area and the scheme should minimise potential impacts to any bats using the trees, hedgerows and buildings by avoiding unnecessary artificial light spill.

#### Reptiles

- Reptile survey has shown that there is a moderate population of reptiles' onsite. Due to this mitigation has been proposed within the Ecological Appraisal by FCPR (2017) and we are happy that the proposed mitigation is suitable and this can be conditioned.
- Further details of reptile mitigation should be included within a Construction and Environmental Management Plan (CEMP) and a condition should be used to ensure this takes place.

#### Badgers

- Prior to start on site a badger survey should be undertaken to ensure badgers are not using the site.

#### Birds

- Due to the location of the site to Pagham Harbour the majority of the features suitable for resting birds should be retained and enhanced.
- Any works to trees or vegetation clearance on site should only be undertaken outside of the bird breeding season which takes place between 1st March and 1st October.

#### ARCHAEOLOGY:

- Agree with the conclusion of the heritage desk-based assessment regarding the likely archaeological potential of the site and the need for this to be evaluated in order that the impact of the development on anything of interest might be properly mitigated. I therefore recommend condition to secure implementation of archaeological works in accordance with a written scheme of investigation before any development takes place.

#### SOUTHERN WATER:

- Network reinforcement required to provide sufficient capacity overall, some capacity may be available prior to reinforcement works.

Condition requested to ensure that occupation of the development phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water capacity is available to drain the development

- A public pressurized foul sewer (rising main) crosses the site. The exact position of the public sewers must be determined on site by the applicant before the layout of the proposed development is finalised.
- It might be possible to divert the public sewers, so long as this would result in no unacceptable loss of hydraulic capacity and the work was carried out at the developers expense to the satisfaction of Southern Water under the relevant statutory provisions.
- Southern Water requests that in order to protect drainage apparatus, a condition is attached to any planning permission.

#### CHICHESTER DISTRICT COUNCIL

Previous comments received on P/6/17/OUT dated 8th August 2017 re-submitted

- The traffic generated by the development proposed would, without effective mitigation, result in a severe impact on the roads and junctions within Chichester District, particularly the A27/B2145 junction (Whyke Roundabout) and the A27/A259 junction (Bognor Road Roundabout) on the trunk road network, and the Runction and North Mundham/Hunston roundabouts on the WSCC road network.
- Mitigation should be secured through the local plan or on a bespoke basis for additional development. Chichester District Council would expect Arun District Council to adopt the same approach in partnership with WSCC and Highways England.

- CDC preference would be for a comprehensive assessment and mitigation strategy for all development allocated at both strategic and neighbourhood level within the emerging Local Plan (as modified).

### COMMENTS ON CONSULTATION RESPONSES:

Comments noted and will be considered further in the conclusion to this report. Where updated consultation responses have not been received on this application a report update will be provided to the Committee. The conclusion has been prepared on the basis of the updated consultation responses received and where no revised comments have been received reference has been made to the original consultation responses received in relation to planning application P/6/17/OUT.

### POLICY CONTEXT

Designation applicable to site:  
Policy H SP2a Site SD2 Pagham North

### DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

AHSP2	AH SP2 Affordable Housing
DDM1	D DM1 Aspects of form and design quality
ECCDM1	ECC DM1 Renewable Energy
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM2	ENV DM2 Pagham Harbour
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
ENVSP1	ENV SP1 Natural Environment
HDM1	H DM1 Housing mix
HDM2	H DM2 Independent living and care homes
HERDM1	HER DM1 Listed Buildings
HERDM2	HER DM2 Locally Listed Buildings or Structures of Character
HERDM3	HER DM3 Conservation Areas
HERDM4	HER DM4 Areas of Special Character
HERSP1	HER SP1 The Historic Environment
HSP1	HSP1 Housing allocation the housing requirement
HSP2	H SP2 Strategic Site Allocations
HSP2A	HSP2a Greater Bognor Regis Urban Area
HWBSP1	HWB SP1 Health and Wellbeing
INFSP1	INF SP1 Infrastructure provision and implementation
INFSP2	INF SP2 New Secondary School
LANDM1	LAN DM1 Protection of landscape character
OSRDM1	Protection of open space, outdoor sport, comm& rec facilities
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution

QEDM3	QE DM3 Air Pollution
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP1A	SD SP1a Strategic Approach
SDSP2	SD SP2 Built-up Area Boundary
SKILLSSP1	SKILLS SP1 Employment and Skills
SODM1	SO DM1 Soils
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development
WDM1	W DM1 Water supply and quality
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
WMDM1	WM DM1 Waste Management
WSP1	W SP1 Water

**PLANNING POLICY GUIDANCE:**

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

**SUPPLEMENTARY POLICY GUIDANCE:**

SPD1	Open Space & Recreation Standards
SPD2	Conservation Areas
SPD8	Areas of Special Character

<b>POLICY COMMENTARY</b>
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The Development Plan consists of the Arun Local Plan 2011-2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

**The Neighbourhood Development Plan**

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan.

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton.

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Regulation 14).

On 19 July 2019, the 'Pagham Development Management Plan 2019-2026' was published. The Plan contains four policies; one of which seeks to designate large parts of the strategic allocation in the Local

Plan as site as Local Green Space. The PNP has been published under regulation 14 with the revised consultation period running until 5pm on the 31st August 2019.

Given the recent publication of the plan and its conflict with the NPPF the PNP can only be attributed exceptionally limited weight at this time. It must also be highlighted that the PNP in its current format is not considered to be in general conformity with strategic local policy (as set out below) in conflict with Paragraph 036 (Reference ID: 41-036-20190509) of the Planning Practice Guidance. The policies within this Plan will be considered in the Conclusions section of this report.

#### **DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

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

The proposal is a strategic allocation within the built-up area boundary and has adequately demonstrated that the development would accord with the requirements of policy H SP2 and will cumulatively meet the requirements of H SP2a in conjunction with other applications within the strategic allocations in Pagham.

The proposal also makes adequate contributions towards necessary infrastructure in accordance with policy INF SP1 of the Arun Local Plan (2011-2031).

#### **OTHER MATERIAL CONSIDERATIONS**

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

#### **CONCLUSIONS**

##### **PRINCIPLE**

The development plan for the determination of this application comprises the Arun Local Plan (2011-2031).

Arun Local Plan (2011-2031)

The key policy considerations in the determination of this application are considered to be;

Policy H SP1 - establishes the housing requirement within the plan period (2011-2031) of at least 20,000 new homes within the Arun District. This includes SD2 Pagham north (at least 800 dwellings) and SD1 Pagham south (at least 400 dwellings).

Policy H SP2 - identifies that development proposals within the Strategic Site Allocations must be comprehensively planned and should have regard to a masterplan endorsed by the Council for the respective areas which incorporates high quality imaginative design which gives a sense of place.

It is identified that the comprehensive development of the allocation will need to meet the following key requirements;

a. Integrate appropriately with surrounding communities through an appropriate design particularly where they adjoin by providing for public realm improvements, shared community uses, and connectivity of transport modes including walking, cycling and public transport.



- b. Ensure a clear and harmonious relationship between town and country including clearly defined boundaries, using physical features that are readily recognisable and likely to be permanent.
- c. Protects, conserves or enhances the natural environment, landscapes and biodiversity.
- d. Incorporate high quality, well connected green spaces, planting within main streets and biodiversity rich open spaces.
- e. Extend, enhance and reinforce strategic green infrastructure and publically accessible open space.
- f. New community hubs where required to be provided, shall be well located taking account of the permeable layout to all transport modes and shall as far as possible cluster retail, commercial and community uses.
- g. Where existing village centres are within or will serve the needs of strategic development sites their improvement as sustainable centres will be required.
- h. Where community buildings are provided these shall be designed and provide for a range of uses such as healthcare, police, faith and community groups.
- i. Integration of community hubs and local centres of an appropriate form and scale into the design and layout of development proposals where identified in the specific allocations policies in H SP2 a-c.
- j. Ensure walkable access to local community, recreational and shopping facilities, jobs and accessible transport.
- k. Address the off-site capacity requirements, that related to that particular allocation, identified in the Arun Transport Assessment (2016 and update 2017 and taking into account subsequent relevant assessments) and the local highway network.
- l. Positively respond to sustainable water management taking particular account of the coastal plain topography which may require strategic surface water solutions.
- m. Maintain and enhance any important features, characteristics and assets of the local area.
- n. Provide for the required infrastructure, which relate to that particular allocation, in accordance with Policy INF SP1 and the Infrastructure Delivery Plan.
- o. Enable strategic District wide infrastructure to be delivered at strategic sites if the location is appropriate for the District.
- p. Consider inclusion of an area of the sites for self-build and custom build.
- q. Consider the delivery of an area as a site for Gypsy and Traveller accommodation.

Policy H SP2a - identifies the strategic allocation of at least 1,200 dwellings in Pagham over the plan period. This includes allocation SD1 (Pagham South) for at least 400 dwellings and allocation SD2 (Pagham North) for the provision of at least 800 dwellings. The policy requires development proposals to meet the following key design and infrastructure requirements;

- a. Ensure no detrimental impact to Pagham Harbour SPA.
- b. Take into account nearby heritage assets.
- c. Provide a new one-form (expandable to two-form) primary school and nursery places.
- d. Provide a care home facility.
- e. Provide a community hub which includes.
  - shops and complimentary uses.
  - community building (Tier 7 library, D1/sui generis floor space)
  - provision of land for scout hut, and
  - land for an ambulance community response post
- f. Provision of public open space to include children's play areas, landscaping, drainage, and earthworks.
- g. Contribute to the provision of an enhanced local cycle network by making on site provision and appropriate off site financial contributions.
- h. Where possible, provide pedestrian and cycle routes to Bognor Regis town centre in order to enhance the sustainability of the site.

In order to establish the principle of the proposed development it will be necessary to assess the proposed development against the policy requirements of H SP1, H SP2 and H SP2a.

The application site is located within the built-up area boundary (BUAB) as defined by policy SD SP2 and forms part of strategic allocation SD2 and seeks outline planning permission for up to 300 dwellings with an 80 bed care home. Therefore, this application in conjunction with P/134/17/OUT will equate to a total of 580 dwellings of the 800 identified by strategic allocation SD2 (H SP2a) and accords with Policy H SP1 of the Arun Local Plan (2011-2031).

The original application (under reference P/6/17/OUT) and this application includes sufficient land for the delivery of a 2 form entry (FE) primary school should West Sussex have wished the school to be delivered on this site. Policy H SP2(c) identifies the need for a 1FE (expandable to 2) school to meet the primary education needs generated by the Pagham allocations. However, the preferred location for the primary school has been identified as Summer Lane (P/140/16/OUT) by West Sussex County Council (WSCC) as this would provide a primary school facility closer to the centre of Pagham. Planning application P/140/16/OUT has been approved and as such this site will need to make financial contributions towards the delivery of the primary school but there is no requirement for the application to provide land to deliver this facility as part of this application. Therefore, this application as demonstrated later in this report will accord with policy H SP2(c) of the Arun Local Plan.

Planning application P/140/16/OUT (previously approved) has incorporated 2,000sqm of A1/A2/A3/D1/sui generis floor space which would provide a community hub and address the requirements of policies H SP2 (i) and (f) and H SP2a (e. i) of the Arun Local Plan. Therefore, there is no requirement for the inclusion of a local centre as part of this application although it will be necessary for the development to provide walkable access to local centres and facilities in accordance with policy H SP2 (j) of the Arun Local Plan. The proposal incorporates 3 pedestrian access points onto Hook Lane linking with the existing footpath network and will provide suitable pedestrian access to existing facilities. Therefore, the proposed development will enhance integration with existing communities and provide opportunities for walking to nearby facilities and services in accordance with policy H SP2 (g) as well as policy T DM1 of the Arun Local Plan.

Views of the site will be restricted by existing field boundary planting which is proposed to be reinforced with new woodland planting along the northern and western boundaries of the site. Development is also set back from the junctions of Hook Lane and Pagham Road through the provision of open space in the form of 'Seftor Green' and 'Hook meadow' in the north-east and south-west corners of the site (as shown on the indicative Landscape Masterplan - 167/P/003 Rev D). The application was accompanied by a Heritage Assessment which considered measures to assess any likely archaeological remains and considered that the proposal would have a negligible impact on the setting and significance of designated heritage assets. It has been concluded later in the report that the proposals will not result in any harm to the significance or setting of any nearby heritage assets. Thus, the proposed development accords with policies H SP2 (c), (m) and H SP2a (b) of the Arun Local Plan.

The Council's Ecological Advisor has advised that subject to appropriate conditions the proposed development would not result in an unacceptably adverse impact upon biodiversity or ecology at the site. The application site is situated approximately 1.9km to the north-east of the Pagham Harbour SPA/Ramsar and as such it is necessary, in accordance with the Birds and Habitats Directives, to consider the impact of the proposal upon the integrity of the SPA/Ramsar site. The Local Planning Authority instructed Ecological Planning & Research Ltd (EPR) to undertake a Habitat Regulations Assessment on behalf of the LPA. The Appropriate Assessment has concluded that, providing avoidance and mitigation measures are secured and implemented, the development would result in no adverse effect upon the integrity of Pagham Harbour SPA/Ramsar. As such the development accords with policy H SP2a (a) of the Arun Local Plan. The proposals compliance with Policy ENV DM2 is considered in detail later in the conclusion to this report.

The Design and Access Statement has demonstrated how green infrastructure has been incorporated throughout the development, with small greens, meadows and linear green features providing buffer planting. The design code masterplan (which will be secured via condition) will need to demonstrate how planting will be incorporated throughout the site. Financial contributions have been secured as part of the S106 agreement towards the enhancement of footpaths 101, 104 and 106 to create an off-road cycle route towards Chichester (via south Mundham). Therefore, the proposal will accord with policy H SP2 (d) and (e) as well as policy H SP2a (f) and (g) of the Arun Local Plan.

A Sustainability Appraisal was undertaken in support of the Arun Local Plan with the site being considered sustainably located. The site is located within acceptable walking distance of existing facilities and those proposed by nearby developments (incorporating a scout hut, primary school and community hub). Bus stops are situated to the south and east of the application site on Hook Lane and Pagham Road and are within acceptable walking distances. Therefore, the proposal accords with policy H SP2 (j) of the Arun Local Plan.

Financial contribution are to be secured towards highway infrastructure via the s106 agreement, these contributions are sufficient and adequate to mitigate against any highway impacts generated by the proposed development in accordance with policy H SP2 (k) of the Arun Local Plan. Highway matters have been considered in greater detail later in the conclusion to this report.

However, the applicant has identified additional measures to address the previous concerns of the Development Control Committee in the refusal of P/6/17/OUT. These additional measures would take the form of an obligation to monitor safety on the Pagham Road corridor to the A27. This monitoring would be undertaken prior to the commencement of development; upon occupation of the 150th dwelling; and upon full occupation of the site. Should it be identified that following full occupation there is a material increase in the number or severity of incidents occurring along the corridor that is significantly different from the historic data then a sum of £100,000 (secured via bond) will be available to WSCC to implement measures considered appropriate by the Local Highway Authority to improve safety along the road corridor.

Officers do not consider the additional mitigation measure identified above are necessary to mitigate the impact of the proposed development upon the operation of the highway network. Therefore, these measures were not a material consideration in the preparation of this recommendation report. However, should members consider the original mitigation package insufficient to mitigate the impact of the proposed development upon the safe operation of the highways network then the additional mitigation proposed by the applicant must be considered by the Committee in the determination of this application.

The Council's Drainage Engineers have been consulted in relation to the proposed drainage strategy and no objection has been raised. Conditions have been requested by the Council's Drainage Engineers and these have been included as part of the recommendation (see condition no's. 10,11, 12, 13 and 14). This has included the requirement for winter groundwater monitoring to be undertaken prior to the commencement of development which will ensure that the detailed drainage design takes account of site specific conditions. Therefore, subject to the inclusion of these conditions the proposed development will accord with policy H SP2 (l) of the Arun Local Plan. Surface and foul drainage have been considered in further detail later in the conclusion to this report.

A number of financial contributions will be secured towards infrastructure provision via the S106 agreement. These contributions are detailed in the attached Heads of Terms and considered in detail later in the conclusion to this report. However, based upon the contributions to be secured the proposals will accord with H SP2 (n) of the Arun Local Plan. The Infrastructure Delivery Plan (IDP) 2017 does not identify the requirement for any district wide infrastructure to be incorporated as part of the strategic allocations at Pagham and as such the proposals does not conflict with policy H SP2 (o) of the Arun

Local Plan.

No desire has been expressed by the applicants to incorporate self-build or custom build dwellings at the site and no evidence has been submitted in support of the application detailing any considered of the incorporation of an area of Gypsy and Traveller accommodation. However, policy H SP2 only requires consideration and does not require inclusion and as such the proposal is not considered to conflict with policy H SP2 (p) and (q) of the Arun Local Plan.

As identified above, the proposed development will accord with policies H SP1, H SP2 and H SP2a of the Arun Local Plan. Therefore, the principle of the proposed development is acceptable subject to accordance with relevant policies contained with the Arun Local Plan and the National Planning Policy Framework (NPPF).

#### ILLUSTRATIVE LAYOUT AND DESIGN

Policy H SP2 of the Arun Local Plan requires that Strategic Site Allocations must be comprehensively planned and should have regard to a masterplan endorsed by the Council for the respective areas incorporating high quality imaginative design giving a strong sense of place and a permeable layout. It also requires strategic allocations to (amongst other matters) integrate with the surrounding communities, provide well connected green spaces, provide improvements to existing village centres and deliver infrastructure.

This outline application only relates to access with layout, scale, appearance and landscaping being reserved matters. Therefore, the Design and Access Statement submitted in support of the application is only indicative but does show that the site can accommodate the scale of development proposed whilst providing adequate open space provision and respecting the site's location on the edge of the settlement.

The application is supported by a Design and Access Statement which clearly demonstrates how the indicative layout was arrived at and adequately demonstrates that the proposed development can be efficiently accommodated on site. The Design and Access statement has identified the opportunities and constraints present at the site and responded to these with the design of the development.

The Design and Access Statement shows the sites vehicular access from Hook Lane and Pagham Road along a central spine road with pedestrian accesses being provided onto Hook Lane and Pagham Road. The indicative layout will achieve acceptable walkable access to community, recreational and shopping facilities both within the proposed development and outside of the site boundaries in accordance with H SP2 (f), (i) & (j) of the Arun Local Plan.

The site proposes approximately up to 9.6ha of residential development, 0.4ha for a D1 use (potential for nursery or health facilities as required) and 0.55 ha for a care home or specialist housing for the elderly, with 6.65ha of open space, structural planting and habitats. The Design and Access Statement establishes key principles to inform the development including permeability, street design, scale and external appearance.

The indicative layout shows the care home and D1 use situated in the southernmost portion of the site with the main route through the site running from the south-western corner to the north-eastern corner of the site, the majority of the residential development proposed is situated to the east of this primary road. The bulk of the green infrastructure is situated in the north-western corner of the site with a buffer strip running the full length of the eastern boundary. A 20m wider green buffer is shown on the western boundary providing separation between the development and the countryside to the west of Pagham Road as well as providing a green infrastructure link.

The Design and Access Statement submitted in support of the application identifies that the site will accommodate up to 300 dwellings, with development being up to 2 storeys in height with a maximum ridge height of 9.5m which is likely to be acceptable depending upon the detailed design of the layout. However, it should be noted that the scale of development is not for determination as part of this outline application.

The proposed development is only considered to have limited impacts on long and medium range views of the site from the west and north. These views will be predominantly limited to the roof tops of the proposed dwellings and it should be noted that the existing residential development to the east of Hook Lane already has a similar presence and impact upon long range views to that of the proposed development.

From Hook Lane to the east of the application site views across the site will be possible. Whilst in places the boundary screening can reach up to 2m in height there are portions of the boundary devoid of treatment or with hedging below 1.2m in height. Therefore, the development proposed will have a significant presence within the street scene when viewed from Hook Lane. However, whilst an impact upon existing views to the west would exist this alone does not result in unacceptable harm to the character of the locality.

The east of Hook Lane for the majority of its length features residential development up to 2 storeys in height and subject to appropriate design the development will appear as an acceptable continuation of the existing built environment. The existing agricultural field (the subject of this application) is separated from the wider countryside to the west and north by Pagham Road and Sefter Road respectively.

This separation from the open countryside is further enhanced by virtue of the existing residential development to the north-west of the application site and the Barfoots of Botley site further to the north-west. Additional residential properties and the Mill Farm residential park homes site are situated to the south-west of the site (west of Pagham Road). Therefore, the development of the proposed site will not result in unacceptable harm to the semi-rural character of the locality with the proposed development appearing well integrated with the existing built environment.

The application was considered at a Design Review Panel (May 2017) which highlighted that the indicative proposal fails to integrate with the existing village along Hook Lane and Pagham Road and that more interconnectivity could be introduced between the site and surrounding streets. The Panel also highlighted that the internal movement network needed to be further refined, green spaces reworked to redistribute the spaces more evenly across the site. Concern was also raised about the proposed mound within one of the green spaces, as it would be out of character with the location. Scope was also identified for the built form of the development to reinforce and help animate key spaces within the layout.

With layout, scale and appearance being reserved matters the comments from the Panel can be addressed at reserved matters stage, as they will need to be balanced against other considerations, for example, the need for hedgerow retention and a noise buffer to Hook Lane.

The LPA will not accept a generic housing estate adjacent to the countryside and the developer will be expected to undertake the necessary work to achieve a development of the highest possible quality which reflects the character of the locality. A condition has been incorporated with the approval requiring the submission and approval by the LPA of a 'Design Code Masterplan' prior to the submission of any reserved matters application. It is a requirement of the condition that this document will reflect the principles established within the Design and Access Statement submitted in support of this application in accordance with the comprehensive masterplanning requirements of policy H SP2.

The development framework plan in conjunction with the Design and Access statement demonstrates that the development has been adequately master planned in accordance with policy H SP2 of the Arun Local Plan. Given the isolated nature of the allocated sites within Pagham that an overarching masterplan for the allocation would not be of sufficient value, so long as pedestrian linkages have been adequately addressed and considered.

With layout, scale and appearance being reserved matters there is no requirement at outline stage to undertake a detailed analysis of the indicative information provided. However, the indicative information provided adequately demonstrates that the proposed development can be accommodated on the site and designed in a way which will ensure that the established character of the locality is respected in accordance with policies D DM1 and D SP1 of the Arun Local Plan.

#### EMERING PLANS

Officers confirmed to Pagham Parish Council on 18 July 2019 that this application was to be presented to Committee. On 19 July 2019 the 'Pagham Development Management Plan 2019-2026' was published. The Plan contains four policies; one of which seeks to designate large parts of the strategic allocation in the Local Plan as site as Local Green Space. The PNP has been published under regulation 14 with the revised consultation period running until 5pm on the 31st August 2019.

Given the recent publication of the plan and its conflict with the NPPF the PNP can only be attributed exceptionally limited weight at this time. It must also be highlighted that the PNP in its current format is not considered to be in general conformity with strategic local policy (as set out below) in conflict with Paragraph 036 (Reference ID: 41-036-20190509) of the Planning Practice Guidance.

Neighbourhood Plans should not re-allocate sites that are already allocated through strategic plans and that the National planning policy states that it should support the strategic development needs set out in strategic policies for the area, plan positively to support local development and should not promote less development than set out in the strategic policies (see paragraph 13 and paragraph 29 of the National Planning Policy Framework). Nor should it be used to constrain the delivery of a strategic site allocated for development in the local plan or spatial development strategy." (Paragraph 044 Reference ID: 41-044-20190509).

Irrespective of the above conclusions on weight, it is necessary, in accordance with Section 70(2) of the Town and Country Planning Act 1990 (as amended), for the Local Planning Authority to consider the proposed developments compliance with the policies contained within the PNP so far as they are material to the application.

DM Policy 1 of the PNP states that major development will be permitted in Pagham where any application for such development is supported by sufficient evidence at the date of submission to demonstrate that the development proposed will meet the social, economic and environmental objectives set out in the NPPF at paragraphs 8 and 9 and will meet the requirements of other policies in this plan. Therefore, the proposal accords with the requirements of DM Policy 1 of the PNP as at the time of submission the application was supported by the Sustainability Appraisal prepared in support of the Arun Local Plan which has been the subject of consideration at Examination in Public. It is also considered that the proposed will not conflict with DM Policies 2, 3 and 4 as set out below.

DM Policy 2 relates to Local Green Space and identifies that land shown on the Plan at Appendix 1, of the PNP, is designated as Local Green Space and all development proposed for land within this area will be considered to be inappropriate and will not be permitted unless specific criteria are met. The site the subject of this application is not identified on the Plan at Appendix 1 of the PNP and as such the proposed development will not conflict with DM Policy 2 of the PNP.

DM Policy 3 of the PNP identifies that major development in the plan area will not be permitted unless it can be demonstrated that significant harm to Pagham Harbour resulting from the development cannot be avoided through locating on an alternative site with less harmful impacts; that it can be demonstrated that the harm that it will cause to Pagham Harbour can be adequately mitigated or as a last resort compensated for by way of measures to be implemented; that proposals for major development that rely on and propose connection to the existing foul water sewer network that connects to Pagham Waste Water Treatment Works (WwTW) can demonstrate that there is sufficient capacity or that material considerations indicate otherwise. It is also stated that major development that proposes network reinforcement which will enable foul sewerage discharge to waste water treatment works located outside of the plan area will not be permitted unless it can be demonstrated at submission that such network reinforcement will be available before the development is occupied.

DM Policy 3 is not in general conformity with the Arun Local Plan and is also considered to conflict with paragraph 175 of the National Planning Policy Framework. A written submission was prepared by the Secretary of State concerning the application of Paragraph 175 of the NPPF by order of Mr Justice Holgate in relation to Ground 4 of the judicial review (Claim No. CO/50/2019) concerning planning application P/140/16/OUT.

It was identified by the Secretary of State that the issue raised by the Claimant under Ground 4 (namely the failure to satisfy the 'mitigation hierarchy' set out in paragraph 175 of the NPPF) has already been resolved against the Claimant by the Courts in R (Buglife) v Thurrock TGDC EWCA Civ 29 and R (Prideaux) v Bucks CC EWHC 1054 (Admin).

It was submitted by the Secretary of State that the judgements in these cases are directly applicable to the construction of paragraph 175(a) of the NPPF. Therefore, paragraph 175(a) is not to be read as if it were a statute imposing a strict, sequential hierarchy, where a decision-maker is required artificially to close its mind to mitigation when considering whether the development would cause significant harm to biodiversity. A common-sense approach should be adopted, as set out in Buglife and Prideaux. This is consistent with the Courts' general approach to the interpretation of policy, namely that a measure of flexibility must be applied in the construction of planning policy and a legalistic approach to the interpretation of policy must be avoided.

It was further highlighted in the Secretary of State's submission that when considering if a development would result in significant harm to biodiversity for the purposes of paragraph 175(a), a decision-maker is entitled to take into account mitigation. Mitigation is not to be taken into account only if it has been shown that there are no alternative sites on which the development could be located.

Therefore, DM Policy 3 conflicts with the intentions of paragraph 175(a) of the NPPF. In the determination of this application the appropriate assessment has shown that significant harm to biodiversity, through increased recreational disturbance and water quality impacts, can be avoided (and not just reduced or minimised) through mitigation. With mitigation having been considered there would be no "significant harm to biodiversity". As such, where significant harm to biodiversity could be avoided through mitigation the decision-maker is not obliged by Paragraph 175(a) to consider whether the development could be located on an alternative site with less harmful impacts.

As such, the proposed development is acceptable and appropriate mitigation can be secured through appropriately worded conditions and s106 obligations.

DM Policy 4 states that development within the plan area will not be permitted unless and until it has been demonstrated that the transport, social, environmental and economic infrastructure that is necessary to make the development acceptable in planning terms will be delivered within the plan area before the development proposed is anticipated to be occupied. This policy has failed to take into

consideration that the planning impact of the development upon transport, social, environmental and economic infrastructure can be properly addressed through the use of conditions and s106 contributions with appropriate triggers. Therefore, given the trigger points identified the impact of development will be adequately mitigated.

#### RESIDENTIAL AMENITY

Given that this application has been submitted in outline and relates to access only it is not necessary or possible to make a full analysis of the potential residential amenity impacts of the development. Nevertheless, given the separation distances between the existing residential development to the east of Hook Lane and the separation distances shown on the indicative layout plan to existing residential development to the north-west of the application site there would not be any unacceptably adverse overbearing, overshadowing or overlooking impacts (subject to appropriate design, fenestration arrangements and scale).

It is acknowledged that the proposed development will likely give rise to some adverse impacts upon existing views from nearby residential properties. However, the loss of a private view is not a material consideration in the determination of a planning application.

The impacts of noise upon the residential amenity of future occupiers has been considered in the Noise Assessment (Dec 2016) submitted in support of the application. The report has identified that traffic noise from Hook Lane, Sefter Road and Paghham Road is the most significant noise source. The site has been identified as falling mostly within acceptable limits. Mitigation measures have been identified to ensure that internal noise levels are acceptable and with the inclusion of window glazing the maximum internal noise level would be 22.7dB during the daytime and 17.4dB at night which accords with BS 8233. The Council's Environmental Health department have been consulted in relation to this application but no comments have been received. However, they were consulted on the previous application under reference P/6/17/OUT and no objection was raised in relation to the same development as that proposed by this application.

Some disturbance is anticipated during development of the site and an appropriately worded construction management condition has been incorporated as part of the recommendation and such a condition would provide adequate control to minimise disturbance during development.

Therefore, the proposed development would not give rise to any unacceptably adverse harm to the residential amenity of existing nearby residential properties or future occupiers of the site in accordance with policy D DM1 of the Arun Local Plan.

Policy QEDM2 of the Arun Local Plan requires proposals which involve outdoor lighting to be accompanied by a lighting scheme prepared according to the latest national design guidance and relevant British Standards. The Design and Access Statement includes principles for the design of street lighting which would form the basis for a external lighting scheme. A condition has been included requiring the submission of a scheme for external lighting in accordance with Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light, Obtrusive Light Limitations for Exterior Lighting Installations for Zone E3. Therefore, subject to inclusion of the proposed condition the proposal will accord with policy QE DM2 of the Arun Local Plan.

Paragraphs 112 - 116 of the NPPF refers to advanced, high quality and reliable communications infrastructure as being essential for economic growth and social well-being. Therefore, the provision of broadband for future occupiers on site is essential and as such a condition has been incorporated within the recommendation requiring the submission of a strategy for the provision of broadband to be submitted and approved by the Local Planning Authority prior to the commencement of development.



## HOUSING MIX

The application is in outline and has not identified an indicative housing mix for the proposed development. Policy H DM1 states that the tenure mix for development schemes should be negotiated on a case by case basis taking any necessary viability considerations into account. However, developments should have regard to the most up to date version of the Strategic Housing Market Assessment (SHMA). The proposal would include a range of 2 to 5 bedroom houses and would include both shared ownership and rented accommodation.

Paragraph 61 of the NPPF identifies that planning policies should secure dwellings of sizes, types and tenures to meet the needs of different groups within the community. This includes but is not limited to, families with children, older people, students, people with disabilities, service families and travellers.

Policy H DM1 identifies a requirement to secure housing that would meet the needs of older people. The 'Updated Housing Needs Evidence - September 2016' (PELVP23) paragraph 5.17 states that there is a requirement to secure both specialist housing for older people as well as residential and nursing home bedspaces (falling within use class C2). The application identifies that the site will accommodate a D1 use Care Home or similar facility. Therefore, the development has made provision for older people on site to help in meeting the increasing demand.

In addition a report was presented to the Planning Policy Sub-Committee on the 27th February 2019 relating to the provision of accommodation suitable for older people and people with disabilities. This report was approved and adopted as intermediate guidance and is currently the subject of public consultation. The report requires developments of more than 51 units to provide 50% of the dwellings to m4(2) (accessible and adaptable) standard with an additional two dwellings per 50 designed to m4(3) (wheelchair accessible) standard. Therefore, for a scheme of 300 dwellings the developer would need to provide 150 dwellings to m4(2) standard and an additional 12 dwellings to m4(3) standard. This requirement accords with policy H DM1 of the Arun Local Plan and paragraph 61 of the NPPF and will be secured via condition.

It is also expected that the development should incorporate single floor living such as bungalows or ground floor flats. It is expected that any reserved matters application will incorporate such accommodation to meet the needs of the community. In order to ensure that these needs are address a condition have been incorporated requiring the provision of accessible dwellings as part of any future reserved matters application.

Therefore, the proposed development accords with policies H DM1 and AH SP2 of the Arun Local Plan.

## HIGHWAYS AND PARKING

### Access Arrangements:

The application when originally submitted (under reference P/6/17/OUT) proposed three accesses, with the southernmost access onto Hook Lane serving the potential primary school. However, this southernmost access onto Hook Lane has been removed from the current proposals under consideration.

The application therefore proposes two accesses to the site with priority junctions proposed to the east (onto Hook Lane) and the west (onto Pagham Road). The vehicular accesses proposed will measure 6m in width reducing to 5.5m as it enters the site. The 6m wide access is sufficient to allow two large vehicles to pass and re-pass and is in accordance with the advice contained within manual for streets. The junction radii have been designed to accommodate the swept path of the largest vehicle which will enter the site on a regular basis (large refuse vehicle).

Planning application P/6/17/OUT originally proposed a right turn lane for the Pagham Road access.

However, it was identified within the initial Stage One Road Safety Audit (RSA) that the right turn lane could be used for overtaking. Therefore, the right turn lane has been removed in the interests of highway safety as shown on drawing number JNY8840-12 Rev A.

The revised vehicular access arrangements have been deemed acceptable by WSCC although it has been identified that the non-motorised accesses remain as an outstanding matter. However, it has been advised by WSCC that the non-motorised accesses along Hook Lane can be addressed through the use of an appropriately worded condition.

The application also proposes an extension of the proposed footway along the western edge of Hook Lane, to the north of the proposed access, providing a direct pedestrian link to the footway proposed under P/134/16/OUT as shown on drawing JNY8840/09D. The delivery of this footway will be secured via the s106 agreement.

The proposal also includes the provision of a bus layby to the east of Pagham Road to the north of the Hook Lane junction.

Policy T SP1 requires that appropriate levels of parking are provided in line with WSCC guidance, including considering the impact on street parking. The application is currently for outline permission with all matters reserved save for access. Therefore, parking provision and arrangement will be considered in detail at reserved matters stage, although it is indicated in the Planning Statement that it would accord with the minimum residential parking standards. The Design and Access Statement also details parking provision for both the residential units and the D1 use. It is expected that the applicant will consult with WSCC Highways and consider the WSCC Parking Demand Calculator (and any subsequent updates to this) in the preparation of any detailed design for the site. It is also a requirement for cycle storage to be provided on site. Any garages to be provided on site will be expected to have minimum internal dimensions of 3.0m x 6.0m and internal cycle racks or fixings should be provided in garages and properties without garages should be provided with cycle sheds in rear gardens.

#### Strategic Highways Network:

Highways England have been consulted on this resubmission and have maintained their position as set out in their consultation response to the original application under reference P/6/17/OUT. Advising that the development proposals can be achieved without detriment to the safe and efficient operation of the Strategic Road Network, subject to the agreed financial contribution of £255,000 towards the mitigation improvements at the A27 Whyke Hill junction being secured.

The financial contributions required for these enhancements have been identified by Highways England but will not be secured as a financial contribution via the S106 Agreement. Instead a non-financial obligation requiring the developer to enter into a section 278 agreement with Highways England will be a requirement of the s106 agreement.

#### Cumulative Impacts:

A Cumulative Transport Assessment (CTA) has been prepared to support the strategic allocations in Pagham, this was prepared collaboratively with planning applications P/134/16/OUT and P/140/16/OUT. The scope of the CTA was the subject of discussion and agreement with the Local Highway Authority (LHA).

The CTA has considered the impact of the proposed development, in conjunction with other developments in Pagham, on a number of junctions in and around the application sites.

There have been a large number of 3rd party objections submitted to the Local Planning Authority (LPA) regarding delays on the B2166 (Pagham Road) arising from slow moving traffic associated with other

uses. Whilst, these comments are acknowledged it must be considered that this is an existing issue and as such it is necessary to consider the additional impact of the proposed development upon the operation of the Highways Network beyond the existing situation. It is not the responsibility of the applicants of the current application to resolve existing highways issues but to mitigate the impact of their development.

The three CTA's submitted in support of P/134/16/OUT, P/140/16/OUT and P/6/17/OUT have been considered by the LHA and have been identified as being in accordance with current best practice. The majority of the conclusions within the CTA's are broadly comparable; there were notable difference in the anticipated future operation of the junctions. Most notable of which was Pagham Road/Sefter Road and a further review of the operation of this junction was identified as necessary.

For those junctions where mitigation is required, the proposed works or contributions are considered to mitigate the cumulative impacts of the development.

A further technical note has been submitted that reviews the operation of the Pagham Road/Sefter Road junction and this has been considered further by WSCC. The Consultation response (from WSCC) on application P/6/17/OUT dated the 27th March 2018 considered the revised modelling for the Pagham Road/Sefter Road junction which provided a single model of the junction, with the geometry and traffic flows within this having been agreed by all three applicants (P/134/16/OUT, P/140/16/OUT and P/6/17/OUT).

It was confirmed that the modelled results show that the Sefter Road arm of the junction will start to operate at theoretical capacity in the future without taking into account the proposed development. However, it was identified by WSCC that whilst the development would take the junction over capacity, Paragraph 109 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts are severe. It was acknowledged by WSCC in their consultation response to planning application P/6/17/OUT that whilst drivers will be subjected to minor additional delays this alone is not considered to constitute a severe impact for the purposes of paragraph 109 of the NPPF.

However, further mitigation measures have been identified through the Sensitivity Assessment commissioned by the Council and this is set out below.

#### Dougal Baillie Associates - Sensitivity Assessment

To ensure that the mitigation measures proposed are adequately robust and mitigate the impact of the proposed development upon the highways network commissioned an independent 'Sensitivity Assessment' undertaken by Dougal Baillie Associates (DBA).

The sensitivity assessment undertaken by DBA confirmed that the proposed mitigation works to the A27 Whyke Hill junction would address the impact of the Pagham developments provided that the works are implemented at the appropriate time. Therefore, the sensitivity analysis was focused upon the following key junctions;

1. B2145/B2166 roundabout;
2. B2166/Vinnetrow Road/Mill Lane roundabout;
3. Pagham Road/B2166 Lower Bognor Road priority junction;
4. Pagham Road/Sefter Road priority junction; and
5. Grosvenor Gardens/Rose Green Road/Nyetimber Lane/Gossamer Lane traffic signals.

The sensitivity assessment in this case has identified that;

1. The junction improvements proposed for junction 1 (above) would not entirely offset the impacts of the Pagham developments. However, relatively modest enhancement of the proposed roundabout approach widening would adequately offset the predicted impact.
2. The proposed physical improvements to junction 2 (above) would be sufficient to offset the cumulative traffic impact of the Pagham sites.
3. The sensitivity assessment revealed that simple signalisation of this junction would not be sufficient to offset development traffic impact, and widening of the southbound approach to two traffic lanes for a distance of 50m would also be required.
4. Signalisation of the existing junction would offset development traffic impact in conjunction with a localised speed limit.
5. The signal timings proposed in the Pagham Transport Assessments would accommodate the additional traffic generated by the proposed developments.

The sensitivity analysis commissioned by the LPA identified supplementary improvements to the following junctions and associated indicative costs;

- B2145/B2166 roundabout - £98,000
  - Pagham Road / Sefter Road - £140,000
  - Pagham Road / Lower Bognor Road - £250,000
- Total: 488,000

In addition to these modified works the following junction improvements identified within the applicants transport assessments are necessary;

- Rose Green Road widening - £81,000
  - B2166/Vinnetrow Rd. widening - £23,000
- Total: £104,000

Following the publication of the DBA sensitivity analysis the developers (for P/134/16/OUT, P/140/16/OUT and P/6/17/OUT) submitted an amended 'Common Statement of Cumulative Assessments'. Each of the developers agreed to undertake junction improvement works on behalf of the Local Highway Authority (LHA), as follows;

- P/134/16/OUT - Rose Green Road junction improvement
- P/140/16/OUT - B2166/ B2145 widening
- P/6/17/OUT - B2166/ Vinnetrow Road junction widening

The Common Statement of Cumulative Assessment identified cumulative contributions for each of the developments taking into account the associated costs of the junction improvements identified within the sensitivity analysis. Therefore, the developments will generate a combined highways contribution of £390,000 and a £100,000 contribution towards improvements of footpaths 101, 104 and 106 to provide a route from Pagham to Chichester via Sidlesham. As such, each developer will make the following adjusted contributions;

- P/134/16/OUT - Land North of Sefter Road - £88,142.29 & Footpath Contribution of £28,572.00
- P/140/16/OUT - Pagham South - £143,632.98 & Footpath Contribution of £40,816.00
- P/6/17/OUT - Land north of Hook Lane - £158,224.73 & Footpath Contribution of £30,612.00

The proposed junction improvements go beyond those originally identified and proposed by the applicants and are intended to achieve no net detriment as a result of the additional development traffic. The Community Infrastructure Levy Regulations 2010 set out that a planning obligation must be necessary to make the development acceptable in planning terms; directly related to the development;

and fairly and reasonably related in scale and kind to the development. Therefore, whilst existing issues are present on the highways network around Pagham it is not the responsibility of the applicant for this application to resolve these existing issues. Such a request would not be lawful against the Community Infrastructure Levy 2010.

Concerns were raised in relation to the CTA being out of date due to the proposed solution for the A27. This matter has been discussed with Highways England and it has been confirmed that the withdrawal of the national scheme from the roads programmed does not affect the financial contribution and mitigation previously agreed towards the A27 for this application, because the mitigation identified is not dependent upon the implementation of the large off-line improvements.

The Council also commissioned an independent Road Safety Audit (RSA) Review to assess the RSA submitted in support of this planning application. The Report concludes that the accesses onto Pagham Road and Hook Lane have been the subject of a Stage 1 RSA in accordance with good practice. The accesses and Stage 1 RSA have been reviewed by the Local Highway Authority (WSCC - LHA) who raised no objection to the development proposal subject to conditions. The Report identified an issue with the lack of a formal RSA brief which was not submitted to the LHA for approval. Nevertheless, the Report concludes that the subsequent reviews by the RSA team and the checks undertaken by the LHA have not identified any outstanding significant road safety risk which cannot be resolved as part of the detailed design. Further checks on road safety issues should be considered as part of a Stage 2 RSA on the detailed design and the Report recommends that a formal brief for this next stage is submitted to the LHA prior to it being undertaken.

The Report therefore recommends that a Stage 2 Road Safety Audit be carried out on the detailed design prior to discharge of planning conditions on all the proposed highway works. A Stage 2 RSA brief should also be submitted to and approved by the LHA before this is carried out.

Based on the findings of the RSA Audit Review, there are not considered to be any outstanding safety issues associated with the proposed accesses that will not be satisfactorily addressed through the proposed conditions and at the detailed design stage through the Stage 2 RSA. A condition relating to the submission of plans and details of the proposed pedestrian and cyclist access points for approval is recommended.

However, the previous application was refused, by the Development Control Committee on the 23rd January 2019 contrary to officer recommendation, due to the increase in vehicle movements exacerbating the capacity issues on the local highway network and the mitigation measures being insufficient to overcome the safety concerns resulting from the additional vehicle movements. In order to overcome the previous reason for refusal the applicant has identified possible additional mitigation.

This additional mitigation, if considered necessary by the Committee, would take the form of an obligation (as part of the S106 agreement) to monitor safety on the Pagham Road corridor to the A27. This monitoring would be undertaken prior to the commencement of development; upon occupation of the 150th dwelling; and upon full occupation of the site. Should it be identified that following full occupation there is a material increase in the number or severity of incidents occurring along the corridor that is significantly different from the historic data then a sum of £100,000 (secured via bond) will be available to WSCC to implement measures considered appropriate by the Local Highway Authority to improve safety along the road corridor.

The mitigation package as originally proposed in the determination of P/6/17/OUT is considered appropriate and sufficient to address the impacts of the proposed development upon the safe operation of the highways network in accordance with policies T SP1 and H SP2(k) of the Arun Local Plan. However, should members disagree with this conclusion then the additional mitigation measures

(monitoring and financial contribution) would need to be taken into consideration in the determination of this application.

#### **EDUCATION**

Policy INF SP1 of the Arun Local Plan states that the Local Planning Authority will support development proposals which provide or contribute towards the infrastructure and services needed to support development (including the necessary infrastructure set out in the Infrastructure Delivery Plan).

In terms of education provision within the Infrastructure Delivery Plan (IDP) dated February 2017 it is identified that Pagham north and south should make provision of land and contributions towards a new 1FE primary school (expandable to 2FE) to serve Pagham; contributions towards the 10FE Secondary School located centrally within the District; and contributions towards 50 new nursery places to serve Pagham.

The IDP identifies a total cost of £6million for the construction cost of the new primary school and appropriate contributions have been secured from each of the allocated sites in Pagham towards the delivery of the new primary school. West Sussex County Council (WSCC) in their Section 106 contributions response for P/6/17/OUT dated the 24th April 2018 identified a financial contribution of £1,566,600. A 2 hectare site to facilitate the construction of the new primary school will be secured via planning application P/140/16/OUT. The preferred primary school site is suitably located within Pagham and will be accessible by future occupiers of the strategic allocations as well as existing Pagham residents. The financial contribution and school site will be secured via the s106 agreement.

Therefore, following the approval of P/140/16/OUT the primary school land has been secured and IDP compliant financial contributions are to be secured from this application to delivery the primary school.

The IDP identifies a total contribution of £1,896,000, from the 1,200 unit Pagham strategic allocation, towards the creation of 50 new nursery places. Therefore, WSCC have requested a financial contribution of £470,250 from this development, in accordance with the IDP 2017, which will be secured via the s106 agreement.

The IDP 2017 identifies a financial contribution from the 1,200 unit strategic allocations at Pagham north and south of £5.27 million towards the 10FE Secondary school to serve the district (6FE expandable to 10FE). WSCC in their consultation response, dated 9th May 2019, have identified that the secondary contributions secured from this development should be directed towards design and feasibility work for the provision of the new secondary school serving Arun District. The financial contributions requested by WSCC align with those previously requested from the original application under reference P/6/17/OUT. Therefore, the proposal would contribute towards the necessary infrastructure identified within the IDP 2017 as required by policy INF SP1.

A financial contribution has also been requested by WSCC towards sixth form education and this contribution will be directed towards the expansion of Felpham Community College Sixth Form.

Therefore, the proposed development (in terms of education provision and contributions identified) will accord with policies H SP2(n), H SP2a and INF SP1 of the Arun Local Plan.

#### **HEALTH CARE PROVISION**

Policy H SP2a (e) (iv) requires the strategic allocations at Pagham (SD1 & SD2) to provide contributions towards new healthcare facilities at West of Bersted (SD3) or alternatively where appropriate proposals may make contributions towards new facilities or improvement or expansion of the relevant existing facility, subject to agreement with the Council.

The Consultation response from the Coastal West Sussex Clinical Commissioning Group dated the 2 April 2019 has requested a financial contribution to Grove House GP Surgery for GP consultant rooms and working with new facilities in Bognor Regis. This proposed project accords with the requirements of policy H SP2a (e) (iv) of the Arun Local Plan and accords with the requirements of the IDP 2017.

However, in order to ensure that the needs of future residents are best met through health care provision the Section 106 agreement has been worded to secure various potential health care solutions. This includes the provision of a new health care facility as part of the West of Bersted (SD3) strategic allocation; the expansion or improvement of Grove House GP Surgery; or the expansion or relocation of Sir Arthur Griffith clinic located in Pagham.

Therefore, the proposal would accord with policy INF SP1 of the Arun Local Plan.

#### **OPEN SPACE AND PLAY PROVISION:**

The indicative masterplan incorporates a total open space provision of approximately 6.65ha which exceeds the Fields in Trust Standards by approximately 4.13ha. Therefore, the open space provision proposed by this development is acceptable and is in accordance with policy OSR DM1 of the Arun Local Plan.

The design and siting of the on-site play facilities will be secured at reserved matters stage. However, the s106 agreement requires the submission of a Public Open Space Scheme which will incorporate the location and specification of any children's play areas and that these facilities shall be completed prior to the occupation of 75% of dwellings within a phase. The Public Open Space Scheme will also secure details of the play provision on site and details of how 9 'play experiences' will be accommodated on site. A proportional financial contributions towards providing fencing around the existing Multi Use Games Area (MUGA) at Avisford Recreation Ground will also be secured.

In lieu of on-site playing pitch provision a financial contribution has been secured towards the enhancement of existing playing fields and changing facilities at Avisford recreation ground, Westmeads recreation ground and Hawthorn Road recreation ground. This contribution is considered to accord with policy OSR DM1 (2) (b) of the Arun Local Plan.

Financial contributions have also been secured towards leisure provision within the district with contributions towards Swimming, Sports Halls and 3G Pitches being secured. The swimming and sports halls contributions will be directed towards the Arun Leisure Centre (Felpham Way, Bognor Regis). The Arun Leisure Centre is situated within 10 minutes' drive time of the development site which accords with Sports England recommendations on travel times for leisure facilities. The 3G pitch contribution will be directed towards the provision of a new 3G pitch to serve the western half of the district (within the catchment of Pagham) specifically to provide the base layer and pitch surface. Given the contributions which have been secured the proposed development accords with policy OSR DM1 and HWB SP1 of the Arun Local Plan.

#### **GREEN INFRASTRUCTURE**

Policy GI SP1 states that the existing Green Infrastructure Network (as shown on the Green Infrastructure Maps for each parish and town) must be considered early in the design process for all major development proposals. The policy goes on to state that all major development must be designed to protect and enhance existing Green Infrastructure assets in order to ensure a joined up Green Infrastructure Network.

There is a conflict between the adopted Arun Local Plan policies map with the Green Network Maps for Pagham with the Strategic Allocations being located on land identified as 'Gaps between settlements'. However, in this instance the statutory Development Plan must prevail. The Arun Local Plan identifies

that the built up area boundary (BUAB) incorporates the strategically allocated site and as such it is not situated within a 'gap between settlements'. Policy SD SP3 (e) confirms that development will only be permitted within gaps if a subsequent DPD or Neighbourhood Plan deems it appropriate through an allocation.

The Green Network Maps predate the strategic allocations and it is identified under paragraphs 7.3.4 and 7.3.12 that the Green Network Maps and Strategic Gap maps contained within the Green Infrastructure Study will need to be updated but this has not happened yet.

Irrespective of the above the supporting text under paragraph 7.2.1 of the Arun Local Plan identifies that the protection of the countryside is the fixed extent of the existing built development and is defined as all land outside of the Built up Area Boundary. Therefore, given the location of the site within the Built up Area Boundary it cannot be considered that the site falls within a gap between settlements. However, it is nevertheless necessary to consider the overall Green Infrastructure Network quanta and its connectivity, and the impact of the proposal upon this.

In this case the application is only considering access with all other matters reserved (including layout). However, the indicative layout has identified a total open space provision on site of approximately 6.65ha with a green corridor running along the western boundary of the site with extensive tree planting shown. Therefore, the indicative layout has considered and demonstrated the retention of a joined up green infrastructure network.

Policy GI SP1 also identifies that the Green Infrastructure Network must be protected from light pollution to ensure that the areas defined by their tranquillity are protected from the negative effects of light in development. A condition has been included as part of this recommendation which requires the submission of a lighting strategy which will allow the Local Planning Authority to consider the impact of lighting in detail.

Therefore, the proposed development accords with policy GI SP1 of the Arun Local Plan.

#### ADDITIONAL INFRASTRUCTURE CONTRIBUTIONS

Additional infrastructure contributions have been secured towards libraries, fire & rescue, police and leisure facilities. These financial contributions and the identified projects are deemed to accord with the Community Infrastructure Levy Regulation 123 and meet the demand and need generated by the proposed development in accordance with policy INF SP1 of the Arun Local Plan.

Full details of the contributions secured are provided in the heads of terms attached to this report.

#### AGRICULTURAL LAND

The Natural England 'Agricultural Land Classification map London and the South East (ALC007)' identifies the site being classified as Grade 2 agricultural land.

The Ministry of Agriculture, Fisheries and Food 'Agricultural Land Classification - October 1988' identifies Grade 2 as 'very good quality' and Grade 3 as 'good to moderate quality'. The NPPF (paragraph 170b) requires that the Local Planning Authority takes into account the economic and other benefits of this type of land.

The application was accompanied by an Agricultural Land and Soil Resources Report provided more detail on the quality of the soils which confirms that the soil on site is classified as Grade 2 (58%), 3a (36%) and 3b (6%). Therefore, the site comprises 17.3ha of best and most versatile (BMV) agricultural land.



The application site has been allocated for residential development under policies H SP1 and H SP2a of the Arun Local Plan and has been the subject of significant assessment prior to allocation. Therefore, this provides sufficient evidence that alternative options for the location of this strategic allocation have been explored and subjected to a Sustainability Appraisal process to select the most sustainable sites. The Arun Local Plan (2011-2031) Sustainability Appraisal recognised that most of the undeveloped coastal plain within the District is high grade agricultural land and that the majority of the strategic allocations would have a significant negative effect on the objective of avoiding the loss of 'best and most versatile' (BMV) land. The loss of BMV is one factor in the site selection and decision making process.

Policy SO DM1 of the Arun Local Plan states that development will not be permitted on this type of land unless 'designated by this plan' or unless the need for the development outweighs the need to protect such land in the long term. As the site is a strategic allocated within the Local Plan the proposal would not be the subject of assessment under policy SO DM1.

#### AFFORDABLE HOUSING

For all developments over 11 residential units the Council requires a minimum of 30% affordable housing on site, as set out in Policy AH SP2 of the Arun Local Plan. Policy AH SP2 of the Arun District Local Plan (2011-2031) identifies the following mix of affordable homes (unless evidence indicates otherwise):

- 1 Bed - 35-40%
- 2 Bed - 30-35%
- 3 Bed - 20-25%
- 4 Bed - 5-10%

The proposed affordable housing provision has been the subject of consultation with the Council's Housing Strategy and Enabling Manager. A consultation response has been received and it has been concluded that the proposed 30% provision would accord with the requirements of AH SP2. It was also identified in the response that the Council would wish to secure 30% affordable housing from the care home element. However, as the care home would fall within use class C2 (as identified in the application) the Council would not be seeking to secure any affordable units from the care home element of the proposal.

Therefore, the affordable housing provision and tenure mix is acceptable and will accord with policy AH SP2 of the Arun Local Plan subject to the completion of the s106 agreement.

#### ECOLOGY AND BIODIVERSITY

The application is accompanied by an Ecological Appraisal (January 2017) which has considered the ecological interests of the application site and the importance of the habitats present in accordance with current guidance. The Ecological Appraisal has considered mitigation measures as well as ecological enhancements. The application has also been supported by a 'Phase 1 Walkover & Badger Technical Note' dated February 2019. This additional statement provides ecological updates from those surveys previously undertaken and report in the Ecological Appraisal (2017) and documents any changes in the habitats from those previously recorded, which might coincidentally effect the assemblages of protected or notable species.

The updated Phase 1 Habitat Survey concludes that there was no significant change in the composition or structure of habitats from the initial Phase 1 assessment undertaken and that the original assessment remains accurate and reliable for the purposes of assessing the conservation value of the site as a whole. It was further concluded that the assessment of protected species utilising the site was also unlikely to have changed over the intervening period, owing to the minimal changes of certain habitats.

The hedgerows on site are used by bats for commuting and foraging and will need to be retained and

enhanced for bats. This will need to include a buffer strip around hedgerows during construction with fencing used to ensure that these areas are undisturbed. It has also been highlighted, by the Council's Ecological Advisor, that none of hedgerows H1, H2 and H3 should be removed and an additional 20m of hedgerow planting should be undertaken. The lighting scheme should also be designed to take into account the presence of bats.

Water voles were found to be using the ditches on site and as such a condition has been incorporated with the recommendation requiring the submission and approval of adequate mitigation measures prior to the commencement of development on site. The submission of this detail has been secured via condition 32.

A reptile survey accompanied the application showing that a moderate population of reptiles resides onsite. Due to this mitigation has been proposed within the Ecology Appraisal in support of the application. It has been confirmed by the LPAs Ecological Advisor that the mitigation proposed is suitable and should be secured via condition.

Due to the proximity of the site to the Pagham Harbour SPA it has been advised that any features suitable for nesting birds should be retained and enhanced. Any vegetation clearance on the site should only be undertaken outside of the bird breeding season which takes place between the 1st March and 1st October.

The proposed development has been considered by the Council's Ecological Advisor who has raised no objection to the proposed development subject to the imposition of conditions, including the submission of a detailed mitigation and enhancement strategy prior to the commencement of development.

Therefore, subject to the proposed conditions the development will not give rise to any unacceptably adverse effects to ecology or biodiversity at the site. The proposed development subject to appropriate conditions (included with this recommendation) accords with policy ENV SP1, ENV DM1 and ENV DM5 of the Arun Local Plan.

#### TREES

An Arboricultural Assessment has been submitted with the application. The Tree Officer (in their consultation response to P/6/17/OUT) recommended that the removal of hedgerows for achieving sightlines is minimised and losses are mitigated through replacement planting set out in a landscaping scheme. However, it has been identified that an Arboricultural Method Statement and Tree Protection Plan will need to be provided in support of the application at reserved matters stage. A condition has been incorporated as part of this recommendation report requiring the submission and approval of this detail prior to the commencement of development on site. Therefore, subject to this condition the objection of the Council's Tree Officer is overcome and the proposed development would therefore accord with policy ENV DM4 of the Arun Local Plan. The Council's Tree Officer also identified that a Tree Preservation Order (TPO) should be created at the site to protect a maturing oak in the hedgeline opposite 60 Hook Lane.

#### PAGHAM HARBOUR SPA/RAMSAR

Policy H SP2a (a) (SD1 and SD2) identifies that proposals will need to ensure no detrimental impact to Pagham Harbour SPA through compliance with policy ENV DM2 and its supporting text.

Policy ENV DM2 of the Arun District Local Plan states that within Zone B (0-5km) all new residential development which is likely to have an impact on Pagham Harbour will be required to;

i. Make developer contributions towards the agreed strategic approach to access management at Pagham Harbour.

ii. Create easily accessible new green spaces for recreation within or adjacent to the development site. These shall be capable of accommodating the predicted increases in demand for local walking, including dog walking. Good pedestrian links shall be provided between existing housing areas and new and existing green spaces in order to discourage car use.

The supporting text under Paragraphs 17.1.18 - 17.1.22 of the Arun Local Plan includes relevant background information on the Pagham Harbour SPA/Ramsar and the means by which the Local Plan policies will ensure its protection.

Paragraph 12.1.15 of the supporting text for policy H SP2a within the Arun Local Plan identifies that the Pagham South (SD1) allocation is within close proximity to Pagham Harbour, which is an important and sensitive natural site within the wider Bognor Regis area. Development from this allocation should reduce any impacts from loss of supporting habitat or recreational disturbance that may arise.

The decision of the European Court of Justice in 'People Over Wind' (case C-323/17) concluded that it was not appropriate to take account of mitigation measures intended to avoid or reduce the harmful effects of the plan or project at the screening stage of the Habitats Regulation Assessment (HRA) process.

Therefore, it was necessary for the LPA to consider the efficacy of impact avoidance and mitigation measures such as the strategic access management and monitoring (SAMM) through an Appropriate Assessment.

The Local Planning Authority (LPA) appointed Ecological Planning & Research Ltd (EPR) to undertake the Appropriate Assessment (AA) for the original planning application under reference P/6/17/OUT. This AA is applicable to this application given that this application seeks permission for the same development. The purpose of an AA is to further analyse likely significant effects identified during the screening stage. The AA evaluates the implications of the plan or project, in light of the conservation objectives of the affected International Sites and includes a test as to if the plan or project would result in significant adverse effects on site integrity.

Consideration within the AA has also been given to 'in combination effects' where other nearby plans or projects may have the potential to cause negative effects on the integrity of the International Site. These negative effects may act in combination, with those of this planning application, potentially leading to a 'Likely Significant Effect' (LSE) becoming significant. Therefore consideration has been given to whether this application could contribute to effects generated by other plans or projects and vice versa.

The Arun Local Plan HRA Screening Report (UEEC, 2016b) identifies potential effects on Pagham Harbour SPA/Ramsar associated with the 'Pagham North' developments. These are;

- Disturbance;
- Effects on supporting habitat; and
- Water pollution.

These have been considered in Section 4 'Screening of Likely Significant Effects' of the Habitats Regulations Assessment (18/32-1A) dated 14th September 2018 prepared by EPR (on behalf of the LPA).

In relation to disturbance it is concluded in paragraph 4.19 that disturbance impacts arising from the proposed development alone will not trigger a Likely Significant Effect (LSE). However, in combination with other plans and projects there is the potential for a LSE. The recent European Court Judgement (ECJ) in 'People Over Wind' means where mitigation measures are relied upon it is not possible to

screen out a LSE. Therefore, it will be necessary to explore if the mitigation proposed will avoid an adverse effect upon the integrity of the site.

In terms of recreational disturbance this has been considered under paragraphs 4.14-4.22 of the HRA and it has been concluded that following the recent ECJ ruling (People over Wind) it is no longer possible to rule out a Likely Significant Effect where mitigation measures are relied upon. Therefore, the assessment must progress to AA stage to explore whether any contribution towards an adverse effect on the integrity of the site can be ruled out.

In respect of effects on supporting habitat it has been identified in the 'Screening Conclusion' (paragraph 4.37) that there is compelling evidence in the recent work reported in Habitats Regulations Assessment (HRA) Technical Note (PELP 33a) and Map 2 of the HRA that Dark-bellied Brent Geese are unlikely to use land within or adjacent to the application site to the extent that it can be considered to be 'regularly used functionally linked habitat for Brent Geese'. Natural England (NE) agreed with this view in their consultation response to the original planning application (P/6/17/OUT) and advised that, in view of this and given the presence of other agricultural land being available nearer the SPA, the proposal would not lead to a Likely Significant Effect (LSE) through loss of supporting habitat.

Consideration was also given in the HRA (18/32-1A) to the combined impacts with other plans and projects. This was considered in the Arun Local Plan HRA documents that informed the Local Plan examination in public. These documents were aimed mostly at addressing issues surrounding loss of functional supporting habitat for Dark-bellied Brent Geese at Pagham South, but did clarify the situation at Pagham North. In particular, it referred to new data compiled by Sussex Ornithological Society (SOS), submitted as part of its representations on a number of related planning applications at Pagham North and South.

It was concluded by Natural England (NE) that the nature of the site and its distance from Pagham Harbour means that it is unlikely to be regularly used functionally linked habitat. This and the availability of other agricultural land nearer the SPA led NE to conclude that the proposal would not lead to a LSE through loss of supporting habitat.

Paragraphs 4.42-4.61 of the HRA (18/32-1A) consider the potential 'Water Pollution' impacts of the development. It is identified under paragraph 4.56 that the Arun Local Plan HRA Screening Report identifies a potential issue with capacity at the Pagham Waste Water Treatment Works (WwTW) and it was advised by NE that subject sufficient capacity in combination with other developments there will be no LSE from water quality impacts.

It has been acknowledged under paragraph 4.59 of the HRA that Southern Water will be seeking to provide adequate capacity for each of the developments. However, in order to secure this a condition has been proposed to ensure that each of the developments are delivered in phases in line with the reinforcement works to be implemented by Southern Water. It is likely that water pollution impacts from the development will not trigger a LSE on the Pagham Harbour SPA/Ramsar. However, as the proposed planning condition constitutes mitigation it is not possible for water pollution impacts to be screened out and an AA in relation to water pollution impacts was required.

Recreational disturbance and water pollution have been identified as required to progress to the Appropriate Assessment stage. The proposed mitigation measures in relation to recreation impacts at Pagham Harbour SPA/Ramsar are identified under paragraph 5.45 of the HRA (18/32-1A) as consisting of;

- Provision of suitable greenspace within the development; and
- Payment of strategic access management and monitoring (SAMM) tariff.

Paragraph 5.52 of the HRA (18/32-1A) states that the avoidance and mitigation strategy outlined by the applicant is suitably robust and meets the tests set by the consideration under AA, provided that any planning permission is conditional on the Council agreeing in writing;

- A 25 year management plan for the open space, setting out the costed prescriptions for delivering appropriate public access and providing clear commitments from appropriately qualified operators to implement the prescriptions; and
- The signing of a legal agreement obliging the applicant to secure appropriate ownership of the open space and to provide funds for the 25 year management plan.

It is identified under paragraph 5.56 of the HRA (18/32-1A) that reliance on Southern Water has been tested through the Examination in Public of the Arun Local Plan and it is reasonable to rely on them to deliver effective mitigation through enhancement and reinforcement works. In order to avoid water pollution effects it has been identified that ADC will require any planning permission to be conditional on a suitably worded condition to ensure development is phased and implemented to align with delivery of sewerage network reinforcement.

As a consequence of the proposed mitigation measures Arun District Council can be confident that they will avoid or mitigate an adverse effect on the integrity of Pagham Harbour SPA/Ramsar, alone and in combination with other plans and projects. Natural England (NE) previously reviewed the Habitat Regulations Assessment Report and concurred with the findings that the proposal is likely to have a significant effect on Pagham Harbour SPA/Ramsar through increased recreational disturbance and water quality impacts. They also agreed with the conclusions of the Appropriate Assessment that the mitigation measures set out above (i.e. contribution to Strategic Access Management and Monitoring (SAMM) Strategy, provision of greenspace on site and alignment with Southern Water's delivery programme, surface water drainage strategy with additional treatment) are required to avoid an adverse impact on the integrity of the SPA/ Ramsar site. NE advise that appropriate planning conditions or obligations are attached to any permission to secure these measures. NE have been consulted on the Appropriate Assessment again in the determination of this application and their response is currently awaited.

As set out above conditions and obligations proposed will ensure these measures are secured. Therefore, the proposed development will accord with policy ENV DM2 of the Arun Local Plan.

#### DRAINAGE AND FLOODING

The site primarily falls within Flood Zone 1 with the exception of a portion of the site measuring approximately 22m<sup>2</sup> in the north-western corner of the site identified as Flood Zone 2.

The Environment Agency have been consulted in relation to this application but have not provided a consultation response at this time. However, in the determination of P/6/17/OUT they advised that in line with the External Consultation Checklist they would not be providing any response to the application.

Surface water drainage was considered in the preparation of the Arun Local Plan with the Arun Strategic Surface Water Management Study identifying SuDS measures and opportunities at the site. In addition to this policy W DM3 of the Local Plan states that proposals for major and minor development must incorporate SuDS within the private area of the development in order to provide source control features to the overall SuDS design.

The Flood Risk Assessment (Jan 2017) submitted in support of the application includes a drainage strategy under section 5. It is identified that it is proposed to discharge surface water flows to existing naturalised watercourses on site. Calculations undertaken by the developer have identified that attenuation storage extending to 3,078m<sup>3</sup> will be required to attenuate storm water discharges from the

site during a critical 1 in 100 year storm event. The attenuation requirements are shown on drawing no. 167/P/003 D. Therefore, the proposed attenuation basins will not result in an unacceptable impact upon the open space provision at the site.

The Council's Drainage Engineers have been consulted in respect of surface water drainage and no objection has been raised. Conditions have been requested and these have been included in the recommendation. This includes the requirement to undertake winter ground water monitoring at the site prior to the commencement of development which will inform the detailed design of surface water drainage at the site ensuring that it takes account of site specific conditions.

The proposed development accords with policies W SP1, W DM1, W DM2 and W DM3 of the Arun Local Plan.

#### **FOUL DRAINAGE**

Southern Water has been consulted in relation to this application and have advised that they have undertake a desk study of the impact that the additional foul sewerage flows from the proposed development will have on the existing public sewer network. It has been identified by Southern Water that this initial study indicates that there is an increased risk of flooding unless any required network reinforcement is provided by Southern Water. It is further advised that any such network reinforcement (which may or may not be required) would be part funded through the 'New Infrastructure Charge' with the remainder funded through Southern Water's Capital Works Programme.

It is further stated that Southern Water and the Developer will need to work together in order to review if the delivery of the network reinforcement aligns with the proposed occupation of the development, as it will take time to design and delivery any such reinforcement. This was considered in the AA where it was identified that an appropriately worded condition to ensure the phasing of the development aligns with the delivery of the sewerage network reinforcement. This has been secured via condition and as such the proposal meets the requirements of Southern Water to mitigate potential flooding as identified within Southern Water's consultation response.

Foul drainage was considered as part of the Arun Local Plan Examination in Public and it was identified that the agreed approach for addressing waste water treatment capacity for the strategic allocations at Pagham, is to divert flows to Lidsey and Ford Waste Water Treatment Works (WwTW), with reinforcement works (funded by developer contributions) to plants and pumping mains to be brought forward over time in line with housing delivery.

Therefore, in accordance with the Conclusions of the Appropriate Assessment (AA) and the Southern Water consultation response the proposed condition would avoid any unacceptably adverse impact upon Pagham Harbour SPA/Ramsar in accordance with policy ENV DM2 and would avoid any potential increased risk of flooding in accordance with policies W SP1 and W DM2 of the Arun Local Plan.

#### **HERITAGE AND LISTED BUILDINGS**

Paragraph 20(d) of the National Planning Policy Framework (NPPF) states that the planning system should contribute to and enhance the natural and local environment. The application is accompanied by a 'Heritage Desk Based Assessment' which provides sufficient detail to accord with paragraph 189 of the NPPF.

Paragraph 190 of the NPPF identifies that the LPA should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including development which may affect the setting of a heritage asset), taking into account any available evidence and necessary expertise.

Paragraph 192 of the NPPF states that in the determination of planning applications the LPA should take

account of the desirability of sustaining and enhancing the significance of a heritage asset; the positive contribution that conservation of heritage assets can make to sustainable communities; and the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be. Irrespective of whether any potential harm amounts to substantial harm.

Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of the designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Several listed buildings are situated within the vicinity of the application site. To the west of the application site is the Grade II listed building Rookery Farm which is located approximately 100m from the site boundary. Rookery Farm is an 18th century two story farmhouse with a tiled roof, the significance of the property derives from its vernacular architectural and historic interest. Rookery Farm is well screened when viewed from the west and as such there is no inter-visibility between the listed building and the application site. Countryside to the north and west of the listed building informs its setting and as such the development of the application site would not result in any harm to the significance of the heritage asset.

To the south-west of the application site is the Grade II listed Nyetimber Windmill which was constructed in 1840 and is missing its fantail. Nyetimber Windmill by virtue of its height is a dominant feature within the street scene and is visible from the north, south, east and west with views possible from the southern end of Hook Lane. The mill has subsequently been incorporated into the Mill Lodge development with two storey development constructed around the mill. The significance of the mill is derived from its historic interest. It is considered that Nyetimber Windmill's setting has been adversely impacted by the existing development of Mill Lodge surrounding it. The setting of the listed building is informed by the existing agricultural land situated to the north of the listed building with the application site making no contribution to the setting of the Mill. Therefore, the proposed development would not result in any harm to the building, setting or significance of the heritage asset.

There is a further cluster of listed buildings situated to the south-west of the application site and these consist of Mill Cottage (261 Pagham Road) which is a Grade II listed two storey cottage with thatched roof; Mill Farm which consists of a cluster of four thatched buildings and is also Grade II listed; and Inglenook Hotel (253-255 Pagham Road) also a two storey Grade II listed building. These buildings are situated within Pagham and as such the settings of these buildings are limited to their immediate surroundings, with residential development situated to the north, south, east and west of the properties. By virtue of the separation between these listed buildings and the application site, their existing setting and the severely limited inter-visibility between these heritage assets and the application site means that the proposed development will not result in any harm to the significance of these heritage assets.

To the north-west of the application site and approximately 440m from the site boundary are the Grade II listed buildings of Seftor Farm House and Seftor Granary. These structures are situated to the north of Barfoots Farm and their setting is informed by the agricultural land surrounding them. The structures and facilities on Barfoots Farm are situated between the heritage assets and the application site and as such the application site does not make any contribution to the existing setting of these listed buildings. Therefore, the proposed development will not result in any harm to the significance of these heritage assets.

The proposed development does not result in any harm to the significance of any designated heritage

assets and will conserve the historic environment in accordance with policy HER SP1 and will not conflict with policy HER DM1 of the Arun Local Plan.

Paragraph 197 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In this case non-designated heritage assets considered relevant to the determination of the application are considered to be 56/58 Hook Lane (locally listed buildings) and the Area of Character to the south of the application site.

In terms of the impact of the proposal upon the significance of the locally listed buildings of 56/58 Hook Lane these structures are surrounded by 20th Century development to the north, east and south. The setting of these buildings now read as part of the built up area, as opposed to being rural as would have once been the case. Therefore, the proposed development will not give rise to any harm to the significance of these non-designated heritage assets in accordance with policy HER DM2 of the Arun Local Plan.

The Barton Close Area of Character is situated approximately 440m to the south of the application site, by virtue of the existing built development surrounding the Area of Character and the geometry of Paghams Road the proposed development will have no impact upon the significance of this non-designated heritage asset and would preserve the special character of this area. Therefore, the proposed development accords with policy HER DM4 of the Arun Local Plan.

Given that no harm to the significance of any heritage assets have been identified above it will not be necessary to assess the development against the requirements of paragraph 196 of the NPPF which requires the harm to be balanced against the public benefits of the scheme. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is also not relevant to the determination of this application as it is only relevant when considering whether to grant planning permission for development which affects a listed building or its setting and in this case no harm has been identified to any listed buildings or their setting.

#### ARCHAEOLOGY

A Heritage Assessment was submitted with the application which concluded that the site has low potential for remains of all archaeological periods but cannot be ruled out. The proposal has been considered by the Council's Archaeology Adviser who has stated that the potential of the proposed development to impact on unknown remains of archaeological importance justifies an investigation of the site and would be best secured via a suitably worded condition. This condition has been included as part of the recommendation and by virtue of this the proposed development will accord with policy HER DM6 of the Arun Local Plan.

#### RENEWABLE ENERGY

Policy ECC SP2 of the Arun Local Plan identifies that major developments must produce 10% of the total predicted energy requirements from renewable or low carbon energy generation on site, unless it can be demonstrated that this is unviable. A condition has been included with this recommendation report requiring the submission of details for approval by the Local Planning Authority as to how this will be achieved on site.

#### SUMMARY

The proposed development is considered to be acceptable in principle as has been established above and it has been identified within the report that the proposal will not conflict with the development plan.



The impact of the proposed development upon existing infrastructure has been mitigated through financial contributions and the provision of services and facilities. Adequate mitigation measures have also been identified which will mitigate the impact of the development upon the Pagham Harbour SPA/Ramsar site to the south of the application site. The developer has also agreed to provide 30% affordable housing which equates to 90 dwellings for a scheme of 300 units.

Therefore, the proposed development accords with the requirements of policy H SP2 and will cumulatively meet the requirements of H SP2a (SD1 & SD2) in conjunctions with planning applications P/134/16/OUT and P/140/16/OUT.

#### **RECOMMENDATION**

It is recommended that planning permission is granted for the proposed development subject to the completion of the s106 agreement and the inclusion of the conditions proposed below. It is also requested that delegated authority is granted to the Group Head of Planning to make minor amendments that are substantially in accordance with the s106 Heads of Terms.

#### **HUMAN RIGHTS ACT**

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

#### **DUTY UNDER THE EQUALITIES ACT 2010**

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

#### **SECTION 106 DETAILS**

See attached Heads of Terms document

#### **RECOMMENDATION**

**APPROVE CONDITIONALLY SUBJECT TO A SECTION 106 AGREEMENT**

- 1 The permission hereby granted is an outline permission under s92 of the Town and Country Planning Act 1990 (as amended) and an application for the approval of the Local Planning

Authority to the following matters must be made not later than the expiration of 3 years beginning with the date of this permission:-

- (a) Layout;
- (b) Scale;
- (c) Appearance;
- (d) Landscaping.

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 (as amended).

- 2 The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission, or before the expiration of 2 years from the date of the approval of the last of the reserved matters to be approved, whichever is the later.

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 (as amended).

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans:

Red Line Boundary - 167/P/007 Rev C  
Proposed Access Arrangement On Hook Lane (North) - JNY8840-09 Rev A  
Proposed Access Arrangement Pagham Road - JNY8840-12 Rev A

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy D DM1 of the Arun Local Plan (2011-2031).

- 4 No development shall take place until a detailed scheme of phasing for the construction of the dwellings and associated highways and public areas has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a schedule identifying the order of commencement and completion within each phase of construction.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the phasing of the development needs to be satisfactory before work commences.

- 5 No development shall be carried out unless and until a schedule of materials and finishes to be used for external walls and roofs of the proposed buildings has been submitted to and approved by the Local Planning Authority. A 'statement of detail' shall be submitted setting out details of proposed windows and doors, details of the depth of recess/reveal from the brickwork, sills and lintels, brick bonding, brick detailing, eaves detailing and rainwater goods. The materials and 'statement of details' so approved shall be used in the construction of the buildings.

Reason: To enable the Local Planning Authority to control the development in details in the interests of amenity by endeavouring to achieve buildings of visual quality in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the use of satisfactory external materials goes to the heart of the planning permission.

- 6 Prior to the submission of any reserved matters application for the housing phases identified by Condition 4 a design code masterplan shall be submitted to, and approved in writing, by the Local Planning Authority. This document shall demonstrate how the detailed proposals will

reflect the objectives of the;

- Development Framework - 167/P/006 Rev E
- Landscape Masterplan - 167/P/003 Rev D
- Design and Access Statement - January 2017

The design code masterplan will provide further details on matters such as character areas, street hierarchy, building typologies, key buildings, the approach to car parking, structural planting, street furniture, lighting and treatment of the public realm. The development shall be carried out in accordance with the approved design code masterplan.

Reason: To enable the Local Planning Authority to control the development in details in the interests of amenity by endeavouring to achieve buildings of visual quality in accordance with Policy D DM1 of the Arun Local Plan.

7 The landscaping and layout particulars to be submitted in accordance with Condition 1 shall include:

- i. Details of all existing trees and hedgerows on the land, showing which are to be retained and which removed;
- ii. Details of the positions, height, design, materials and type of boundary treatment to be provided;
- iii. Details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree
- iv. The detailed hard and soft landscape design for the development including the layout and design of the public realm within the development;
- v. Details of the surfacing, lighting and signage of all footpaths, cycle routes and a phasing plan for their provision;

No hedge or tree shall be felled, uprooted or otherwise removed before, during or after the construction period except where removal is indicated on a plan approved by the Local Planning Authority.

Reason: In the interests of amenity and of the environment of the development in accordance with Policy ENV DM4 of the Arun Local Plan.

8 Landscaping (hard and soft) shall be carried out in accordance with the approved details. All planting, seeding or turfing comprised in the approved details shall be carried out in the first planting and seeding seasons following the first occupation of each phase or sub phase of the development hereby permitted or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the phase or sub-phase die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of amenity and of the environment of the development in accordance with Policy D DM1 of the Arun Local Plan.

9 Prior to the commencement of the development an Arboricultural Method Statement and Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority and the development shall be undertaken in strict accordance with the details so approved.

Reason: To ensure the retention and maintenance of trees and vegetation which are an important feature of the area in accordance with Policy D DM1 of the Arun Local Plan. It is

considered necessary for this to be a pre-commencement condition as the protection and retention of trees goes to the heart of the planning permission.

- 10 Development shall not commence, other than works of site survey and investigation, until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDS Manual produced by CIRIA. Winter groundwater monitoring to establish highest annual ground water levels and winter Percolation testing to BRE 365, or similar approved, will be required to support the design of any Infiltration drainage. No building shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies W SP1, W DM1, W DM2 and W DM3 of the Arun Local Plan. This is required to be a pre-commencement condition because it is necessary to implement the surface water drainage system prior to commencing any building works.

- 11 The development shall not proceed until details have been submitted to and approved in writing by the Local Planning Authority for any proposals: to discharge flows to watercourses; or for the culverting, diversion, infilling or obstruction of any watercourse on or adjacent to the site. Any discharge to a watercourse must be at a rate no greater than the pre-development run-off values. No construction is permitted, which will restrict current and future land owners from undertaking their riparian maintenance responsibilities in respect to any watercourse or culvert on or adjacent to the site.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies W DM1, W DM2 and W DM3 of the Arun Local Plan. And to ensure that the duties and responsibilities, as required under the Land Drainage Act 1991, and amended by the Flood and Water Management Act 2010, can be fulfilled without additional impediment following the development completion. It is considered necessary for this to be a pre-commencement condition to protect existing watercourses prior to the construction commencing.

- 12 Development shall not commence until full details of the maintenance and management of the surface water drainage system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. Upon completed construction of the surface water drainage system, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies W DM1, W DM2 and W DM3 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure that the future maintenance and funding arrangements for the surface water disposal scheme are agreed before construction commences.

- 13 Immediately following implementation of the approved surface water drainage system and prior to occupation of any part of the development, the developer/applicant shall provide the local planning authority with as-built drawings of the implemented scheme together with a completion report prepared by an independent engineer that confirms that the scheme was built in accordance with the approved drawing/s and is fit for purpose. The scheme shall thereafter be maintained in perpetuity.

Reason : To ensure that the proposed development is satisfactorily drained in accordance with policies W SP1, W DM1, W DM2 and W DM3 of the Arun Local Plan.

- 14 Before the development hereby permitted is commenced, details of a proposed the foul drainage system shall be submitted to and approved in writing by the Local Planning Authority (including details of its siting, design and subsequent management/maintenance, if appropriate).

Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that waste water network capacity is available to adequately drain the development and no dwelling shall be occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details of any phase or sub-phase.

Reason: To ensure adequate infrastructure is provided to enable the scheme to be satisfactorily drained and avoids adverse impacts upon the Pagham Harbour SPA/Ramsar in accordance with policies D DM1, W DM1, W SP1, ENV DM2 and H SP2a of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the foul drainage system goes to the heart of the planning permission.

- 15 Prior to the occupation of any dwelling of a particular phase, a scheme for external lighting shall be submitted and approved in writing by the Local Planning Authority. The scheme shall ensure that the lighting is sensitive to bats by minimising the lighting of the woodland along the southern and western boundaries and shall comply with Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light, Obtrusive Light Limitations for Exterior Lighting Installations for Zone E3.

The scheme should also minimise potential impacts to any bats using the trees, hedgerows and buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding and no lighting will be installed within the buffer zones and GI areas. The lighting approved shall be installed and shall be maintained in accordance with the approved details.

Reason: To control the residential amenities of the local environment in accordance with Policies D DM1 and QE DM2 of the Arun Local Plan.

- 16 Prior to the commencement of development, including any works of demolition, a Construction Management Plan shall be submitted for approval in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- full details of the construction compound,
- soil resources plan,
- dust mitigation measures,
- noise reduction measures,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- the provision of effective wheel washing facilities and other works required to mitigate the

impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),

- details of public engagement both prior to and during construction works.

Reason: In the interests of highway safety and the amenities of the area in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because of the safety and amenity issues that need to be addressed.

- 17 During the construction phase no machinery/vehicles or plant shall be operated on the site, no process shall be carried out and no deliveries taken at or despatched except between the hours of:

7.00 a.m. and 6.00 p.m. on Mondays to Fridays inclusive

8.00 a.m. and 1.00 p.m. on Saturday

Not at any time on Sundays or Public Holidays

Reason: In the interests of amenity in accordance with Policies D DM1 and QE DM1 of the Arun Local Plan.

- 18 No raw materials, finished or unfinished products or parts, crates, packing materials or waste shall be stacked or stored on the site except within the storage areas identified in the Construction Management Plan at any time approved by the Local Planning Authority.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy D DM1 of the Arun Local Plan.

- 19 Prior to commencement of development the applicant shall prepare and submit for approval an Employment and Skills Plan for the construction phase of development. Following approval of the Employment and Skills Plan the developer will implement and promote the objectives of the approved plan.

Reason: in accordance with Policy SKILLS SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to as it relates to the construction phase of development.

- 20 No use within the phase of the development to be served from the Pagham Road access shall be first occupied until such time as the vehicular, pedestrian accesses and bus stop lay by have been constructed in accordance with the details shown on drawing no. JNY8840-12 Rev A and provided with visibility splays of 4.5 by 149 metres to the north and 152 metres to the south. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metres above carriageway level or as otherwise agreed.

Reason: In the interests of amenity and to avoid unacceptable harm to highway safety in accordance with policy T SP1 of the Arun Local Plan.

- 21 No use within the phase of the development to be served from the Hook Lane access shall be first occupied until such time as the vehicular and pedestrian accesses have been constructed in accordance with the details shown on drawing no. JNY8840-09 Rev D and provided with visibility splays of 2.4 by 74 metres to the north and 77 metres to the south. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metres above carriageway level or as otherwise agreed.

Reason: In the interests of amenity and to avoid unacceptable harm to highway safety in accordance with policy T SP1 of the Arun Local Plan.

22 No part of the development shall be first occupied until such time as the existing vehicular accesses onto Sefter Road and Paghams Road have been physically closed in accordance with plans and details submitted to and approved in writing by the Local Planning Authority. No existing access shall be used for construction purposes unless agreed as part of the construction management plan.

Reason: In the interests of amenity and to avoid unacceptable harm to highway safety in accordance with policy T SP1 of the Arun Local Plan.

23 No dwelling shall be first occupied until plans and details and a timetable for their installation showing the provision of real time information screens at the north and south bound bus stops on Paghams Road to the north of the Hook Lane Junction have been agreed in writing by the Local Planning Authority. The real time information screens once approved shall thereafter be implemented in accordance with the agreed details and timetable.

Reason: To promote and encourage sustainable transport to and from the proposed development in accordance with policy T DM1 of the Arun Local Plan.

24 No part of the development shall be first occupied until plans and details of the proposed pedestrian and cyclist access points have been submitted to and approved in writing by the Local Planning Authority. The approved access points shall thereafter be constructed in accordance with a phasing plan or timetable as may be agreed with the Local Planning Authority.

Reason: In the interests of highway safety and in accordance with policy T SP1 of the Arun Local Plan.

25 No part of the development shall be first occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan once approved shall thereafter be implemented as specified within the approved document. The Travel Plan shall be completed in accordance with the latest guidance and good practice documentation as published by the Department for Transport or as advised by the Highway Authority.

Reason: To encourage and promote sustainable transport in accordance with Policies D DM1 and T SP1 of the Arun Local Plan.

26 At least 10% of the total predicted energy requirements for the development (taking into account energy efficiency measures) will be generated through renewable or low carbon energy generation on site. The Local Planning Authority will consider 'allowable solutions' where it is clearly demonstrated that the provision of on-site renewable or low carbon energy generation is unviable or not feasible and where equivalent energy savings can be demonstrated.

Details and a timetable of how this is to be achieved for the development hereby approved, including details of physical works on site, shall be submitted to and approved in writing by the Local Planning Authority before development of the dwellings hereby approved commences. The development shall be implemented in accordance with the approved details and timetable and will be retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to secure on site renewable energy in accordance with national planning policy, in accordance with policy ECC SP2 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure that the requisite infrastructure is designed into the housing development.

- 27 Prior to the commencement of development, a strategy for the provision or facilitation of broadband provision to future occupants of the site shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall seek to ensure that upon occupation of a dwelling, either a landline or ducting to facilitate the provision of a broadband service to that dwelling from a site-wide network, is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway. Unless evidence is put forward and agreed in writing by the Local Planning Authority that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure, the development of the site shall be carried out in accordance with the approved strategy.

Reason: To ensure that the needs of future residents to connect to the internet does not necessarily entail engineering works to an otherwise finished and high quality living environment in accordance with Policy TEL SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the provision of broadband needs to be incorporated into the design for the site.

- 28 No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

Reason: The site has the potential to contain unknown remains of archaeological importance therefore in accordance with Policies D DM1 and HER DM6 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because archaeology can only be investigated before construction commences.

- 29 Prior to the commencement of development details shall be submitted providing clarification as to how the existing hedgerows on site will be enhanced for use by bats. This shall include details of a buffer strip around the hedgerows measuring 5m in width and details of fencing to be used during construction to ensure that this area is undisturbed. Details shall also be provided of additional planting to infill gaps in the existing hedgerow using native hedge species to improve connectivity. No hedgerow shall be removed or disturbed from hedgerows H1, H2 and H3 and an additional minimum 20 metres of additional hedgerow planting shall be undertaken on site due to the loss of small areas of hedgerow H4 (as identified on Appendix D 6932-E-AD within the Ecological Appraisal - Jan 2017). 'Hop overs' shall be provided adjacent to any hedgerow gaps greater than 7m wide to allow continued echolocation across the break.

Reason: In accordance with Policies ENV SP1 and ENV DM5 of the Arun Local Plan. It is considered that this condition must be pre-commencement to prevent harm to the sites biodiversity.

- 30 Prior to commencement of development an updated badger survey should be undertaken (if the survey submitted in support of the application is more than 12 months old) to ensure badgers are not using the site. If a badger sett is found onsite, Natural England should be consulted and a mitigation strategy produced and submitted to the Local Planning Authority for approval.

Reason: In accordance with Policies ENV SP1 and ENV DM5 of the Arun Local Plan. It is considered that this condition must be pre-commencement to prevent harm to potentially vulnerable species on site.

- 31 Any works to the trees or vegetation clearance on site should only be undertaken outside of the bird breeding season which takes place between 1st March - 1st October. If works are required during the bird breeding season an ecologist will undertake site surveys prior to any works taking place (within 24 hours of any work).



Reason: In accordance with with Policies ENV SP1 and ENV DM5 of the Arun Local Plan. It is considered that this condition must be pre-commencement to prevent harm to potentially vulnerable species on site.

- 32 Prior to the commencement of development of any preparatory works an Ecological Protection & Enhancement Plan shall be submitted to and agreed in writing by the Council. The Plan shall be based on the mitigation measures proposed in Ecological Appraisal dated January 2017 prepared by FPCR Environment & Design Ltd and the correspondence from FPCR dated 20 April 2017 and will include a programme of ecological monitoring to inform the long term management of the site. The Ecological Protection & Enhancement Plan shall include a full mitigation strategy for Water Voles and Reptiles and a work programme with clear timelines for each mitigation measure to be carried out. The mitigation measures shall be implemented in accordance with the timescales set out in the agreed plan.

Reason: To ensure the protection and retention of biodiversity in accordance with Arun District Local Plan policy QE SP1. It is considered that this condition must be pre-commencement to prevent harm to potentially vulnerable species on site.

- 33 Prior to the commencement of development, an Electric Vehicle Charging Strategy will be prepared and submitted to the Local Planning Authority which identifies the nature, form and location of electric charging infrastructure to be provided across the development. The electric vehicle strategy shall then be implemented in accordance with the approved details.

Reason: New petrol and diesel cars/vans will not be sold beyond 2040, and to mitigate against any potential adverse impact of the development on local air quality, in accordance with Policy D DM1 and Policy QE DM3 (c) of the Arun Local Plan and the NPPF. It is considered necessary for this to be a pre-commencement condition to ensure that the requisite charging infrastructure is designed into the housing development and it is implemented.

- 34 At least 50% of the total number of dwellings shall be designed and constructed to m4(2) (accessible and adaptable) standard and an additional two units shall be constructed to m4(3) (wheelchair user dwellings) standard, for every 50 dwellings developed on the site, as defined by 'Access to and use of buildings: Approved Document M'.

Reason: To ensure that dwellings are adaptable and meet the needs of different groups in the community in accordance with policy H DM1 and D DM1 of the Arun Local Plan and Paragraph 61 of the NPPF.

- 35 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

- 36 INFORMATIVE: The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981, with only a few exceptions, it is an offence for any person to intentionally take, damage or destroy the nest of any wild birds while the nest is in use or being built. Birds nest between March and September and therefore removal of dense bushes, ivy or trees or parts of trees etc. during this period could lead to an offence under the act.

- 37 INFORMATIVE: This notice does not give authority to destroy or damage a bat roost or disturb a bat. Bat species are protected under Section 39 of the 1994 Conservation (Natural Habitats etc ) Regulations (as amended), the 1981 Wildlife and Countryside Act (as amended) and the

2000 Countryside and Rights of Way Act. It is illegal to damage or destroy any bat roost, whether occupied or not, or disturb or harm a bat. If you are aware that bats roost in a tree(s) for which work is planned, you should take further advice from Natural England (via the Bat Conservation Trust on 0845 1300228) or an ecological consultant before you start. If bats are discovered during the work, you must stop immediately and contact Natural England before continuing.

- 38 INFORMATIVE: Infiltration rates for soakage structures are to be based on percolation tests undertaken in the winter period and at the location and depth of the proposed structures. The percolation tests must be carried out in accordance with BRE365, CIRIA R156 or a similar approved method and cater for the 1 in 10 year storm between the invert of the entry pipe to the soakaway, and the base of the structure. It must also have provision to ensure that there is capacity in the system to contain below ground level the 1 in 100 year event plus 40% on stored volumes, as an allowance for climate change. Adequate freeboard must be provided between the base of the soakaway structure and the highest recorded annual groundwater level identified in that location. Any SuDS or soakaway design must include adequate groundwater monitoring data to determine the highest winter groundwater table in support of the design. The applicant is advised to discuss the extent of groundwater monitoring with the Council's Engineers.

Supplementary guidance notes regarding surface water drainage are located here <https://www.arun.gov.uk/surfacewater> on Arun District Councils website. A surface water drainage checklist is available here <https://www.arun.gov.uk/drainagechecklist> on Arun District Councils website, this should be submitted with a Discharge of Conditions Application.

- 39 INFORMATIVE: Under Section 23 of the Land Drainage Act 1991 Land Drainage Consent must be sought from the Lead Local Flood Authority (West Sussex County Council), or its agent (Arun District Council [land.drainage@arun.gov.uk](mailto:land.drainage@arun.gov.uk)), prior to starting any works (temporary or permanent) that affect the flow of water in an ordinary watercourse. Such works may include culverting, channel diversion, discharge of flows, connections, headwalls and the installation of trash screens.

The development layout must take account of any existing watercourses (open or culverted) to ensure that future access for maintenance is not restricted. No development is permitted within 3m of the bank of an ordinary watercourse, or 3m of a culverted ordinary watercourse.

- 40 INFORMATIVE: If during construction works, it becomes apparent that implementation cannot be carried in accordance with previously agreed details any resubmission of the drainage design must be accompanied by an updated copy of the management manual.

Application for Outline Consent

**DECISION NOTICE**

Application Ref: P/30/19/OUT

**1 To Addressee**

LRM Plannig Ltd  
22 Cathedral Road  
Cardiff  
CF11 9LJ

**2 Site Address**

Land north of Hook Lane  
Pagham

**3 Description of Development**

Outline application with some matters reserved for the construction of up to 300 No. new homes, a care home of up to 80 beds, D1 uses of up to 4,000 sqm including a 2 form entry primary school, the formation of new means of access onto Hook Lane & Pagham Road, new pedestrian & cycle links, laying out of open space, new strategic landscaping, habitat creation, drainage features & associated ground works & infrastructure. This application may affect the setting of a listed building (resubmission following P/6/17/OUT).

**4** In pursuance of their powers under this Act and related Orders and Regulations the Council **PERMIT** this development to be carried out in accordance with the application and plans and subject to compliance with the following conditions and Section 106 Agreement.

1 The permission hereby granted is an outline permission under s92 of the Town and Country Planning Act 1990 (as amended) and an application for the approval of the Local Planning Authority to the following matters must be made not later than the expiration of 3 years beginning with the date of this permission:-

- (a) Layout;
- (b) Scale;
- (c) Appearance;
- (d) Landscaping.

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 (as amended).

2 The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission, or before the expiration of 2 years from the date of the approval of the last of the reserved matters to be approved, whichever is the later.

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 (as amended).

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans:

Red Line Boundary - 167/P/007 Rev C

Proposed Access Arrangement On Hook Lane (North) - JNY8840-09 Rev A

Proposed Access Arrangement Pagham Road - JNY8840-12 Rev A

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy D DM1 of the Arun Local Plan (2011-2031).

- 4 No development shall take place until a detailed scheme of phasing for the construction of the dwellings and associated highways and public areas has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a schedule identifying the order of commencement and completion within each phase of construction.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the phasing of the development needs to be satisfactory before work commences.

- 5 No development shall be carried out unless and until a schedule of materials and finishes to be used for external walls and roofs of the proposed buildings has been submitted to and approved by the Local Planning Authority. A 'statement of detail' shall be submitted setting out details of proposed windows and doors, details of the depth of recess/reveal from the brickwork, sills and lintels, brick bonding, brick detailing, eaves detailing and rainwater goods. The materials and 'statement of details' so approved shall be used in the construction of the buildings.

Reason: To enable the Local Planning Authority to control the development in details in the interests of amenity by endeavouring to achieve buildings of visual quality in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the use of satisfactory external materials goes to the heart of the planning permission.

- 6 Prior to the submission of any reserved matters application for the housing phases identified by Condition 4 a design code masterplan shall be submitted to, and approved in writing, by the Local Planning Authority. This document shall demonstrate how the detailed proposals will reflect the objectives of the;

- Development Framework - 167/P/006 Rev E
- Landscape Masterplan - 167/P/003 Rev D
- Design and Access Statement - January 2017

The design code masterplan will provide further details on matters such as character areas, street hierarchy, building typologies, key buildings, the approach to car parking, structural planting, street furniture, lighting and treatment of the public realm. The development shall be carried out in accordance with the approved design code masterplan.

Reason: To enable the Local Planning Authority to control the development in details in the interests of amenity by endeavouring to achieve buildings of visual quality in accordance with Policy D DM1 of the Arun Local Plan.

- 7 The landscaping and layout particulars to be submitted in accordance with Condition 1 shall

include:

- i. Details of all existing trees and hedgerows on the land, showing which are to be retained and which removed;
- ii. Details of the positions, height, design, materials and type of boundary treatment to be provided;
- iii. Details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree
- iv. The detailed hard and soft landscape design for the development including the layout and design of the public realm within the development;
- v. Details of the surfacing, lighting and signage of all footpaths, cycle routes and a phasing plan for their provision;

No hedge or tree shall be felled, uprooted or otherwise removed before, during or after the construction period except where removal is indicated on a plan approved by the Local Planning Authority.

Reason: In the interests of amenity and of the environment of the development in accordance with Policy ENV DM4 of the Arun Local Plan.

- 8 Landscaping (hard and soft) shall be carried out in accordance with the approved details. All planting, seeding or turfing comprised in the approved details shall be carried out in the first planting and seeding seasons following the first occupation of each phase or sub phase of the development hereby permitted or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the phase or sub-phase die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of amenity and of the environment of the development in accordance with Policy D DM1 of the Arun Local Plan.

- 9 Prior to the commencement of the development an Arboricultural Method Statement and Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority and the development shall be undertaken in strict accordance with the details so approved.

Reason: To ensure the retention and maintenance of trees and vegetation which are an important feature of the area in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the protection and retention of trees goes to the heart of the planning permission.

- 10 Development shall not commence, other than works of site survey and investigation, until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDS Manual produced by CIRIA. Winter groundwater monitoring to establish highest annual ground water levels and winter Percolation testing to BRE 365, or similar approved, will be required to support the design of any Infiltration drainage. No building shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies W SP1, W DM1, W DM2 and W DM3 of the Arun Local Plan. This is required to be a pre-commencement condition because it is necessary to implement the surface water drainage

system prior to commencing any building works.

- 11 The development shall not proceed until details have been submitted to and approved in writing by the Local Planning Authority for any proposals: to discharge flows to watercourses; or for the culverting, diversion, infilling or obstruction of any watercourse on or adjacent to the site. Any discharge to a watercourse must be at a rate no greater than the pre-development run-off values. No construction is permitted, which will restrict current and future land owners from undertaking their riparian maintenance responsibilities in respect to any watercourse or culvert on or adjacent to the site.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies W DM1, W DM2 and W DM3 of the Arun Local Plan. And to ensure that the duties and responsibilities, as required under the Land Drainage Act 1991, and amended by the Flood and Water Management Act 2010, can be fulfilled without additional impediment following the development completion. It is considered necessary for this to be a pre-commencement condition to protect existing watercourses prior to the construction commencing.

- 12 Development shall not commence until full details of the maintenance and management of the surface water drainage system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. Upon completed construction of the surface water drainage system, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies W DM1, W DM2 and W DM3 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure that the future maintenance and funding arrangements for the surface water disposal scheme are agreed before construction commences.

- 13 Immediately following implementation of the approved surface water drainage system and prior to occupation of any part of the development, the developer/applicant shall provide the local planning authority with as-built drawings of the implemented scheme together with a completion report prepared by an independent engineer that confirms that the scheme was built in accordance with the approved drawing/s and is fit for purpose. The scheme shall thereafter be maintained in perpetuity.

Reason : To ensure that the proposed development is satisfactorily drained in accordance with policies W SP1,W DM1, W DM2 and W DM3 of the Arun Local Plan.

- 14 Before the development hereby permitted is commenced, details of a proposed the foul drainage system shall be submitted to and approved in writing by the Local Planning Authority (including details of its siting, design and subsequent management/maintenance, if appropriate).

Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that waste water network capacity is available to adequately drain the development and no dwelling shall be occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details of any phase or sub-phase.

Reason: To ensure adequate infrastructure is provided to enable the scheme to be satisfactorily drained and avoids adverse impacts upon the Pagham Harbour SPA/Ramsar in accordance with policies D DM1, W DM1, W SP1, ENV DM2 and H SP2a of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the foul drainage system goes to the heart of the planning permission.

- 15 Prior to the occupation of any dwelling of a particular phase, a scheme for external lighting shall be submitted and approved in writing by the Local Planning Authority. The scheme shall ensure that the lighting is sensitive to bats by minimising the lighting of the woodland along the southern and western boundaries and shall comply with Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light, Obtrusive Light Limitations for Exterior Lighting Installations for Zone E3.

The scheme should also minimise potential impacts to any bats using the trees, hedgerows and buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding and no lighting will be installed within the buffer zones and GI areas. The lighting approved shall be installed and shall be maintained in accordance with the approved details.

Reason: To control the residential amenities of the local environment in accordance with Policies D DM1 and QE DM2 of the Arun Local Plan.

- 16 Prior to the commencement of development, including any works of demolition, a Construction Management Plan shall be submitted for approval in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- full details of the construction compound,
- soil resources plan,
- dust mitigation measures,
- noise reduction measures,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- the provision of effective wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- details of public engagement both prior to and during construction works.

Reason: In the interests of highway safety and the amenities of the area in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because of the safety and amenity issues that need to be addressed.

- 17 During the construction phase no machinery/vehicles or plant shall be operated on the site, no process shall be carried out and no deliveries taken at or despatched except between the hours of:

7.00 a.m. and 6.00 p.m. on Mondays to Fridays inclusive  
8.00 a.m. and 1.00 p.m. on Saturday  
Not at any time on Sundays or Public Holidays

Reason: In the interests of amenity in accordance with Policies D DM1 and QE DM1 of the Arun Local Plan.

- 18 No raw materials, finished or unfinished products or parts, crates, packing materials or waste shall be stacked or stored on the site except within the storage areas identified in the Construction Management Plan at any time approved by the Local Planning Authority.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy D DM1 of the Arun Local Plan.

- 19 Prior to commencement of development the applicant shall prepare and submit for approval an Employment and Skills Plan for the construction phase of development. Following approval of the Employment and Skills Plan the developer will implement and promote the objectives of the approved plan.

Reason: in accordance with Policy SKILLS SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to as it relates to the construction phase of development.

- 20 No use within the phase of the development to be served from the Pagham Road access shall be first occupied until such time as the vehicular, pedestrian accesses and bus stop lay by have been constructed in accordance with the details shown on drawing no. JNY8840-12 Rev A and provided with visibility splays of 4.5 by 149 metres to the north and 152 metres to the south. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metres above carriageway level or as otherwise agreed.

Reason: In the interests of amenity and to avoid unacceptable harm to highway safety in accordance with policy T SP1 of the Arun Local Plan.

- 21 No use within the phase of the development to be served from the Hook Lane access shall be first occupied until such time as the vehicular and pedestrian accesses have been constructed in accordance with the details shown on drawing no. JNY8840-09 Rev D and provided with visibility splays of 2.4 by 74 metres to the north and 77 metres to the south. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metres above carriageway level or as otherwise agreed.

Reason: In the interests of amenity and to avoid unacceptable harm to highway safety in accordance with policy T SP1 of the Arun Local Plan.

- 22 No part of the development shall be first occupied until such time as the existing vehicular accesses onto Sefter Road and Pagham Road have been physically closed in accordance with plans and details submitted to and approved in writing by the Local Planning Authority. No existing access shall be used for construction purposes unless agreed as part of the construction management plan.

Reason: In the interests of amenity and to avoid unacceptable harm to highway safety in accordance with policy T SP1 of the Arun Local Plan.

- 23 No dwelling shall be first occupied until plans and details and a timetable for their installation showing the provision of real time information screens at the north and south bound bus stops on Pagham Road to the north of the Hook Lane Junction have been agreed in writing by the Local Planning Authority. The real time information screens once approved shall thereafter be implemented in accordance with the agreed details and timetable.

Reason: To promote and encourage sustainable transport to and from the proposed development in accordance with policy T DM1 of the Arun Local Plan.

- 24 No part of the development shall be first occupied until plans and details of the proposed pedestrian and cyclist access points have been submitted to and approved in writing by the Local Planning Authority. The approved access points shall thereafter be constructed in accordance with a phasing plan or timetable as may be agreed with the Local Planning Authority.

Reason: In the interests of highway safety and in accordance with policy T SP1 of the Arun Local Plan.



- 25 No part of the development shall be first occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan once approved shall thereafter be implemented as specified within the approved document. The Travel Plan shall be completed in accordance with the latest guidance and good practice documentation as published by the Department for Transport or as advised by the Highway Authority.

Reason: To encourage and promote sustainable transport in accordance with Policies D DM1 and T SP1 of the Arun Local Plan.

- 26 At least 10% of the total predicted energy requirements for the development (taking into account energy efficiency measures) will be generated through renewable or low carbon energy generation on site. The Local Planning Authority will consider 'allowable solutions' where it is clearly demonstrated that the provision of on-site renewable or low carbon energy generation is unviable or not feasible and where equivalent energy savings can be demonstrated.

Details and a timetable of how this is to be achieved for the development hereby approved, including details of physical works on site, shall be submitted to and approved in writing by the Local Planning Authority before development of the dwellings hereby approved commences. The development shall be implemented in accordance with the approved details and timetable and will be retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to secure on site renewable energy in accordance with national planning policy, in accordance with policy ECC SP2 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure that the requisite infrastructure is designed into the housing development.

- 27 Prior to the commencement of development, a strategy for the provision or facilitation of broadband provision to future occupants of the site shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall seek to ensure that upon occupation of a dwelling, either a landline or ducting to facilitate the provision of a broadband service to that dwelling from a site-wide network, is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway. Unless evidence is put forward and agreed in writing by the Local Planning Authority that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure, the development of the site shall be carried out in accordance with the approved strategy.

Reason: To ensure that the needs of future residents to connect to the internet does not necessarily entail engineering works to an otherwise finished and high quality living environment in accordance with Policy TEL SP1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because the provision of broadband needs to be incorporated into the design for the site.

- 28 No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

Reason: The site has the potential to contain unknown remains of archaeological importance therefore in accordance with Policies D DM1 and HER DM6 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition because archaeology can only be investigated before construction commences.

- 29 Prior to the commencement of development details shall be submitted providing clarification as to how the existing hedgerows on site will be enhanced for use by bats. This shall include details of

a buffer strip around the hedgerows measuring 5m in width and details of fencing to be used during construction to ensure that this area is undisturbed. Details shall also be provided of additional planting to infill gaps in the existing hedgerow using native hedge species to improve connectivity. No hedgerow shall be removed or disturbed from hedgerows H1, H2 and H3 and an additional minimum 20 metres of additional hedgerow planting shall be undertaken on site due to the loss of small areas of hedgerow H4 (as identified on Appendix D 6932-E-AD within the Ecological Appraisal - Jan 2017). 'Hop overs' shall be provided adjacent to any hedgerow gaps greater than 7m wide to allow continued echolocation across the break.

Reason: In accordance with Policies ENV SP1 and ENV DM5 of the Arun Local Plan. It is considered that this condition must be pre-commencement to prevent harm to the sites biodiversity.

- 30 Prior to commencement of development an updated badger survey should be undertaken (if the survey submitted in support of the application is more than 12 months old) to ensure badgers are not using the site. If a badger sett is found onsite, Natural England should be consulted and a mitigation strategy produced and submitted to the Local Planning Authority for approval.

Reason: In accordance with with Policies ENV SP1 and ENV DM5 of the Arun Local Plan. It is considered that this condition must be pre-commencement to prevent harm to potentially vulnerable species on site.

- 31 Any works to the trees or vegetation clearance on site should only be undertaken outside of the bird breeding season which takes place between 1st March - 1st October. If works are required during the bird breeding season an ecologist will undertake site surveys prior to any works taking place (within 24 hours of any work).

Reason: In accordance with with Policies ENV SP1 and ENV DM5 of the Arun Local Plan. It is considered that this condition must be pre-commencement to prevent harm to potentially vulnerable species on site.

- 32 Prior to the commencement of development of any preparatory works an Ecological Protection & Enhancement Plan shall be submitted to and agreed in writing by the Council. The Plan shall be based on the mitigation measures proposed in Ecological Appraisal dated January 2017 prepared by FPCR Environment & Design Ltd and the correspondence from FPCR dated 20 April 2017 and will include a programme of ecological monitoring to inform the long term management of the site. The Ecological Protection & Enhancement Plan shall include a full mitigation strategy for Water Voles and Reptiles and a work programme with clear timelines for each mitigation measure to be carried out. The mitigation measures shall be implemented in accordance with the timescales set out in the agreed plan.

Reason: To ensure the protection and retention of biodiversity in accordance with Arun District Local Plan policy QE SP1. It is considered that this condition must be pre-commencement to prevent harm to potentially vulnerable species on site.

- 33 Prior to the commencement of development, an Electric Vehicle Charging Strategy will be prepared and submitted to the Local Planning Authority which identifies the nature, form and location of electric charging infrastructure to be provided across the development. The electric vehicle strategy shall then be implemented in accordance with the approved details.

Reason: New petrol and diesel cars/vans will not be sold beyond 2040, and to mitigate against any potential adverse impact of the development on local air quality, in accordance with Policy D DM1 and Policy QE DM3 (c) of the Arun Local Plan and the NPPF. It is considered necessary for this to be a pre-commencement condition to ensure that the requisite charging infrastructure is designed into the housing development and it is implemented.

- 34 At least 50% of the total number of dwellings shall be designed and constructed to m4(2) (accessible and adaptable) standard and an additional two units shall be constructed to m4(3) (wheelchair user dwellings) standard, for every 50 dwellings developed on the site, as defined by 'Access to and use of buildings: Approved Document M'.

Reason: To ensure that dwellings are adaptable and meet the needs of different groups in the community in accordance with policy H DM1 and D DM1 of the Arun Local Plan and Paragraph 61 of the NPPF.

INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

INFORMATIVE: The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981, with only a few exceptions, it is an offence for any person to intentionally take, damage or destroy the nest of any wild birds while the nest is in use or being built. Birds nest between March and September and therefore removal of dense bushes, ivy or trees or parts of trees etc. during this period could lead to an offence under the act.

INFORMATIVE: This notice does not give authority to destroy or damage a bat roost or disturb a bat. Bat species are protected under Section 39 of the 1994 Conservation (Natural Habitats etc ) Regulations (as amended), the 1981 Wildlife and Countryside Act (as amended) and the 2000 Countryside and Rights of Way Act. It is illegal to damage or destroy any bat roost, whether occupied or not, or disturb or harm a bat. If you are aware that bats roost in a tree(s) for which work is planned, you should take further advice from Natural England (via the Bat Conservation Trust on 0845 1300228) or an ecological consultant before you start. If bats are discovered during the work, you must stop immediately and contact Natural England before continuing.

INFORMATIVE: Infiltration rates for soakage structures are to be based on percolation tests undertaken in the winter period and at the location and depth of the proposed structures. The percolation tests must be carried out in accordance with BRE365, CIRIA R156 or a similar approved method and cater for the 1 in 10 year storm between the invert of the entry pipe to the soakaway, and the base of the structure. It must also have provision to ensure that there is capacity in the system to contain below ground level the 1 in 100 year event plus 40% on stored volumes, as an allowance for climate change. Adequate freeboard must be provided between the base of the soakaway structure and the highest recorded annual groundwater level identified in that location. Any SuDS or soakaway design must include adequate groundwater monitoring data to determine the highest winter groundwater table in support of the design. The applicant is advised to discuss the extent of groundwater monitoring with the Council's Engineers.

Supplementary guidance notes regarding surface water drainage are located here <https://www.arun.gov.uk/surfacewater> on Arun District Councils website. A surface water drainage checklist is available here <https://www.arun.gov.uk/drainagechecklist> on Arun District Councils website, this should be submitted with a Discharge of Conditions Application.

INFORMATIVE: Under Section 23 of the Land Drainage Act 1991 Land Drainage Consent must be sought from the Lead Local Flood Authority (West Sussex County Council), or its agent (Arun District Council [land.drainage@arun.gov.uk](mailto:land.drainage@arun.gov.uk)), prior to starting any works (temporary or permanent) that affect the flow of water in an ordinary watercourse. Such works may include culverting, channel diversion, discharge of flows, connections, headwalls and the installation of trash screens.

The development layout must take account of any existing watercourses (open or culverted) to ensure that future access for maintenance is not restricted. No development is permitted within 3m of the bank of an ordinary watercourse, or 3m of a culverted ordinary watercourse.

INFORMATIVE: If during construction works, it becomes apparent that implementation cannot be carried in accordance with previously agreed details any resubmission of the drainage design must be accompanied by an updated copy of the management manual.



Neil Crowther  
Group Head of Planning

Case Officer: Mr D Easton

Decision Issued: **2nd September 2019**

Arun District Council  
The Arun Civic Centre  
Maltravers Road  
Littlehampton  
West Sussex BN17 5LF

**IT IS IMPORTANT THAT YOU READ THE NOTES ATTACHED TO THIS DOCUMENT**

## **APPEALS TO THE SECRETARY OF STATE**

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, and you want to appeal against this planning application decision, then you must do so within 28 days of the date of this notice.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and you want to appeal against this planning application decision, then you must do so within 28 days of the date of service of the enforcement notice, or within 12 weeks of the date of this notice, whichever period expires earlier.

Otherwise, if you want to appeal against this decision then you must do so within 6 months of the date of this notice.

Appeals must be using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at <http://acp.planninginspectorate.gov.uk>

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

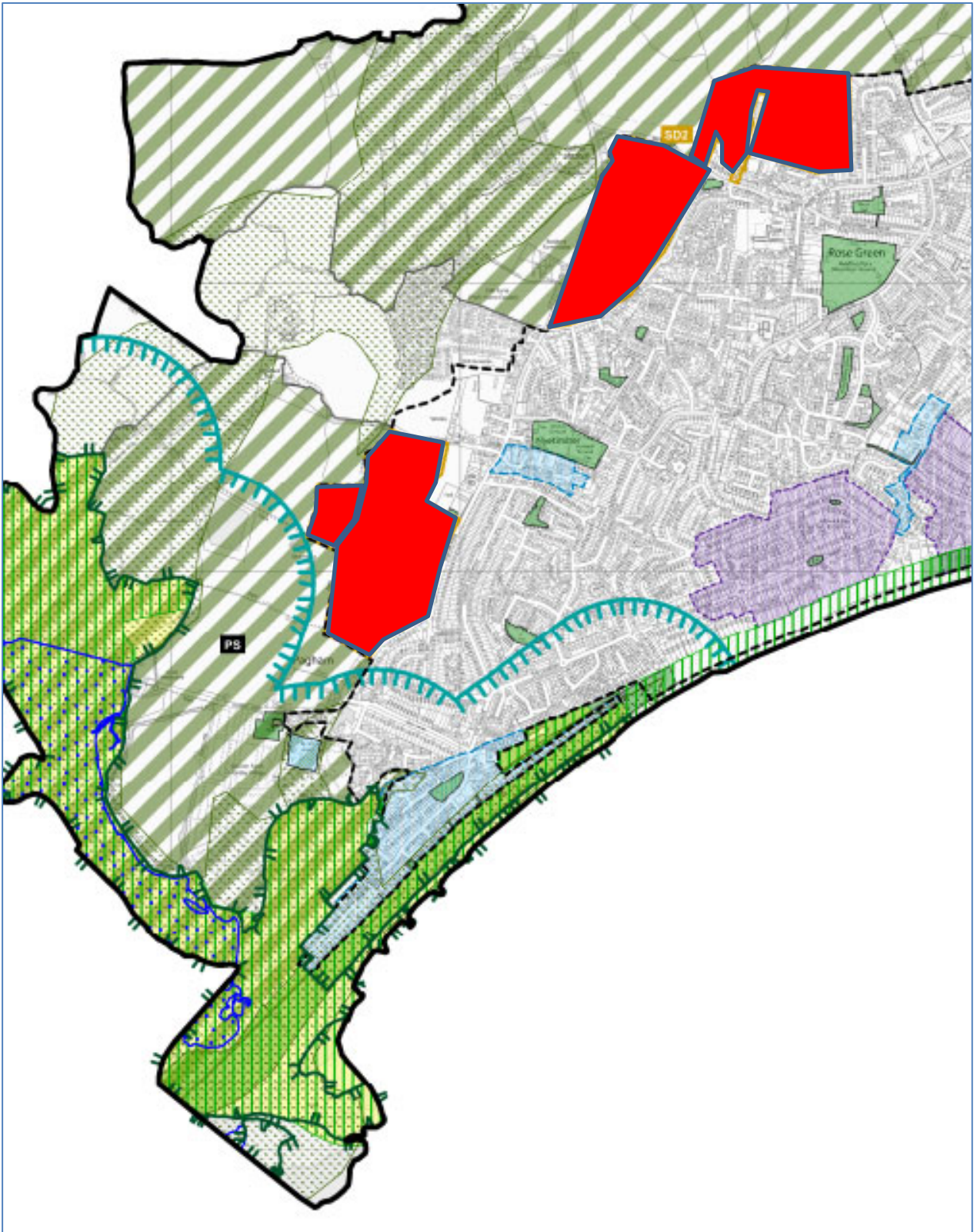
The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

## **PURCHASE NOTICES**

If either the local planning authority or the Secretary of State refused permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (that is, where the land is situated in a National Park, the National Park authority for the Park, or in any other case the district council in whose area the land is situated). This notice will require the Council to purchase the owner's interest in the land in accordance with the provisions of Chapter 1 of Part VI of the Town & Country Planning Act 1990.

Please note that this decision notice only relates to matters under the Planning Acts and does not give consent under any other legislation that may apply to the development. You will need to carry out your own checks to determine whether any other consents or permissions are required. For example, the Building Regulations are likely to apply to most developments, and a Highways Licence may be required from West Sussex County Council for any development within the public highway (including the placing of skips on highway land).



BIRMINGHAM  
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NEWCASTLE  
READING  
SOUTHAMPTON

**BARTON  
WILLMORE**

bartonwillmore.co.uk  
24 Kings Hill Avenue  
Kings Hill  
West Malling  
Kent  
ME19 4AE



Karl Roberts  
Director of Place  
Arun District Council  
Civic Centre  
Maltravers Road  
Littlehampton  
BN17 5LF

**VIA EMAIL**

20928/A3/HH/sjo

12 May 2021

Dear Karl

**REVOCATION OF PAGHAM OUTLINE PLANNING PERMISSIONS PETITION  
LETTER OF OBJECTION: TAYLOR WIMPEY UK LIMITED**

We act on behalf of Taylor Wimpey UK Limited and write to object to the petition to seek to revoke Outline Planning Permission refs. P/25/17/OUT, P/140/16/OUT, P/134/16/OUT and P/30/19/OUT.

The site at Land North of Sefter Road, Pagham is current subject to extant Outline Planning Permission (ref. P/134/16/OUT) and is within Taylor Wimpey's land ownership. A Reserved Matters application is currently pending consideration by the Council for the following description of development:

***Application for the approval of Reserved Matters pursuant to condition 1 (Reserved Matters details), condition 6 (Design Code Masterplan) & condition 7 (landscaping & layout details) following the grant of P/134/16/OUT for the erection of 250 No. dwellings, (including affordable homes), replacement scout hut, land for an Ambulance Community Response Post Facility, demolition of No. 80 Rose Green Road & provision of Public Open Spaces including associated children's play areas, landscaping, drainage & earthworks.***

**Reasons for Objecting**

Our reasons for raising an objection to the revocation of the aforementioned Outline Planning Permissions are set out fully below, but in summary include the following matters:



- The sites have been allocated by the Council within the Local Plan and their respective and cumulative feasibility for residential-led development has been scrutinised by the Local Plan Inspector during the course of the Local Plan Examination process and have been found to be sound.
- There is no reasonable basis for revocation of the aforementioned Outline Planning Permission when considered against Section 97 of the Town and Country Planning Act 1990 which allows councils to revoke or modify a planning consent to such an extent as they consider expedient with regard to the Development Plan and other material considerations. The Committee Report for P/134/16/OUT confirms that the development proposals aligned with the policies set out within the Arun Local Plan and there were no departures from policies within the Plan. Therefore, there is no substantive basis for the Council to proceed with a Revocation Order to revoke the Outline Planning Permission at Land North of Sefter Road.
- Since Outline Planning Permission was gained at 'Land North of Sefter Road, Pagham' (ref. P/134/16/OUT), a considerable amount of cost has been expended with the preparation of plans and technical documents and associated survey work related to the progression of the previously refused Reserved Matters application (ref. P/24/20/RES) and the new Reserved Matters application which is pending consideration by the Council. ADC should be mindful that this will need to be taken into account in respect of any claims for compensation which may be made should the Outline Planning Permission be successfully revoked.
- The impact of revocation of the Outline Planning Permissions will be significantly detrimental to ADC's housing delivery and the case for revocation is merely seeking to stall the delivery sustainable development within Pagham.
- In addition, it should be noted that section 97 allows for modification as well as revocation, and Council should not make any decision to revoke without fully considering modification in the alternative.
- Taylor Wimpey fully intends to implement the extant outline planning permission for residential-led development (ref. P/134/16/OUT) as expediently as possible.

### **The Legislation for Revocation of a Planning Permission**

Section 97 of The Town and Country Planning Act 1990 provides Local Planning Authorities with the power to revoke or modify planning permission. The NPPG confirms this and notes that "planning permission may be revoked or modified to such an extent by the local planning authority as the local planning authority considers expedient or where development has stalled. In doing so the authority must have regard to the development plan and to any other material considerations". (Paragraph: 081 Reference ID: 17b-081-20190722)

Where there is an objection to a revocation order being made, the decision to revoke the permission must be confirmed by the Secretary of State. Taylor Wimpey confirm that they would formally oppose any revocation order relating to Outline Planning Permission ref. P/134/16/OUT.

In March 2006, the then Planning Minister (Yvette Cooper) described the use of the powers to revoke a planning permission, noting that LPA's should have regard to the development plan and to any other material consideration and that the decision to revoke a planning permission was not a routine justification since the fact that planning permission was granted indicates that the development was considered acceptable at the time.



## Compensation

Under section 107 of The Town and Country Planning Act 1990, ADC could be liable to pay compensation to the applicant in the event that the revocation order is successful. As part of the Council's decision-making exercise on whether to revoke the Outline Planning Permission, it should take into consideration the compensation that it could be liable for. Lord Carnwath in a Supreme Court ruling in July 2012 held that:

*"In simple terms, the question is whether a public authority, when deciding whether to exercise a discretionary power to achieve a public objective, is entitled to take into account the cost to the public of so doing. Posed in that way, the question answers itself. As custodian of public funds, the authority not only may, but generally must, have regard to the cost to the public of its actions, at least to the extent of considering any case whether the cost is proportionate to the aim to be achieved, and taking into account more economic ways of achieving the same objective."*  
(Health and Safety Executive) v. Wolverhampton City Council [2012] 1 WLR 2264

Taylor Wimpey have reviewed the costs associated with preparation of plans and technical documents and associated survey work related to the progression of the previously refused Reserved Matters application (ref. P/24/20/RES) and the new Reserved Matters application which is pending consideration by the Council. Taylor Wimpey estimate that these cost to date are in excess of £600,000 and Members should take this into consideration when deciding whether a revocation order may be appropriate.

## Review of Petitioners Case

The case on behalf of the petitioners states that the Outline Planning Permissions were granted as departures from the relevant development plan policies. We have reviewed the various grounds raised within the petition and provide comment specifically in relation to Outline Planning Permission ref. P/134/16/OUT 'Land North of Sefter Road' within the table below.

<b>Petitioners Comment</b>	<b>Taylor Wimpey Response</b>
Both sites are allocated as Green Infrastructure for the purposes of Policy G1 SP1 and these proposals for 580 dwellings and related built development would (if implemented) result in the loss of circa 30.9 hectares of green infrastructure contrary to the intent of Policy GSP1	This is an incorrect interpretation. Policy GI SP1 requires all major development to be designed to protect and enhance existing Green Infrastructure assets, and the connections between them, in order to ensure a joined up Green Infrastructure Network. The policy notes that the existing Green Infrastructure Network, as shown on the Green Network Maps for each parish and town, must be considered at an early stage of the design process for all major development proposals. The Green Infrastructure Network Map on the Council's website does show the sites within the Green Infrastructure Corridor, however it is important to note that this Map still relates to the old Local Plan and has now been superseded by the housing allocations within the adopted Local Plan. The Council's website confirms that and notes that: <i>"The original parish level maps shown below detailing the GI network were based on the situation in 2012 and are being updated to reflect the currently adopted Arun</i>

	<p><i>local Plan 2018. The parish level maps below, generally, are therefore now out of date. Any updates produced are clearly marked within the following list".</i> Therefore, these sites are not allocated as Green Infrastructure for the purposes of GI SP1 as stated and it is misleading for the petitioners to provide as such. The sites are also located within the built-up area boundary as defined by policy SD SP2.</p> <p>Furthermore, each of the sites will provide suitable levels of green space in accordance with the Council's Public Open Space, Playing Pitches and Built Facilities Supplementary Planning Document (January 2020).</p>
<p>Policy HSP1 allocates the site of these permissions (SD2 Pagham North) for 800 dwellings to be built completed by 2029 with development commencing on site with 50 being built in 2018/19 whereas the permissions granted are for 580 dwellings only with development commencement unknown but not predicted to commence until 2025/26 earliest and the housing not being completed until after the end date of the adopted Plan (2031)</p>	<p>Since the Local Plan was adopted, there clearly has been an updated position with the housing trajectory in relation to the delivery timescales for the Pagham sites, mainly due to the lengthy delays involved with securing the Outline Planning Permissions. Taylor Wimpey can confirm that it is committed to commencing development and securing the delivery of much needed housing for the District at 'Land North of Sefter Road, Pagham' with initial completions anticipated by 2022/2023 and development completed within 5 years.</p>
<p>Neither of the outline planning permissions granted accord with Policy HSP2 as neither demonstrate that they have been comprehensively planned or with regard to a masterplan endorsed by the Council (there is no such masterplan) and neither alone or in combination demonstrate that they will meet the key requirements specified in the Policy</p>	<p>We reject the assertion that the sites have not been comprehensively planned and would like to draw Members attention to the Committee Report for Outline Planning Permission ref. P/134/16/OUT which provides further clarification on this point. The Report states that:</p> <p><i>It should be highlighted that this outline application only relates to access with layout, scale, appearance and landscaping being reserved matters. Therefore, the development framework plan submitted in support of the application is only indicative but does show that the site can accommodate the scale of development proposed whilst providing adequate open space provision and respecting the site's location on the edge of the settlement. The application is supported by a Design and Access Statement which clearly demonstrates how the indicative layout was arrived at and adequately demonstrates that the proposed development can be efficiently accommodated on site. The Design and Access statement has identified the opportunities and constraints present at the site and responded to these with the design of the development. The development framework plan shows the sites</i></p>

*vehicular access from Sefter Road with pedestrian access being provided onto Rose Green Road. It has been demonstrated that the indicative layout will achieve acceptable walkable access to community, recreational and shopping facilities both within the proposed development and outside of the site boundaries in accordance with H SP2 (f), (i) & (j) of the Arun Local Plan.*

*The LPA will not accept a generic housing estate on the edge of the built-up area boundary and the developer will be expected to undertake the necessary work to achieve a development of the highest possible quality which reflects the character of the locality. A condition has been incorporated with the approval requiring the submission and approval by the LPA of a 'Design Code Masterplan' prior to the submission of any reserved matters application. It is a requirement of the condition that this document will reflect the principles established within the Design and Access statement submitted in support of this application in accordance with the comprehensive masterplanning requirements of policy H SP2. It is considered that the development framework plan in conjunction with the Design and Access statement demonstrates that the development has been comprehensively master planned in accordance with policy H SP2 of the Arun Local Plan.*

The Reserved Matters application which is currently under consideration by the Council is accompanied by a Design Code Masterplan which demonstrates how the development shall be comprehensively planned. The document has been produced in consultation with the Council and presented at ADC's Development Team meeting on 22<sup>nd</sup> September 2020, receiving feedback from key stakeholders including ADC Leisure & Landscape Officer, ADC Principal Drainage Engineer, ADC Principal Landscape and Project Officer, ADC Principal Conservation Officer, WSCC Principal Transport Planner, ADC Environmental Health Officer. The Design Code has been revised several times to take into account feedback received with 4 iterations of the Code provided to the Council for review and comment.

Furthermore, the Design Code Masterplan for the Hook Lane site has been approved by the

<p>Policy H SP2a Greater Bognor Regis Urban Area allocates the site the subject of these OPPs as SD1 Pagham South for 400 dwellings on the basis that it would "support the sustainable growth of Bognor Regis" and goes on to describe how Development proposals will need to meet a number of specified key design and infrastructure requirements: but there is no evidence that the permissions granted would in fact support the sustainable growth of Bognor Regis or meet the specified key design and infrastructure requirements.</p>	<p>Council. (ref. P/57/20/DOC) which demonstrates how the site has been comprehensively planned.</p> <p>The comment refers to an allocation of 400 dwellings (SD1 Pagham South) although it is noted that this is an error and should refer to 800 dwelling allocation (SD2 Pagham North). The infrastructure requirements include land for the provision of an ambulance community response post, a replacement scout hut and land for either a 1FE primary school or care home. The Committee Report for the Outline Planning Permission confirms that the development at Land North of Sefter Road would meet the policy requirements of H SP2a (e) (iii) and (iv) of the Arun Local Plan. The Report acknowledges that the proposed 1FE school site would not accord with H SP2 (c) however the preferred site for the primary school is at Summer Lane. The developments will enhance integration with existing communities and provide opportunities for walking to nearby facilities and services in accordance with policy H SP2 (g).</p> <p>Both the Outline and Reserved Matters applications demonstrate how the development would achieve sustainable growth of Bognor Regis. Furthermore, as an allocated site within the adopted Local Plan, the sustainability credentials of the site (as with all other allocations) have been reviewed as part of the Sustainability Appraisal produced to support the Local Plan. All of these matters were extensively reviewed by the Local Plan Inspector as well as key statutory stakeholders.</p>
<p>Policy ENV DM2 Pagham Harbour requires that all housing proposals in Zone B (which includes the sites of these OPPs) make developer contributions towards the agreed strategic approach to access management at Pagham Harbour and create easily accessible new green spaces for recreation within or adjacent to the development site and these OPPs would make the contributions but do not create accessible new green spaces over and above that required to meet the needs of the occupiers of the residential properties proposed.</p>	<p>The S.106 Agreement for Outline Planning Permission ref. P/134/16/OUT secures a Strategic Access Management and Monitoring contribution of £871/ per dwelling to be used to fund a package of management measures to mitigate any impacts of residential development on Pagham Harbour including wardening, a dog project, website information, signage and monitoring as part of the Pagham Harbour strategic access management and monitoring project. Furthermore, the level of green space at the site has been designed to a level that not only meets the needs of future occupiers but also incorporates a 2.1km circular walking route, reducing recreational pressure on the Pagham Harbour SPA. The Reserved Matters layout includes 4.51 hectares of open space, which shows that the development provides for well in excess of the level of open space required by</p>

	ADC's Open Space and Play calculator which requires 1.67 hectares of public open space.
The separate S106 Agreements relating to each of the OPPs do not make provision for infrastructure to be provided in accordance with the terms of Policy INF SP1 Infrastructure provision and implementation	Policy INF SP1 notes that the Local Planning Authority will support development proposals which provide or contribute towards the infrastructure and services needed to support development (including the necessary infrastructure set out within the Infrastructure Delivery Plan) to meet the needs of occupiers and users of the development and the existing community. The Outline Planning Permission at Land north of Sefter Road, Pagham contributes towards the requirements set out within the Infrastructure Delivery Plan, providing for financial contributions towards: education (early years, primary, secondary and sixth form); libraries; fire and rescue; policing; Strategic Access Management Measures at Pagham Harbour; leisure facilities including swimming pools, sports halls and playing pitches; NHS; WSCC Highways contributions; WSCC footpath contributions; Whyke Hill Junction improvement contribution to Highways England and works being undertaken by Taylor Wimpey to mitigate the transport impact of the scheme including Rose Green Road Priority Junction improvement scheme and provision of pedestrian, cycle and emergency access to Rose Green Road. The indicative cost of total financial contributions arising from the development is in the region of £4.6 million.

## Housing Delivery

All of the aforementioned Outline Planning Permission are located at sites allocated for housing development within the adopted Arun Local Plan. Policy H SP1 identifies that within the plan period 2011 – 2031 at least 20,000 new homes will be accommodated in the District. Policy H SP2a (Greater Bognor Regis Urban Area) notes that strategic site allocations SD1 (Pagham South) and SD2 (Pagham North) will collectively provide at least 1,200 dwellings over the plan period.

The petition seeks to impact upon the delivery of housing at sites allocated for housing development through the Arun Local Plan and which have the benefit of planning permission for residential-led development. The NPPF notes that land with permission should be developed without unnecessary delay (para. 59).

A successful revocation order will not prevent the delivery of residential-led development at these sites but will significantly stall the delivery of these strategic allocations at Pagham resulting in a further detrimental impact upon the housing trajectory.

Local planning authorities are required to identify a supply of specific deliverable sites sufficient to provide a minimum of five years worth of housing against their housing requirement set out in adopted strategic policies. (NPPF, para. 73). ADC is not in a position where it can presently demonstrate a 5 year housing land supply. ADC is reliant on the extant planning permission to contribute towards housing delivery over the Plan period. The Housing Delivery Test published by

MHCLG on 19 January 2021 indicated a 61% under delivery against ADC's housing requirement set out within its Local Plan. The PPG notes that a 20% buffer on the Local Planning Authority's 5 year land supply should be imposed if housing delivery falls below 85% and that the application of the presumption in favour of sustainable development if housing delivery falls below 75%. (Paragraph: 042 Reference ID:68-042-20190722)

Whilst we appreciate that the development proposed at these sites has been relatively contentious with the residents of Pagham, Taylor Wimpey are continuing to work extremely hard to engage with key stakeholders with the preparation and submission of the Reserved Matters application and Design Code Masterplan. Remaining stakeholder concerns are being addressed through the reserved matters process and this is the appropriate place to address such concerns; revocation or indeed modification of the outline permission would be an inappropriate and disproportionate response. We recently attended the Pagham and Aldwick Advisory Group meeting and presented the detailed proposals to members of the Group and other Pagham site developers. The feedback received from Arun District Council and Pagham Parish Council regarding the proposed design and layout of the scheme was positive, confirming that the revised scheme represented an improvement to the previously refused Reserved Matters application layout. Taylor Wimpey confirms its commitment to work with the Council to ensure that Reserved Matters consent is achieved and relevant pre-commencement conditions are discharged as expediently as possible to ensure that residential-led development can be delivered as swiftly as possible.

### Summary and Conclusion

In conclusion, revocation of the aforementioned Outline Planning Permissions as requested by the petition would be a disproportionate response to any material concerns, significantly detrimental to the timely delivery of residential-led development within the District, and expose the Council to significant financial risk as Taylor Wimpey would seek compensation for the costs of abortive work. Therefore, it would not be expedient for the Council to revoke the Outline Planning Permissions and would be contrary to Section 97 of The Town and Country Planning Act 1990 and relevant guidance set out within the NPPG. The revocation of the Outline Planning Permissions will hinder sustainable, identified growth which would not be aligned with the principles of sustainable development as set out within the NPPF.

The grounds presented in the petition to revoke the Outline Planning Permission at Land North of Sefter Road, Pagham have been reviewed in detail and there is no sound basis for any of these grounds to be accepted. The Outline Planning Permission fully accords with relevant policies within the adopted Arun Local Plan. Accordingly, there are no material considerations which indicate that the Outline Planning Permission at 'Land North of Sefter Road' should be revoked. We urge that ADC rejects the demands set out within the petition to revoke the Outline Planning Permission ref. P/134/16/OUT and the other Outline Planning Permissions within Pagham.

Yours sincerely



**HARDEEP HUNJAN**  
Planning Associate

cc. Taylor Wimpey UK Ltd  
Gowling WLG LLP



12 May 2021

Our Ref: OJ/16.154

Karl Roberts Esq  
Arun District Council  
Civic Offices  
Maltravers Rd  
Littlehampton  
West Sussex  
BN17 5LF

Dear Mr Roberts

**Petition before Arun District Council seeking the revocation of planning permission P/25/17/OUT, P/140/16/OUT, P/143/16/OUT and P/30/19/OUT**

I am writing on behalf of my Client, Hallam Land Management Limited, (Hallam) in response to the above Petition. This Petition seeks the revocation of four outline planning permissions granted by the Council in respect of land at Pagham, which includes land at Hook Lane which is subject to Permission P/30/19/OUT that Hallam control.

The land to which these permissions relate is allocated for housing development in the adopted Arun District Local Plan 2018, the soundness of which was confirmed by an independent Inspector who **considered the Council's overall housing needs** and the limited opportunities open to it to meet those needs, given the highly constrained nature of Arun District. The adoption by the Council of the Local Plan 2018 was not subject to any successful legal challenge.

The Permission was issued on 2nd September 2019. The Application (along with the other applications which formed the basis for the other permissions which are subject of the Petition) prompted objections from Pagham Parish Council, various local action groups and individual objectors. The lawfulness of the Permission, which relies in part upon the Local Plan 2018 may only be challenged by judicial review, but no claim was brought within the prescribed time period.

The Petition is devoid of merit and the arguments presented are largely a repetition of those made **both at the time of the Local Plan Examination and thereafter in the context of the Council's** consideration of the planning application. Moreover, the argument put forward that, because the Council is not able to meet the requirement in the NPPF to identify a minimum of five years' worth of housing (para 73), these housing allocation policies are out-of-date, is plainly irrational.

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My Client have sought advice from leading Counsel, Mr Thomas Hill QC, in respect of Section 97 of the Town and Country Planning Act 1990 and I am enclosing this herewith. I am sure the Council will **want to consider carefully Mr Hill's Written Opinion**, especially those sections relating to the use of Section 97 and compensation in respect of any abortive expenditure, loss or damage attributable to the Revocation, where the Petitioner has either misunderstood the legislation, or is seeking to misdirect the Council.

Lastly, and for the avoidance of doubt, my Client, Hallam, strongly object to the revocation of **planning permission P/30/19/OUT for the reasons given above and in Mr Hill's accompanying Written Opinion**. Equally, in the event the Council does chose to revoke this planning permission, I am advised they will be seeking compensation in the terms described by Mr Hill.

Should you have any queries, please do not hesitate to contact me.

Yours faithfully



**Owen Jones**  
**Director**





**HALLAM LAND MANAGEMENT LIMITED**

**LAND AT HOOK LANE, PAGHAM**

**PETITION BEFORE ARUN DISTRICT COUNCIL SEEKING THE REVOCATION  
OF PLANNING PERMISSIONS P/25/17 OUT, P/140/16 OUT, P/134/16 OUT AND  
P/30/19 OUT**

**OPINION**

**INTRODUCTION**

1. I am asked by Hallam Land management Limited (“Hallam”) to consider the content of a petition (“the Petition<sup>1</sup>”) lodged with Arun District Council (“the Council”) which seeks the revocation of four outline planning permissions granted by the Council in respect of land at Pagham. Taken together, these permissions are all the subject of strategic allocations in Pagham which are made in the Arun District Local Plan 2018 (“the Local Plan 2018”). Hallam controls the land at Hook Lane, Pagham (“the Site”) which is the subject of outline planning permission P/30/19 (“the Permission”) and which falls within the allocation SP2a “Land at Pagham North”.

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<sup>1</sup> I have paginated the Petition pp.1-9 when considering it further herein

2. The Permission was issued on 2<sup>nd</sup> September, 2019 pursuant to application reference P/30/19/OUT (“the Application”). The Application (along with the other applications which formed the basis for the other permissions which are subject of the Petition) prompted objections from Pagham Parish Council, various local action groups and individual objectors. However, as noted above, the Site was the subject of a strategic allocation in the Local Plan 2018, the soundness of which was confirmed by an independent Inspector who considered the Council’s overall housing needs and the limited opportunities open to it to meet those needs, given the highly constrained nature of Arun District. The adoption by the Council of the Local Plan 2018 was not subject to any successful legal challenge. The lawfulness of the Permission, which relies in part upon the Local Plan 2018 may only be challenged by judicial review, but no claim was brought within the prescribed time period.
  
3. I have reviewed the Report prepared by Officers for the Development Control Committee Meeting of the Council on 7<sup>th</sup> August, 2019 (“the Report”) which recommended that the Council should grant the Permission. The Report contains a thorough account of the objections received, addresses these objections directly and rejects them in favour of a recommendation of approval. I was immediately struck upon re-reading the Report that the Petition is very largely a belated attempt to re-run the failed arguments which opponents to the Local Plan 2018 and the Application raised in previous years. As such, it represents a misguided and wholly inappropriate attempt to circumvent normal routes for participating in the planning process and, in my opinion, should be firmly rejected by the Council for reasons to which I will now turn.

**THE POWER TO REVOKE A PLANNING PERMISSION PURSUANT TO SECTION 97 OF THE TOWN & COUNTRY PLANNING ACT 1990**

4. I have no quarrel with the summary of the relevant statutory provisions set out in the Petition. However, these are not placed in context. The Council will need to be advised that these provisions are very sparingly used. The statutory planning regime has been established to achieve maximum levels of certainty for all stakeholders, including the beneficiaries of planning permission. For this reason, opportunities to challenge the grant of permission are heavily constrained and limited in both time (6 weeks) and content (error of law). These limits are strictly policed by the Courts and are now reinforced by the Senior Courts Act 1981<sup>2</sup> obligation to refuse to grant relief if it appears to the Court to be “highly likely that the outcome for the applicant for judicial review would not have been substantially different” notwithstanding the finding of an error.
  
5. In parallel with this highly restrictive approach to the challenge of a planning permission, the use of the revocation powers is also highly constrained. In particular:
  - i. a revocation order must be expressly confirmed by the Secretary of State where there is objection to it being made (as there would be in this case); and
  - ii. any confirmed order will be subject to the payment of compensation by the local planning authority in respect of any abortive expenditure or any other loss or damage directly attributable to the revocation order: see section 107 (1) of the 1990 Act.
  
6. Accordingly, contested revocation orders are very rarely made or confirmed.

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<sup>2</sup> Section 31(2A)

**LIABILITY ON THE LOCAL PLANNING AUTHORITY FOR THE  
PAYMENT OF COMPENSATION IN RESPECT OF ANY ABORTIVE  
EXPENDITURE, LOSS OR DAMAGE ATTRIBUTABLE TO THE  
REVOICATION**

7. Here, it would appear that the Petitioners have misunderstood the legislation. They have appreciated that the ruling of the Supreme Court in *HSE v Wolverhampton City Council* [2012] UKSC 34 means that a local planning authority was “entitled and usually required to take into account the cost to the public” of exercising its section 97 powers. However, the account at pages 8-9 of the Petition under the heading “Compensation issues” mistakenly proceeds on the basis that the main head of compensation sought would be in respect of abortive expenditure (matters such as wasted professional fees to discharge reserved matters, trial trenching or other exploratory work carried out post the grant of outline planning permission but prior to implementation). Indeed, it is stated in the Petition that “there is currently no evidence that [certain] landowners have incurred any expenditure that could or would be subject to a claim”.
8. This analysis appears entirely to overlook the broader “loss or damage” head which captures “any loss or damage consisting of depreciation of the value of an interest in land”: as confirmed by section 107(4) of the 1990 Act. Inevitably, by far the greater head of claim would be in respect of depreciation in the value of land consequent upon the revocation of planning permissions for highly valuable residential development. Whilst I would expect the “abortive expenditure” head of claim to run to many hundreds of thousands of pounds, I would expect the “depreciation in value”

head of claim to run to many millions of pounds and, indeed, tens of millions of pounds across the four permissions. I would challenge the assertion made in the penultimate paragraph of the Petition that these levels could be “entertained by [the Council] within normal budgetary procedures”. Accordingly, I would expect the levels of compensation payable by the Council to run well into 8 figures and to pose a serious threat to its financial stability. Pursuing such a course in respect of the revocation of permissions which deliver the strategic allocations set out in the Council’s own independently endorsed and recently adopted Local Plan would not seem to me to be rational conduct for the Council.

#### **THE MERITS OF THE PETITION**

9. As I have already suggested, I consider the Petition to be singularly devoid of merit. It is - in large part - a barely disguised regurgitation of the points which local objectors raised at the application stage and which were considered by the Council and rejected at that stage. The revocation procedure cannot sensibly be used simply to re-run the old arguments pursued by objectors to development with the expectation of a different outcome (but with a terrible financial penalty attached if the Council can be persuaded to perform a *volte face*).
  
10. The points in the “box”<sup>3</sup> are a direct re-run of the objections raised in 2019. The Application was not considered to be a departure in 2019 – neither by Hallam nor by the Council. Indeed, the Application was a response to the strategic allocation of the Site in the recently adopted Local Plan. Had the Petitioners considered there to be an

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<sup>3</sup> Pp.5-6 of the Petition

error of law in this respect, for example in respect of conformity with advertisement requirements, then the correct course was to bring an application for judicial review within 6 weeks of the grant of the Permission; and not to wait two years and make the point in a petition.

11. The suggestion that the strategic allocations are now “out of date” because the Council is failing to maintain a 5 year housing land supply is completely misconceived. The recently adopted allocations do not fall away because the Local Plan requires review – and, in all probability, the allocation of further sites to supplement existing allocations. I am unable to follow the logic by which the Permission is declared to be “undeliverable”<sup>4</sup>. The most significant obstacle to delivery so far has been the guerrilla warfare pursued by Mr Collins and his clients in the form of the submission of conflicting applications and threats of judicial review - which have occupied Council officer time and resource and regularly delayed the bringing forward of the strategic allocations.

12. The Petitioners’ case in relation to the outcome of the forthcoming local plan review is entirely opaque. Plans are continually under review across the country, but that cannot possibly be a reason to reappraise the merits of permissions granted before the latest review has commenced. That way would lie chaos. In any event, the Petition states<sup>5</sup> that “the Petitioners do not say that a revocation of these OPPs would necessarily result in a change to the adopted Local Plan policies”, so their objectives are extremely muddled. This simply goes to emphasise the completely misconceived and inappropriate basis upon which the Petition is advanced.

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<sup>4</sup> Page 7 and footnote 3

<sup>5</sup> Page 7

13. Speculation<sup>6</sup> about how the beneficiaries of the four permissions (which are the subject of the Petition) might respond to revocation is precisely that: straws in the wind. The only known fact available to these beneficiaries (including Hallam) would be that their valuable planning permissions are to be revoked. It would be wholly irresponsible for the Council to proceed upon any basis other than that any revocation order that it might make would be subject to the strongest possible objection and that a full award of compensation would be sought from the Council by all relevant parties.

### **CONCLUSIONS**

14. As I have explained, in the absence of agreement from the beneficiaries of a planning permission, revocation of a permission is, in practice, a rarely used and extreme course of action for a local planning authority to take. One reason for this is the severe financial penalties which it can inflict upon Council Tax payers faced with footing the compensation bill. In my opinion, section 97 is not to be regarded as an opportunity for an authority to change its mind unless there are compelling reasons for so doing. In this case, there is absolutely nothing advanced by the Petitioners which suggests that the decision of the Council's Development Control Committee in 2019 in relation to the Permission was patently taken on an erroneous basis and/or requires urgently to be reversed, with all the severe financial perils which that will bring down upon Arun District.

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<sup>6</sup> Page 8

15. Accordingly, and for all the above reasons, this Petition should be firmly rejected by the Council and I would advise Hallam to make strong representations to the Council that this is the response which it should make.

**THOMAS HILL QC**

**11<sup>th</sup> May, 2021**

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Your Reference

Our Reference  
2649493/TAW1/RJM03



**By Email**

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12 May 2021

**Without Prejudice**

Dear Sirs

**Petition seeking to revoke Outline Planning Permissions refs. P/25/17/OUT, P/140/16/OUT, P/134/16/OUT and P/30/19/OUT**

We act for Taylor Wimpey UK Limited. We understand that Arun District Council ("the Council") has received a petition under its Petition Scheme calling for revocation by the Council of Outline Planning Permissions refs. P/25/17/OUT, P/140/16/OUT, P/134/16/OUT and P/30/19/OUT ("the Petition").

We further understand that the Council has accepted the Petition and that, as it has the requisite number of signatures, the Petition will be considered at Full Council.

We are surprised and concerned that the Petition has been accepted by the Council. The statutory planning regime provides a clear and transparent mechanism for the consideration of planning applications and it is inappropriate for the Council to have an alternative scheme that allows the statutory process to be circumvented.

Indeed, paragraph 2.3 of the Council's Petition Scheme states that:

*A petition will not be accepted where:-*

- *it is considered to be vexatious, abusive or otherwise inappropriate;*
- *it is a statutory petition (for example, requesting a referendum on having an elected mayor);*
- *it refers to a planning or licensing application; or*
- *it refers to a decision for which there is an existing right of appeal or other procedure (for example, Council tax banding).*

The third bullet point specifically excludes planning applications and the Council on this basis should have rejected the Petition.

We presume that the Petition has not been so rejected because the Council has erroneously interpreted the third bullet point as only applying to *live* planning applications. Such an interpretation would provide an

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opportunity for any of the Council's planning decisions to be re-opened after the statutory process had been concluded. The purpose (or indeed unintended consequence) of the Petition Scheme cannot be to undermine the certainty afforded to landowners and developers by the statutory planning regime by allowing objectors to re-open previously considered issues or raise concerns after statutory deadlines have passed.

It is notable in this context that the material considerations raised in the Petition as potential grounds for revocation are not new. These matters were considered fully and properly at the time the applications were determined. Moreover, some of the concerns raised are being addressed through a *live* reserved matters application. These matters are the subject of a live planning application and any objections or concerns should be raised and considered in response to that application.

Even if the word 'application' in the third bullet point is narrowly interpreted not to include planning applications which have been determined, the Petition should in any event have been rejected under the fourth bullet point because the planning regime provides another procedure for objection. The fact that the other procedure has been exhausted by objectors does not prevent the fourth bullet point from applying.

We trust that the Council will reconsider its acceptance of the Petition on the above grounds and consideration of the Petition at Full Council will not proceed. Should the Petition not be rejected, we will advise our client on options for formally challenging the Council's validation decision.

Please note that, should consideration of the Petition go ahead, our client would object to any revocation of the permissions under section 97 of the Town and Country Planning Act 1990 alongside challenging the Council's validation decision. Barton Willmore, our client's planning consultant, has prepared the enclosed letter setting out the reasons why, regardless of the mechanism for bringing consideration of revocation before Members, our client would object to any revocation order made. The content of the Barton Willmore letter should inform Members' material considerations in the context of section 97.

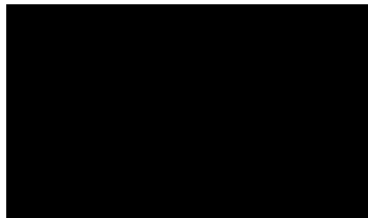
Yours faithfully



 **Enquiries please contact: Rachel Martin**



Gowling WLG (UK) LLP



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Civic Centre  
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Littlehampton  
West Sussex, BN17 5LF

Date: 12 May 2021

Our Ref: PBW/23768/A20

Your Ref: P/140/16/OUT

Dear Mr Roberts

**RE – Petition for Revocation of Planning Permission P/140/16/OUT**

We act for Pagham Homes Ltd, who own the majority of the land south of Summer Lane Pagham, to which PP reference P/140/16/OUT (the "Permission") applies. Our clients thank you for providing the Note prepared by the Petitioners and we write to confirm that our clients object to the proposal.

As a preliminary matter, we question whether or not the Petition should be validated as the Arun DC Petition Scheme clearly states that petitions regarding planning applications will not be accepted. This is because a statutory process exists for third parties to make representations during the consideration of planning applications. On that basis the petition should not be validated. If however the Council does elect to validate the petition and consider the request to revoke the Permission then we confirm on behalf of our clients as follows -

- 1- In the event that the Permission is revoked then an objection to that revocation will be made and pursuant to Section 98 of the Town and Country Planning Act 1990 the Revocation will have to be submitted to the Secretary of State for confirmation; and
- 2- In the event that a Revocation of the Permission is confirmed by the Secretary of State, compensation will be sought in accordance with Section 107 of the Town and Country Planning Act 1990.

With regard to the specific issues raised in the Petitioner's Note there are a number of inconsistencies and misleading statements. These are considered in further detail below. --

1. The Petitioner's Note is misleading as it seeks to identify areas where there has been a departure from the Development Plan in granting the Permission. The current Development Plan includes the Arun District Council Local Plan (ALP), which was adopted in 2018, and it is specific policies within that plan that the Petitioner identifies as being departed from. Unless stated otherwise, references to policies in this letter are from the ALP.
2. It is clear from the Officer's Report prepared in the consideration of the application before Permission was granted (the "Officer's Report") that the application was considered against all of the identified policies and that there are clear and rational explanations of how the policy requirements have been met. The following points are made in direct response to the areas identified in bullet points in the Petitioner's Note regarding departures from the Development Plan -

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- a. It states that the site is allocated as green infrastructure for the purposes of policy GI SP1. This policy does not allocate green infrastructure, and instead sets the basis on which proposals should be considered where they will affect green infrastructure. The site is in fact in agricultural use and is not in itself green infrastructure.
  - b. It states that Policy HSP1 allocates the site for 400 dwellings to be built by 2025/26 with development commencing on site with 50 dwellings being built in 2018/19. Policy HSP1 does not do this, it sets a total target of 20,000 homes between 2011-2021 for the entire District. There is nothing specific with regard to the timing of delivery of the Pagham site.
  - c. It states that Policy HSP2 requires development to be carried out in accordance with a masterplan and that the Permission was not granted subject to that requirement. That is incorrect, as there are conditions within the Permission requiring a Design Code Masterplan and the Design and Access Statement submitted with the application sets out different character areas. This is explained and considered clearly in the Officers Report.
  - d. It states that Policy HSP2a requires certain requirements and that there is no evidence that this is being met. There is an assessment of the infrastructure that the Development will deliver in the Committee Report which specifically considers how the proposal meets the requirement of Policy HSP2a.
  - e. It states that Policy ENV DM2 is not met because the Permission does not provide sufficient greenspace. The Officer's Report contains a detailed description of the process that was followed in accordance with the Habitats Regulations to ensure that an Appropriate Assessment was carried out to determine the impact on Pagham Harbour. The Officer's Report confirms that in discussion with Natural England a package of mitigation measures was agreed upon which included the provision of on-site green space.
  - f. The Note states that the Section 106 Agreement entered in support of the Permission does not provide infrastructure in accordance with policy INF SP1. This is patently false as the Section 106 Agreement delivers a wide range of planning obligations.
3. The suggestion in the Petitioner's Note that certain publicity requirements should have been followed in accordance with the Development Management Procedure Order because of a departure from Development Plan policy is incorrect because for the reasons explained above, the Development Plan policies were followed and there was no departure.
  4. The Petitioner suggests that the Permission is effectively unimplementable due to ADC determining that housing policies being out of date. The Arun District Council Local Development Scheme 2020-23 confirms the current position is that the ALP is the current adopted policy document against which planning applications should be judged. The Council has resolved to review the plan, but it remains the current adopted policy of the Council. The Petitioner's suggestion that it is therefore somehow impossible for any reserved matter applications to be properly determined because the policies have changed is therefore incorrect. Additionally, even if the policy had changed, that would not be a reason for an extant outline position to be unimplementable.
  5. The suggestion that some landowners or promoters may simply accept a revocation and seek a new planning permission is wholly unrealistic. Whilst we can only speak directly on behalf of our clients, it is extremely difficult to imagine that any other party with an interest in any of the sites would not object to a revocation and seek compensation in the event that a revocation order is made.
  6. The notion that there has been little or no expenditure in connection with the Permission is inaccurate. The Petitioner's Note suggests that because the Development has not been implemented, there has been no expenditure. The reality is that in addition to the purchase of the Site, my clients have already spent a significant amount in the preparation of Reserved Matter Applications and in preparing materials for the discharge of conditions. For commercial reasons we are not in a position to provide actual figures of the costs incurred to date but the Council should be aware that the amount sought would be tens of millions of pounds.

Stockport London Luton Richmond Southampton Yorking

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moore  
barlow

7. The Note suggests that changing policies in neighbouring districts and at Parish and County level may be a reason to revoke existing planning permissions. It would be completely impractical for existing permissions to be revoked every time there is a change in policy at any level. Any changes in policy within Arun, or by a connected authority may be relevant for future determinations or future plan making within Arun but they should never trigger a review of extant consents.

As explained above the Petition should not even be validated in accordance with the Arun DC Petition Scheme as this is a planning matter and the time to object to this Permission has long since passed. However, in the event that the Petition is validated and is considered, the Council should note that any revocation will be opposed and compensation will be sought in the event that the Permission is revoked.

Yours faithfully



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Karl Roberts  
Director Place  
Arun District Council

your ref  
our ref RQS.054507.01300  
direct dial [REDACTED]  
email [REDACTED]  
date 12 May 2021

**By Email:** [Karl.Roberts@arun.gov.uk](mailto:Karl.Roberts@arun.gov.uk)

Dear Sirs

**Revocation Petition – Outline Planning Permission Reference: P/140/16/OUT (the Petition)**

We act for VIVID Housing Limited (**VIVID**) in respect of the above matter. VIVID is a development partner of Paghams Homes Ltd (a subsidiary of Foreman Homes Ltd) and is closely involved in the development described in the above planning permission. We ask that this letter be made available to Councillors attending any Full Council meeting and/or the Development Control Committee if the Petition is put before such meeting(s) for consideration.

It is clear from the Arun District Council's (the **Council**) petition scheme (ratified by Full Council on 8 January 2014) that the petition is invalid because it relates to "planning applications" as described in Section 2.3 of the petition scheme. In the circumstances it would be inappropriate for the important business of Full Council to be distracted by matters that have already been considered and conclusively determined by the Council's planning committee, and as such the Petition can be dismissed immediately on this basis alone.

Notwithstanding the above, VIVID also strongly urges the Council to dismiss the proposals set out in the Petition on the substance of the petition. Making an order to revoke the planning permissions mentioned in the Petition would:

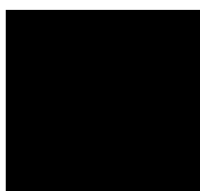
- Result in the Council being liable for compensation claims running into the tens of millions of pounds, from our client alone;
- Represent a devastating set back for housing delivery within Arun District, and in particular affordable housing delivery;
- Trigger a lengthy and costly appeal process before the Secretary of State who would need to confirm any revocation order should the Council make such an order;
- Ultimately be bound to fail given the ill conceived points raised in the Petition.

**Background to the Development**

Following a resolution of the Council's planning committee, outline planning permission was granted on 22 November 2018 for outline permission (the **Permission**) for the development of land south of Summer Lane and west of Paghams Road comprising of up to 400 dwellings and other mixed use development (the **Development**). All matters were reserved save for access.

LONDON BIRMINGHAM EXETER MANCHESTER ABU DHABI BAHRAIN DUBAI MALAYSIA OMAN

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The site is former agricultural land and spans an area of 22.97 hectares. The Permission is unimplemented but remains extant. A reserved matters application has not yet been submitted but is in the process of being worked up between Pagham Homes and VIVID.

### **VIVID's Involvement**

The Development land has multiple landowners. Pagham Homes has purchased part of the land forming the Development and has entered into contractual arrangements with VIVID to bring the scheme forward. Pagham Homes and VIVID are proposing to provide 105 affordable homes secured under the S106 Agreement and a further 114 affordable housing dwellings secured via grant funding. The Development will therefore be providing significantly more than 50% affordable housing, making this a compelling scheme that is clearly and overwhelmingly in the public interest. The Development also utilises a significant portion of VIVID's strategic partnership grant. VIVID has been able to secure a very significant allocation of grant for the scheme to deliver additional affordable housing, which would be lost if the Permission is revoked.

VIVID is therefore fully committed to delivering the Development alongside Pagham Homes, and any decision to revoke the Permission would represent a major set back in terms of affordable housing delivery, and indeed it would hinder the Council's ability to meet the objectives of its development plan as a whole.

### **Response to specific issues raised in the Petition**

We set out below the key assertions made by the Petition, together with VIVID's response.

Assertion 1: There was a procedural error at the time the Permission was granted because the application was not publicised as being one that departs from the development plan

This is plainly wrong. It is plain from the planning committee report that the Permission was granted on the basis that the Development does adhere to the development plan. It follows that there was no procedural error. The Petition simply seeks to re-litigate the merits of the planning application some 3 years after it was determined. The Permission is legally valid (and has already been upheld by the High Court in previous judicial review proceedings) and cannot now be challenged on these vexatious procedural grounds.

Assertion 2: That some of the policies against which the application was assessed are now out of date

This assertion is irrelevant. Planning law requires that applications be determined in accordance with the development plan unless material planning considerations indicate otherwise. Applications are to be assessed at the time that the decision is made. Decision makers are not required to revisit planning permissions where there have been changes in circumstances (policy

or otherwise) since the grant of the permission. Such policy changes are a constant feature of the planning system, whereas decisions to revoke planning permissions due to policy changes are rarely (if ever) encountered. In this case the Committee Report robustly considered planning policy within the up-to-date local plan and the Development was deemed to accord with the said plan.

Even if the Petition was correct that relevant policies are out of date (which is denied), it would not result in a different outcome in terms of the merits of the Permission. Indeed since the Permission was granted, the case in favour of the Development is even more compelling. The Government Housing Delivery Test figures for 2020 demonstrate that over three years to 2020 the Council has only delivered 61% of the required housing target - 1,879 homes delivered out of the 3,092 homes required. This has therefore triggered a 'presumption in favour of sustainable development'. In 2019, housing delivery was low enough to warrant the Council producing an action plan which confirmed that the Council could not demonstrate a five year housing land supply. It is therefore evident that the housing to be delivered by the Development is a crucial contributor to the Council's housing targets. Four permissions are the subject of the Petition, which would represent a loss of up to 1,000+ homes for the Council which would be wholly unacceptable.

#### Assertion 3: That the Development is undeliverable

This is fundamentally wrong. Pagham Homes and VIVID have entered into legally binding commitments to bring forward the scheme. Only a decision to revoke the Permission stands in the way of delivery.

#### Assertion 4: That there is "new evidence" in the form of new and emerging policies

The Petition entirely fails to articulate how changes in the plans of other authorities in the area, or the policies of Natural England or those within the NPPF has any bearing on the merits of the Development. There are no changes in policy that would justify the draconian act of revoking the Permission.

#### **Expediency of Revocation**

A decision to revoke a planning permission may only be made where it is "expedient" to do so. It is clear that it would not be expedient for the Council to revoke the Permission for the reasons set out below:

#### Housing delivery

As noted above, the Government Housing Delivery Test figures for 2020 demonstrate that over three years to 2020 the Council has only delivered 61% of the required housing target - 1,879



homes delivered out of the 3,092 homes required. Revoking the Permission would exacerbate that problem, and would risk the Council being placed in special measures by the Government.

#### Loss of Affordable Housing grant

VIVID has secured a very significant allocation of grant funding to provide additional affordable housing at the Development. If the Permission is revoked, the grant will be lost. There is no guarantee that it could be secured in the future if a new permission were to be granted post revocation. This would result in a devastating loss of affordable housing, the impact of which should not be underestimated.

#### The site would remain allocated for housing

It should be noted that a decision to revoke the Permission would not prevent the site from being developed - it would only delay matters given that the Secretary of State would be likely to reject any revocation order. Even if the Secretary of State did decide to confirm a revocation order, the site would remain allocated for new housing and a further planning application would be inevitable. This would pose a risk to the Council because the Government plans to significantly de-regulate the planning system, giving local authorities less say over the design of new development and reducing the overall burden on developers.

#### Precedent

Any decision to revoke would set a dangerous precedent for the Council. If the Council decided to revoke the Permission (or any of the other permissions mentioned in the Petition) the Council would need to undertake a review of all of its extant permissions across Arun District and consider whether the reasons for revocation applied equally to other sites. This would be a huge administrative task, and a gross waste of public resources. But revoking the Permission whilst failing to apply the same approach to other sites could itself lead to judicial review proceedings against the Council.

#### Compensation

In considering whether to exercise its powers under section 97 TCPA 1990 the Council must have regard to the compensation it would have to pay under section 107 TCPA 1990. As a custodian of public funds the Council must consider whether the potential cost of revocation is proportionate to the aim (*see Health and Safety Executive v Wolverhampton City Council*). This is of vital importance and very significant weight should be afforded to the financial implications of a decision to revoke.

As mentioned, the Permission has not yet been implemented but remains extant. However, compensation pursuant to section 97 TCPA 1990 would include the significant depreciation of the value of the land that would be suffered, which would run into the tens of millions of pounds. But the compensation that the Council would be liable for goes much wider than the depreciation in land value. The Council would also be liable for other losses including abortive reserved matters application costs incurred to date (currently budgeted to be £400,000 alone), abortive costs incurred post grant of the Permission, the costs of re-starting the planning application process, the costs of appealing to the Secretary of State against revocation.

VIVID estimates that the total value of compensation claims from VIVID alone would exceed £20 million.

The Council should be in no doubt that if it revoked the planning permissions mentioned in the Petition, costly, complex and time consuming litigation would ensue in relation to multiple compensation claims. As well as being a total waste of public funds, the inevitable litigation would prove to be a significant distraction from the proper business of the Council, and would harm the capacity of officers to deliver on the Council's priorities.

### **Opposed orders referred to the Secretary of State**

Where there is an opposed revocation order it must be confirmed by the Secretary of State who would convene an inquiry to consider the merits of the order. Given the obvious lack of any merit in revocation, VIVID and other interested parties to the inquiry process would have strong grounds on which to seek a costs award against the Council, which would be likely to be very substantial indeed.

The Council should be on notice that not only is there significant financial risk associated with public inquiries and court proceedings, but that these processes would be lengthy and complex, which would further undermine the delivery of new housing at the Development site. It is inconceivable that development would proceed whilst appeals or litigation is ongoing, thereby putting the development back by several years at the very least.

### **Conclusions**

The power to revoke is a rarely used piece of legislation. A parliamentary briefing paper issued on 4 July 2016 on revocation states: *"Powers to revoke planning permission are very rarely used. Where they are used they are often uncontentious and unopposed. Since 2009 only three revocation orders issued under section 97 TCPA 1990 have been submitted to the Secretary of State for confirmation"*.

The Development has already suffered delays as a result of high court litigation. The Council will be aware that Pagham Parish Council (led by Paul Collins) lodged a failed statutory challenge in



the High Court which was dismissed on 4 July 2019 (the **Challenge**). Justice Andrews commented that on a fair reading of the Committee Report, it drew the Committee's attention to the 'proper approach required by the law'. Justice Andrews also commented that the Challenge was 'fundamentally misconceived'. The Petition is simply the latest vexatious attempt to frustrate the Development and should be roundly dismissed.

A decision to revoke would be a huge and unnecessary distraction from the task at hand, namely tackling the housing crisis and delivering for local people. The fall out from a decision to revoke the Permission would take years to resolve, and would not serve the Council's constituents or further the objectives of the Council's development plan.

Whilst VIVID appreciates and applauds the importance of consultation and local involvement in the planning process, all stakeholders have already had the opportunity to engage in the planning application. The representations of stakeholders were faithfully taken into account by the planning committee in 2018. It is clearly not appropriate or desirable for the merits of planning applications to be re-litigated years after the event. Such an approach would clearly cause harm to the reputation of Arun District as a place to do business and to build much needed new homes.

VIVID therefore urges the Council to dismiss the proposal outlined in the Petition to ensure VIVID along with others having an interest in the Development land can deliver much needed new housing as soon as possible for the public's benefit.

If you require any further information, please contact Rory Stracey via the details above. Please can you also copy in Jasmine Ratta, to any emails. Her email address is [REDACTED]

We look forward to hearing from you as soon as possible on the above.

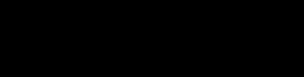
Yours sincerely

[REDACTED]

**Trowers & Hamlins LLP**

Karl Roberts Esq  
Director Place  
Arun District Council  
Civic Centre  
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West Sussex, BN17 5LF  
**SENT BY EMAIL**

30a Upper High Street  
Thame  
Oxfordshire, OX9 3EX

  
Ref: JS/LANG/PAGH  
Date: 11th May 2021

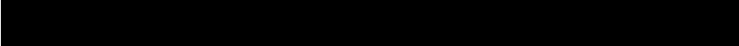
Dear Mr Roberts

**Re: Petition requesting the revocation of Planning Permission P/140/16/OUT ("the Planning Permission")**

I write on behalf of my clients, Hanbury (AM) Ltd and members of the Langmead family (who own part of the Summer Lane site which has the benefit of the Planning Permission) regarding the petition submitted to the Council by Paul Collins on 15th February 2021. I understand that you are currently considering the validity of said petition but that if it is considered valid, you will be writing a report to members in respect of said petition to be presented at an upcoming Full Council meeting. As you will be aware, my clients remain the landowners of a portion of the site with the benefit of the Planning Permission. **In essence, this is the land occupied by "Phase C" of the proposed development plus the land safeguarded for the new WSCC primary school. The balance of the site (i.e. "Phases A and B") has been sold to Pagham Homes** who (through their agent Foreman Homes) will develop those phases and who I understand will be writing to you separately in relation to the petition.

I make no comment within this letter as to the validity or otherwise of the petition as I have not seen the full petition. I have, however, seen a copy of the "*Case submitted on behalf of the petitioners*" by Mr Collins and write to respond to and correct a number of the assertions made therein. As seems to be a regular occurrence, Mr Collins makes a number of statements and assertions within the document that are both fundamentally incorrect and misleading and whilst I am sure you are already alive to most of these points (and I cannot believe for one moment that the Council will consider acceding to this completely unjustified request) my clients regard it as important that they are corrected. Much time and cost has already been wasted (by my clients, the Council and Pagham Parish Council) in relation to this site due to the completely unjustified judicial review proceedings previously brought. You may recall **that said judicial review claim was described by the judge in her judgment as "yet another example of the type of nit-picking scrutiny of a planning officer's report which is to be utterly deprecated."** I am therefore sure that the Council will share our aspiration to avoid any further such wastage or delay.

I set out the relevant points in response to the arguments in support of the petition in the following sections of this letter. However, as a fundamental and overarching point the Council should note that my clients (and I would be amazed if the same approach is not taken by the landowners of the other impacted sites) will vehemently object to and oppose any proposed order revoking the Planning Permission. Whilst Mr Collins (somewhat unconvincingly)

  
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ventures to suggest that this might not be the case with some of the landowners, the Council and its members should be under no illusions on this point.

In response to the case put forward on behalf of the petitioners, we would respond as follows:

**1. Planning permission P/140/16/OUT was not granted as a departure from the development plan**

Every claim made within the table within the case for the petitioners setting out the purported departures from the development plan in respect of the decision to grant the Planning Permission is simply incorrect. Moreover, Mr Collins is well aware this is the case in most instances (or at least he should be) as he made detailed representations objecting to the application for the Planning Permission and Pagham Parish Council (for whom he was acting at the time) pursued a number of these claims regarding alleged non-compliance with the development plan policies in the judicial review proceedings relating to the Planning Permission. They were found (twice) not to be arguable and were rejected by the High Court who refused permission to proceed on the relevant ground (ground 3 in the JR). Specifically:

- A simple reference to the relevant Parish map for Pagham (copy attached) shows that the strategic Pagham South allocated site is not allocated as Green Infrastructure for the purposes of Policy GI SP1;
- The Planning Permission was granted by the Council on the basis that the application was considered to accord with the development plan as a whole and indeed considered to accord with the specific key development plan policies referenced in the table. A simple reference to the committee reports makes this clear. Officers concluded and advised members that the development was considered to be sustainable development (and indeed re-iterated that the site had previously been confirmed as such through the local plan allocation process) and accorded with the up-to-date development plan and members granted the Planning Permission accordingly;
- The proposed development creates accessible new green spaces and was considered to accord with policy ENV DM2. The policy requires **developments to “create easily accessible new green spaces for recreation within or adjacent to the development site. These shall be capable of accommodating the predicted increases in demand for local walking, including dog walking. Good pedestrian links shall be provided between housing areas and new and existing green space in order to discourage car use”**. There is no requirement for developments to create spaces over and above those required to mitigate demand created by the development itself although the relevant areas are accessible to all members of the public;
- The Planning Permission was granted subject to a s106 Agreement which secured the infrastructure considered necessary to mitigate the development by both the Council and the County Council and thus complied again with the relevant development plan policies;
- It is unclear where **Mr Collins finds the justification for his comment that development is “not predicted to commence until 2025/26 earliest.” This is just fundamentally incorrect. As the Council will be aware, under the Planning Permission the latest development can commence on site is November 2023, but my clients and Foreman Homes are actively working to discharge the relevant conditions and obtain reserved matters approvals in order to commence on site as soon as possible.**

**2. The Development Plan policies remain a key consideration for the purposes of any decision taken under s97(2) of the Town and Country Planning Act 1990**

Regardless of whether any of the specific development plan policies within the 2018 Local Plan are treated as out of date for the purposes of paragraph 11(d) of the NPPF when the Council (or Secretary of State) has to determine

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planning applications, the adopted development plan remains the starting point in considering whether to exercise any powers under s97. Indeed, as has been pointed out, Section 97(2) expressly states that:

*"In exercising their functions under subsection (1) the authority shall have regard to the development plan and to any other material considerations."*

Therefore, the Council has a statutory duty to have regard to the relevant development plan policies in considering this petition request and to base its decision on those policies unless there are material considerations justifying a departure from the adopted policies. There is nothing in the NPPF to state that the relevant policies are considered **"out of date"** for the purposes of the decision the Council is being asked to take here.

However, even if that were the case, the Council has already concluded twice (when the site was allocated and again when the Planning Permission was granted) that the site/development is sustainable for the purposes of the NPPF and it is well established as a matter of law that even if policies are considered out of date for the purposes of paragraph 11(d), they are not simply disregarded by a decision maker. The Council is still required to take the policies into account and to apply appropriate weight to those policies having regard to the relevant circumstances. The primacy of the development plan remains. Where the presumption in favour of sustainable development tends to be considered by decision makers to outweigh **"out of date"** development plan policies is where those policies are seen as restricting or preventing housing development needed to meet the 5-year housing supply and thus the presumption is applied so as to enable development which conflicts with the relevant policy or policies but is considered to be sustainable to come forward. I have never encountered a situation where it has been suggested that the presumption in favour of sustainable development might be used to refuse an application on an allocated site (found to be sustainable) which accords with the development plan or to revoke a planning permission for such a site!

Policies HSP1, HSP2 and HSP2a remain policies within the (still recently) adopted development plan. In considering this request, the Council must have regard to those policies and what they seek to achieve. Revoking the Planning Permission which was granted in the basis it accords with the development plan and relates to an allocated strategic site **would be completely contrary to the Council's adopted development plan and, indeed, its aim** through the Housing Implementation Strategy to increase the supply of housing sites over and above the existing supply in order to seek to meet an identified and currently unmet housing need.

This point is particularly relevant in the context of a situation where the Council cannot demonstrate a 5-year supply of housing (even including these commitments on the strategic allocations). By my calculations, the loss of the four sites targeted by the petition would risk reducing the Council's currently deliverable housing land supply by over 1000 dwellings. Contrary to the assertion made in support of the petition, the revocation of these permissions would therefore clearly **prejudice the Council's ability to provide a 5-year supply of deliverable sites** and that is actually a material consideration which clearly lends further support to the refusal of the petition request. It certainly could not be rationally concluded that it is a material consideration justifying revocation of a permission that accords with the development plan.

**3. The suggestion that it is a "material consideration" that the Council has no ability to ensure these sites are developed in accordance with the terms of the respective outline permissions and s106 Agreements.**

Again, this is just fundamentally incorrect and in fact is yet another argument against the petition. As we have highlighted repeatedly, the Planning Permission was granted because it accorded with the development plan. As you will be aware, any reserved matters submissions (which are not planning applications) will be required to accord with the principles and parameters established by the outline planning permission and thus will by definition accord with the relevant development plan policies. The s106 Agreement binds any development pursuant to the Planning Permission. It is therefore the case that the best means of ensuring that development of this site accords with the relevant adopted development plan policies is to encourage the development of the site pursuant to the Planning

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Permission. If the permission is revoked and a new application has to be submitted, there would actually be less certainty in this regard given the current housing land supply position. As such, if this point is considered a material consideration relevant to the decision at all, it certainly is not a material consideration supporting revocation of the planning permission. It is once again the opposite.

**4. The assertion within the petition that P/140/16/OUT is "undeliverable" is wrong and again is not supported by either facts or evidence.**

My clients' site has the benefit of the Planning Permission which is extant. My clients and Foreman Homes have been working with the Council to discharge relevant conditions in order to enable the imminent submission of reserved matters. To the extent that there has been any delay with this site, it was caused in no small part by the judicial review proceedings that followed the grant of the planning permission and effectively delayed matters on site by a year. There is, however, absolutely no evidence to suggest that this site will not be delivering homes within 5 years. This is reflected in the fact that this site (along with the other three targeted by the petition) is considered a "commitment" within the Arun Council Housing and Economic Land Availability Study 2020 and forms part of the Council's current deliverable housing land supply which I understand to be 3.3 years. Revoking this planning permission would only cast doubt over the deliverability of the site and over that 3.3-year supply which may then be exploited by those lodging speculative planning applications reliant on the Council's inability to demonstrate a 5-year housing land supply.

**5. Other new evidence**

It is difficult to comment on the other new evidence cited in support of the petition as no detail has been provided as to what within that evidence might represent a material consideration justifying even the consideration of revocation of a planning permission on an allocated site under an adopted development plan to the detriment of the Council's (already unmet) 5-year housing land supply position. No specific evidence/material consideration has been cited or identified as either supporting the claim for revocation let alone one justifying a departure from the recently adopted development plan. However, in respect of the Pagham Neighbourhood Plan we would point out that this has been discontinued.

**6. Compensation and Cost Issues**

As is rightly pointed out within the case for the petition, it has been established as a matter of law that the compensation (or to put it another way the potential costs to the authority and the public) payable by the Council in the event of and as a consequence of any revocation is a material consideration for the authority to take into account in deciding whether or not to revoke any planning permission. In this regard, I would make the following points:

- My clients can categorically confirm that if the Council decides to make an Order revoking the Planning Permission they will object to any proposed Order. This means that the matter will require confirmation by the Secretary of State and almost certainly a costly public inquiry to consider the same. Given that we consider there to be no valid grounds for revocation of the Planning Permission then in the (inevitable in my view) event that the Secretary of State refused to confirm the Order I am confident that my instructions would be to would seek to recover the costs of any inquiry from the Council;
- Similarly, in the event that any revocation order was upheld by the Secretary of State, I can confirm that my clients would look to claim any available compensation and I understand that Pagham Homes/Foreman Homes would take the same approach. As the Council is no doubt aware, compensation can be claimed for any diminution in the value of the land resulting from the revocation of the Planning Permission and as such, members should be left in no doubt that any such compensation claim would be extremely significant. In terms of planning related costs since the grant of the Planning Permission, my clients have incurred many

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hundreds of thousands of pounds on condition discharge, technical and detailed design matters but any impact on land value would clearly be even more significant. Whilst, for commercial and confidentiality reasons, I am not able to provide specifics of the price paid for the land that has been acquired from my clients, I am instructed that the difference between the existing agricultural land value of the site and its value with planning permission is considered to be in the region of £350,000 per acre. The site covered by the Planning Permission is 66.7 acres. This should therefore give you an indication of the likely scope of any potential compensation claim and this only relates to one of the four sites covered by the petition.

## Conclusions


In conclusion, therefore, there is in my view no justification for the revocation of the Planning Permission which would serve no planning purpose and would in fact be harmful to the Councils housing and development plan strategy and housing land supply position. The Planning Permission relates to an allocated site within a recently adopted development plan. It was granted on the basis that it accorded with said development plan. There is clearly, therefore, no justification, having regard to the development plan, to revoke the Planning Permission. In addition, **all relevant material considerations (e.g. the need to preserve the deliverability of the site and the Council's current housing land supply, loss of a primary school site needed by WSCC to serve the needs of the area, the enormous financial costs to the Council should the Planning Permission be revoked)** also clearly support rejection of the petition. Not one valid material consideration has been put forward that justifies even considering revocation of the Planning Permission and whilst I appreciate that the constitutional procedures of the Council may still require consideration of the petition, I hope and trust that members will be clearly advised that there are absolutely no grounds for revocation and indeed of the very significant potential consequences for the Council should they decide to do so.


I am sure that you were already well aware of many of the above points (and indeed the inaccuracies in the case put forward by Mr Collins) but I would be grateful if you could confirm that this letter will be taken into account and these points addressed in any report presented to the members. We would obviously also be grateful if you could notify us when the petition is likely to be considered and whether we are able to address the relevant committee meeting.

**As a final point, it is not clear from the "Case on behalf of the Petitioners" on whose behalf Mr Collins is acting here** although I am obviously aware that in previously opposing the planning application for this site he acted on behalf of Pagham Parish Council and in other recent correspondence with the Council (usually on multiple applications/matters but filed on the register page for the Planning Permission) **he has stated that "I act for no-one except myself in these matters."** I am also aware, however, that he has in the past acted for clients with significant land holdings and/or interests in the Yapton and Ford area and it is clear from his recent email of 26 January 2021 that he continues to promote the possibility of a future development strategy in the District centred on a new **settlement of over 7,000 dwellings "focussed around Ford Airfield in the parishes of Yapton, Ford and Climping."** Indeed, he actually offers within that email to provide details of how this can be achieved suggesting a continued involvement in that project. This being the case, we would ask that officers and members be alive to possible ulterior motives behind this action, not from the individual residents who may have signed the petition but rather of those involved who may not have the **"altruistic"** and anti-development motives one might assume.

With kind regards

Yours sincerely


  
**James Smith**  
Principal and Director

  
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For and on behalf of James Smith (Planning Law Services) Limited

  
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# Public Document Pack Agenda Item 6

Subject to approval at the next Full Council meeting

1

## MINUTES OF A VIRTUAL MEETING OF THE THE ANNUAL MEETING OF THE ARUN DISTRICT COUNCIL HELD ON 19 MAY 2021 AT 6.00 PM

Present: Councillors Mrs Worne (Chairman), Brooks (Vice-Chair), Baker, Bennett, Bicknell, Blanchard-Cooper, Bower, Caffyn, Catterson, Chapman, Chace, Charles, Clayden, Mrs Cooper, Cooper, Coster, Daniells, Dendle, Dixon, Edwards, Elkins, Mrs English, English, Goodheart, Gregory, Gunner, Hamilton, Haywood, Hughes, Huntley, Jones, Kelly, Lury, Madeley, Needs, Northeast, Oliver-Redgate, Oppler, Pendleton, Purchase, Rhodes, Roberts, Seex, Smith, Stainton, Staniforth, Stanley, Tilbrook, Thurston, Walsh, Warr and Yeates.

Honorary Aldermen Mrs Stinchcombe and Mr Dingemans were also present during the meeting.

[Note: The following Councillors were either absent from taking part in the named vote contained in the following Minutes or were absent from the meeting for that item:- Councillors Hamilton and Purchase – Minute 1 to 2 (Part); Councillor Oliver-Redgate – Minutes 1 to 3 (Part); Councillor Stainton – Minute 11 (Part) to Minute 16; Councillor Catterson – Minute 10 (Part) to Minute 16; Councillor Dendle – Minute 12 (Part)].

### 1. WELCOME

The Chair welcomed Councillors, Honorary Aldermen, Officers, members of the public and press to the Annual Meeting of the Council.

The Chair confirmed that this meeting was being held in accordance with the resolution of the Extraordinary Council meeting of the Council held on 12 May 2021 which continued Section 5 Part 5 of the Constitution (The Virtual Meeting Procedure Rules) and declared the use of Council powers, under Section 111 of the Local Government Act 1972, and the general power of competence under Section 1 of the Localism Act 2011, for making advisory decisions, as appropriate.

### 2. APOLOGIES FOR ABSENCE

Apologies for Absence had been received from Councillors Batley and Buckland and from the Council's Honorary Alderman Mrs Goad, MBE.

### 3. DECLARATIONS OF INTEREST

There were no Declarations of Interest made.

Full Council - 19.05.21

The Declaration of Interest Sheet set out below confirms those Members who had made a declaration of their personal interest as a Member of a Town or Parish Councillor or a West Sussex County Councillor, as confirmed in their Register of Interest as these declarations could apply to any of the issues to be discussed at the meeting.

<b>Name</b>	<b>Town or Parish Council or West Sussex County Council [WSCC]</b>
Councillor Tracy Baker	Littlehampton
Councillor Kenton Batley	Bognor Regis
Councillor Jamie Bennett	Rustington
Councillor Paul Bicknell	Angmering
Councillor Billy Blanchard-Cooper	Littlehampton
Councillor Jim Brooks	Bognor Regis
Councillor Ian Buckland	Littlehampton and WSCC
Councillor David Chace	Littlehampton
Councillor Mike Clayden	Rustington
Councillor Andy Cooper	Rustington
Councillor Alison Cooper	Rustington
Councillor Sandra Daniells	Bognor Regis
Councillor David Edwards	WSCC
Councillor Roger Elkins	Ferring and WSCC
Councillor Paul English	Felpham
Councillor Steve Goodheart	Bognor Regis
Councillor Pauline Gregory	Rustington
Councillor June Hamilton	Pagham
Councillor Shirley Haywood	Middleton-on-Sea
Councillor David Huntley	Pagham
Councillor Henry Jones	Bognor Regis
Councillor Martin Lury	Bersted
Councillor Claire Needs	Bognor Regis
Councillor Mike Northeast	Littlehampton
Councillor Francis Oppler	WSCC
Councillor Jacky Pendleton	Middleton-on-Sea and WSCC
Councillor Vicky Rhodes	Littlehampton
Councillor Emily Seex	Littlehampton
Councillor Martin Smith	Aldwick
Councillor Samantha Staniforth	Bognor Regis
Councillor Matt Stanley	Bognor Regis
Councillor Isabel Thurston	Barnham & Eastergate
Councillor James Walsh	Littlehampton and WSCC
Councillor Jeanette Warr	Bognor Regis
Councillor Amanda Worne	Yapton
Councillor Gillian Yeates	Bersted

4. MINUTES

The Minutes of the Extraordinary Meeting of the Council held on 12 May and the Full Council meeting held on 12 May 2021 were approved by the Council as a correct record and would be signed by the Chair when normal office functions started again.

5. RETIRING CHAIR'S ANNOUNCEMENTS

The retiring Chair, Councillor Worne, outlined that although it had been a very tough year, for all sorts of obvious reasons, it had been a great honour to have been Chair of the Council and that she had enjoyed her year in office enormously. She had been the first person ever to be Chair through a global pandemic and she certainly hoped that she would be the last.

Councillor Worne confirmed that she was truly grateful to all Councillors who had been supportive towards her and she appreciated all the lovely messages and emails that had been sent after some of the more challenging meetings held.

During Covid-19, engaging with the community had been very hard and the usual social events a Chair would attend had not been possible. However, Councillor Worne had fortunately managed to be imaginative and had created some events of her own. An overview of these events was then provided listing the activities that had been specifically organised for her Charity.

Finally, on Sunday 16 May 2021, she completed a 24 hour marathon accompanied by her Vice-Chair Councillor Brooks in which they had received amazing support from other Councillors and members of the public. To date a total of £3,000 had been raised for PASCO (Parent and Carers Support Organisation) her chosen charity and donations were still being gratefully received.

Finally, Councillor Worne extended a thank you to all the Officers who had provided her support during her year and to her Vice-Chair, Councillor Brooks, for his help and assistance and she wished him a happy year ahead as Chair of the Council.

6. APPOINTMENT OF CHAIR OF THE COUNCIL

The Council

RESOLVED

That Councillor Jim Brooks be appointed Chairman of the Council for 2021/22.

Councillor Brooks then made the Declaration of Acceptance of Office.

Full Council - 19.05.21

7. VOTE OF THANKS TO RETIRING CHAIR

Councillor Brooks formally thanked Councillor Worne for her tireless work as Chair over the last year. He outlined that she had embraced the role with gusto and enthusiasm and had been an excellent public ambassador for the District during what had been a very difficult and challenging year as a result of the Covid-19 pandemic.

Despite these challenges, Councillor Worne had still managed to raise awareness for her chosen charity and had used her creativity and enthusiasm to work to ensure that the profile of Arun and PACSO, remained visible.

These words of thanks were echoed by Councillor Walsh, as Leader of the Liberal Democrat Group; Councillor Dixon on behalf of the Independent Group; Councillor Thurston on behalf of the Green Group; Councillor Gunner as Leader of the Conservative Group and Councillor Seex as Leader of the Arun Independent Group.

8. APPOINTMENT OF VICE-CHAIR OF THE COUNCIL AND CHAIR ELECT

The Chair introduced this item and reminded Councillors that Councillor Staniforth's nomination for the position of Vice-Chairman of the Council for 2021/22 and Chairman Elect for 2022/23 had been accepted at the meeting of Full Council held on 17 March 2021. In view of this he proposed to go straight to the vote on this matter.

Councillor Oppler proposed that a secret ballot to determine this appointment be undertaken and this was seconded by Councillor Dixon. Having undertaken the secret ballot, the Council

RESOLVED

That Councillor Samantha-Jaye Staniforth be appointed Vice-Chairman of the Council for 2021/22 and Chairman Elect for 2022/23.

Councillor Staniforth then made the Declaration of Acceptance of Office.

9. NEW CHAIR'S ANNOUNCEMENTS

Councillor Brooks confirmed that an important part of being Chair was the opportunity to raise money for a chosen charity or charities. It was hoped that with the end of lockdown events for the public to attend could be resumed. Sadly, this had not been part of the civic year that the last two Chairs had been able to enjoy or take part in to any significant level in terms of raising funds for their chosen charities. Councillor Brooks therefore proposed to meet with Councillors Warr and Worne to see, if coming out of lockdown, some joint events could be organised that could benefit their charities.

What Councillor Brooks could confirm now was that he proposed to support young people becoming engaged in all sorts of music by either playing instruments, singing or composing music. He would announce the detail of such events at a later date.

10. APPOINTMENT OF THE LEADER AND DEPUTY LEADER OF THE COUNCIL

Councillor Walsh made a formal request to speak. He confirmed that he wished to formally resign from his position as Leader of the Council and he thanked the Council for its support over the last two years.

Councillor Roberts formally proposed the appointment of Councillor Gunner to be Leader of Arun District Council. The proposal was then seconded by Councillor Edwards.

The Council

RESOLVED

That Councillor Gunner be appointed Leader of Arun District Council.

Councillor Gunner firstly welcomed Councillor Brooks into the role of Chair of the Council and he wished him a successful year ahead. He then paid tribute to Councillor Walsh for his time as Leader of the Council and all that he did to make Arun a better place for its residents. Tonight represented a new start for Arun and Councillor Gunner confirmed that he hoped to make Arun better by maximising its potential by making the most of its natural environment; to drive tourism; investment; regeneration; and jobs and to engage with new environmental initiatives across the District that would help support the District's natural environment and create leisure and tourism opportunities, which were all vital to economic growth and the levelling-up agenda. Serious discussions needed to take place to push forward regeneration opportunities for Bognor Regis and Littlehampton working with the District's Members of Parliament to ensure success in gaining investment and to end years of delays in delivering public realm in Littlehampton. Plans were in place to revisit the Council's Local Plan to ensure that the District's younger generation would be able to afford to continue to live in the District and much focus would be placed reducing unnecessary expenditure on consultancies, agency staff and IT.

Councillor Bower then confirmed that he was delighted to be able to propose that Councillor Pendleton be appointed Deputy Leader of the Council and this was seconded by Councillor Roberts.

The Council

RESOLVED

That Councillor Pendleton be appointed as Deputy Leader of the Council.

Full Council - 19.05.21

11. REVIEW OF ENTITLEMENT OF POLITICAL GROUPS TO SEATS ON COMMITTEES (PROPORTIONALITY) AND APPOINTMENTS TO COMMITTEES

The Chair invited the Interim Monitoring Officer to present this report which had been circulated as a supplement earlier that afternoon. Councillors were informed that it was a statutory requirement for the Council to undertake a review of proportionality following the two District By-Elections held on 6 May 2021 and because there had been other changes. The Arun Independent Group had been formed during the last year and since that time other Councillors had changed Party allegiance. The purpose of the report was to ensure that when appointing memberships to Committees, such appointments were made using the correct proportionality figures which had been confirmed in Paragraph 1.9 and set out in Appendix 1 of the report. It was possible for Members to come to alternative arrangements, but if such proposals were made it was necessary for every Member of the Council to agree to such alternative proposals.

Councillor Gunner then formally proposed the recommendations set out in the report and these were then seconded by Councillor Pendleton.

The Chair then invited debate on the recommendations.

The Committee Services Manager confirmed that some late changes had been made to the membership listings set out in Appendix 2 and she confirmed what these changes were. They were that:

- Councillor Blanchard-Cooper would be Chair of the Licensing Committee
- Councillor Tilbrook would be Chair of the Standards Committee
- Councillor Lury would be Vice-Chair of the Planning Committee [formally known as the Development Control Committee]
- Councillor Gregory would be Vice-Chair of the Residential & Wellbeing Services Committee

Councillor Dixon confirmed that Councillor Hamilton had been missed from the membership of the Residential & Wellbeing Services Committee and Licensing Committee and he asked for the membership listings at Appendix 2 of the report to be updated accordingly. Turning to the Environment & Neighbourhood Services Committee Councillor Dixon then formally proposed that Councillor Thurston be made Vice-Chair of this Committee in view of her very strong environmental credentials. Councillor Stanley then seconded this proposal.

The Chair then invited debate on this amendment. This commenced with further updates being made to the membership listings set out in Appendix 2 of the report which the Committee Services Manager undertook to correct.

Following some debate on the amendment relating to the Vice-Chair of the Environment & Neighbourhood Services Committee, on this being put to the vote it was declared LOST.



The Chair then returned to the substantive recommendation on the proposals for the appointment of Chairs and Vice-Chairs to Committees.

The Council

RESOLVED – That

- (1) The outcome of the review of entitlement of Political Groups and non-aligned Councillors to seats on Committees, based on proportionality rules, as set out in Appendix 1 be noted;
- (2) The allocation of seats to Political Groups be approved;
- (3) The appointments to Committees, Sub-Committees, Working Groups, Working Parties and Panels for the 2021/22 municipal year, together with the confirmation of the Chair and Vice-Chair where relevant and as set out in Appendix 2 be approved.

## 12. REPRESENTATION ON OUTSIDE BODIES

This item commenced with a Point of Order being raised by Councillor Gunner. He confirmed that in formally proposing the Appointments to Outside Bodies for 2021/22, under Article 15 in the Constitution and Council Procedure Rule 27 [Suspension and amendment of Council Procedure Rules] he wished to move a Motion without Notice to suspend the six month rule and also pertaining to the rules Motions without Notice that the terms of reference for each Committee which required that representation on Outside Bodies must be a Member of the relevant Committee be removed. This amendment was then seconded by Councillor Walsh.

On putting this amendment to the debate, this was agreed as a sensible way forward and on it being to the vote it was declared CARRIED.

Debate then focused on the Outside Bodies listed in the appendix to the report. The points debated were:

- Aldwick West & Pagham Advisory Group – should be titled Aldwick & Pagham Advisory Group.
- Was the appointee to the West Sussex Health and Adult Social Care Committee appropriate as they were also a West Sussex County Councillor

Full Council - 19.05.21

The Council

RESOLVED

That the schedule of Appointments of Representatives to Outside Bodies for 2021/22, be approved, a copy of which is *attached* to the signed copy of the Minutes.

13. APPOINTMENT OF COUNCILLOR DIRECTORS OF ANY COUNCIL OWNED PROPERTIES

The Chairman confirmed that there were no appointments to confirm.

The Chairman then called a short adjournment.

14. APPOINTMENT OF OTHER GROUP LEADERS

The Council noted the appointment of the other Group Leaders. A copy of which is *attached* to the signed copy of the Minutes.

15. EXEMPT INFORMATION

The Council

RESOLVED

That under Section 100A(4) of the Local Government Act 1972, the public and accredited representatives of newspapers be excluded from the meeting for the following item of business on the grounds that it may involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act by virtue of the paragraph specified against the item.

16. APPOINTMENT TO THE POST OF GROUP HEAD OF LAW & GOVERNANCE (MONITORING OFFICER) - EXEMPT - PARAGRAPH 1 - INFORMATION RELATING TO ANY INDIVIDUAL)

The Chief Executive presented this item confirming that approval was sought from the Council to appoint the candidate confirmed in Paragraph 1.3 of the report into the current vacant role of Group Head of Law & Governance (Monitoring Officer).

Councillor Gunner then formally proposed this recommendation which was then seconded by Councillor Walsh.

Subject to approval at the next Full Council meeting

9

Full Council - 19.05.21

The Council

RESOLVED

To approve the appointment of Sameera Khan to the role of Group Head of Law & Governance (Monitoring Officer) subject to contract and references being satisfactory to the Chief Executive.

(The meeting concluded at 8.25 pm)

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## ARUN DISTRICT COUNCIL

### REPORT TO AND DECISION OF FULL COUNCIL ON 14 JULY 2021

**SUBJECT: Adoption (making) of the Aldingbourne Neighbourhood Plan 2019-2031**

**REPORT AUTHOR:** Donna Moles (Senior Planning Officer)

**DATE:** 28 June 2021

**EXTN:** 37697

**AREA:** Planning Policy

#### **EXECUTIVE SUMMARY:**

The Aldingbourne Neighbourhood Development Plan 2019-2031 passed Examination in May 2021. The Examiner of this modified Plan concluded that the Neighbourhood Development Plan (NDP) passed the Examination and that the material modifications do not change the nature of the NDP which does not therefore, require a Referendum and so should proceed to be 'made'.

The 'making' of the NDP will give it legal force and it will form part of the statutory Development Plan for that area. Consequently, decisions on planning applications in the neighbourhood area will need to be made in accordance with the NDP, unless material considerations indicate otherwise.

#### **RECOMMENDATIONS:**

It is recommended that Full Council:

- 1) 'Makes' the Aldingbourne Neighbourhood Plan 2019-2031 and it becomes part of the Development Plan for Arun District Council.

#### **1. BACKGROUND:**

- 1.1 The Localism Act, which received Royal Assent on November 15 2011, introduced new rights and powers to allow local communities to shape new development by coming together to prepare Neighbourhood Plans and Orders. Neighbourhood forums and Parish Councils can use new Neighbourhood Planning powers to establish general planning policies for the development and use of land in a neighbourhood. These are described legally as 'Neighbourhood Development Plans'. They have to meet a number of conditions before they can be put to a community referendum and legally come into force. These conditions are to ensure plans are legally compliant and take account of wider policy considerations (e.g. national policy).

- 1.2 Under the Town and Country Planning Act 1990 (as amended), the Local Planning Authority has a statutory duty to assist communities in the preparation of Neighbourhood Development Plans and Orders and to take Plans through a process of examination and referendum. The Localism Act 2011 (Part 6 chapter 3) sets out the Local Planning Authority's responsibilities under Neighbourhood Planning.
- 1.3 The Aldingbourne Neighbourhood Development Plan (NDP) relates to the area that was designated by Arun District Council as a neighbourhood area on 31st October 2013 and South Downs National Park Authority. This area is coterminous with the Aldingbourne Parish Council boundary that lies within the Arun District Council Local Planning Authority Area. Part of the specified area falls within the South Downs National Park Local Planning Authority Area and part within Arun District Council Local Planning Authority Area.
- 1.4 The Aldingbourne NDP was examined by Mr Christopher Lockhart-Mummery QC, who passed the Plan and recommended Arun District Council should, subject to the modifications in the Examination report, proceed for the NDP to be 'made' by Arun District Council. Following this, all the Examiner's modifications were agreed by Aldingbourne Parish Council, Arun District Council and South Downs National Park.
- 1.5 On 18 June 2021, the Decision Statement, which is a report that outlines all the Examiner's modifications and confirms acceptance by all parties, was signed by the Group Head of Planning and published on the Arun District Council website.

## **2. PROPOSAL(S):**

- 2.1 There are 3 types of modification which can be made to a neighbourhood plan or order. The process will depend on the degree of change which the modification involves:
  - Minor (non-material) modifications to a neighbourhood plan or order are those which would not materially affect the policies in the plan or permission granted by the order. These may include correcting errors, such as a reference to a supporting document, and would not require examination or a referendum.
  - Material modifications which do not change the nature of the plan or order would require examination but not a referendum. This might, for example, entail the addition of a design code that builds on a pre-existing design policy, or the addition of a site or sites which, subject to the decision of the independent examiner, are not so significant or substantial as to change the nature of the plan.
  - Material modifications which do change the nature of the plan or order would require examination and a referendum. This might, for example, involve allocating significant new sites for development.

<p>2.2 Whether modifications change the nature of the NDP is a decision for the independent examiner. The examiner will consider the nature of the existing NDP, alongside representations and the statements on the matter made by the qualifying body and the local planning authority. Where material modifications do not change the nature of the NDP (and the examiner finds that the proposal meets the basic conditions or would with further modifications) a referendum is not required.</p> <p>2.3 The Examiner concluded that whilst the modifications to existing policy and the addition of a small number of new policies are material modifications to the existing made NDP, they do not when taken as a whole, change the nature of the NDP. They are in the main refinements of existing policy and the plan does not introduce new allocations, therefore; a new referendum is not required, and it is appropriate for Arun District Council to make the modified NDP.</p>		
<p><b>3. OPTIONS:</b></p> <p>1. To 'make' the Aldingbourne Neighbourhood Development Plan 2019-2031 to become part of the Development Plan for Arun District Council.</p> <p><b>Or</b></p> <p>2. To not 'make' the Aldingbourne Neighbourhood Development Plan 2019-2031 which would not become part of the Development Plan for Arun District Council.</p>		
<p><b>4. CONSULTATION:</b></p> <p>Various rounds of consultation has been undertaken as part of the Neighbourhood Plan process.</p>		
Has consultation been undertaken with:	<b>YES</b>	<b>NO</b>
Relevant Town/Parish Council	<b>X</b>	
Relevant District Ward Councillors	<b>X</b>	
Other groups/persons (please specify) The community, Statutory bodies and relevant stakeholders as per the regulations	<b>X</b>	
<b>5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)</b>	<b>YES</b>	<b>NO</b>
Financial		<b>X</b>
Legal		<b>X</b>
Human Rights/Equality Impact Assessment		<b>X</b>
Community Safety including Section 17 of Crime & Disorder Act		<b>X</b>
Sustainability		<b>X</b>
Asset Management/Property/Land		<b>X</b>
Technology		<b>X</b>
Other (please explain)		<b>X</b>

**6. IMPLICATIONS:**

Once 'made', the Aldingbourne NDP will become part of the Development Plan for the District and will be used by the Council when determining planning applications for this area.

**7. REASON FOR THE DECISION:**

Arun District Council as the Local Planning Authority under section 61E(4) of the 1990 Act, needs to bring a Neighbourhood Development Plan into force.

**8. BACKGROUND PAPERS:**

The web link provides access to the background stages and formulation of the NDP:  
[Aldingbourne Neighbourhood Development Plan 2 | Arun District Council](#)



## ARUN DISTRICT COUNCIL

### REPORT TO AND DECISION OF FULL COUNCIL ON 14 JULY 2021

**SUBJECT: Adoption (making) of the Walberton Neighbourhood Plan 2019-2031**

**REPORT AUTHOR:** Donna Moles (Senior Planning Officer)

**DATE:** 28 June 2021

**EXTN:** 37697

**AREA:** Planning Policy

#### **EXECUTIVE SUMMARY:**

The Walberton Neighbourhood Development Plan 2019-2031 passed Examination in February 2021. Given the nature of the Policies in the submitted review of the Neighbourhood Development Plan (NDP), the Examiner's report concluded that subject to making the modifications recommended by the Examiner, the Plan meets the basic conditions set out in the legislation and should proceed to a Neighbourhood Planning Referendum.

A successful Neighbourhood Planning Referendum on the Walberton NDP 2019-2031 was held on 6 May 2021, where 91.9% of voters casted a Yes vote.

If more than 50% of those voting on the day, vote 'yes' then the local planning authority under section 61E(4) of the 1990 Act, needs to 'make' (adopt) the Plan. The 'making' of the plan by Full Council will give it legal force and it will form part of the statutory Development Plan for that area. Consequently, decisions on planning applications in the neighbourhood area will need to be made in accordance with the NDP, unless material considerations indicate otherwise.

#### **RECOMMENDATIONS:**

It is recommended that Full Council:

- 1) 'Makes' the Walberton Neighbourhood Plan 2019-2031 and it becomes part of the Development Plan for Arun District Council.

#### **1. BACKGROUND:**

- 1.1 The Localism Act, which received Royal Assent on November 15 2011, introduced new rights and powers to allow local communities to shape new development by coming together to prepare Neighbourhood Plans and Orders. Neighbourhood forums and Parish Councils can use new Neighbourhood Planning powers to establish general planning policies for the development and use of land in a neighbourhood. These are described legally as 'Neighbourhood Development Plans'. They have to meet a number of conditions before they can be put to a

community referendum and legally come into force. These conditions are to ensure plans are legally compliant and take account of wider policy considerations (e.g. national policy).

- 1.2 Under the Town and Country Planning Act 1990 (as amended), the Local Planning Authority has a statutory duty to assist communities in the preparation of Neighbourhood Development Plans and Orders and to take Plans through a process of examination and referendum. The Localism Act 2011 (Part 6 chapter 3) sets out the Local Planning Authority's responsibilities under Neighbourhood Planning.
- 1.3 The Walberton NDP relates to the area that was designated by Arun District Council and South Downs National Park Authority as a neighbourhood area on 29th November 2012 and published on 10th December 2012. This area is coterminous with the Walberton Parish Council boundary that lies within the Arun District Council Local Planning Authority Area. Part of the specified area falls within the South Downs National Park Local Planning Authority Area and part within Arun District Council Local Planning Authority Area.
- 1.4 Mr Edward Cousins was appointed by Arun District Council with the consent of the Parish Council, to undertake the examination of the Walberton NDP and to prepare a report of the independent examination. Given the nature of the Policies in the submitted review of the Neighbourhood Plan, the Examiner's report concluded that subject to making the modifications recommended by the Examiner, the NDP meets the basic conditions set out in the legislation and should proceed to a Neighbourhood Planning Referendum.
- 1.5 On 19 March 2021, the Decision Statement, which is a report that outlines all the Examiner's modifications and confirms acceptance by all parties, was signed by the Group Head of Planning and published on the Arun District Council website.
- 1.6 If a plan passes the referendum, i.e. more than 50% of those voting on the day, vote 'yes'; then the local planning authority under section 61E(4) of the 1990 Act, needs to 'make' (adopt) the NDP. This 'making' of the NDP by Full Council will give it legal force and it will form part of the statutory Development Plan for that area. Consequently, decisions on planning applications in the neighbourhood area will need to be made in accordance with the NDP, unless material considerations indicate otherwise.

## **2. PROPOSAL(S):**

- 2.1 There are 3 types of modification which can be made to a neighbourhood plan (or order). The process will depend on the degree of change which the modification involves:
  - Minor (non-material) modifications to a neighbourhood plan or order are those which would not materially affect the policies in the plan or permission granted by the order. These may include correcting errors, such as a reference to a supporting document, and would not require examination or a referendum.

- Material modifications which do not change the nature of the plan or order would require examination but not a referendum. This might, for example, entail the addition of a design code that builds on a pre-existing design policy, or the addition of a site or sites which, subject to the decision of the independent examiner, are not so significant or substantial as to change the nature of the plan.
- Material modifications which do change the nature of the plan or order would require examination and a referendum. This might, for example, involve allocating significant new sites for development.

2.2 Whether modifications change the nature of the NDP is a decision for the independent examiner. The examiner will consider the nature of the existing NDP, alongside representations and the statements on the matter made by the qualifying body and the local planning authority. Where material modifications do not change the nature of the NDP (and the examiner finds that the proposal meets the basic conditions or would with further modifications) a referendum is not required.

2.3 Given the nature of the Policies in the submitted review of the Neighbourhood Development Plan, the Examiner's report concluded that subject to making the modifications recommended by the Examiner, the NDP meets the basic conditions set out in the legislation and should proceed to a Neighbourhood Planning Referendum.

2.4 On Thursday 6 May 2021, Walberton Neighbourhood Development Plan successfully passed its referendum with 91.9% of the votes agreeing that the Neighbourhood Development Plan be used in Development Management decision making.

Table 1: Declaration of Result of Poll

Polling Station	Votes recorded	Percentage
Number cast in favour of a 'Yes'	693	91.19%
Number cast in favour of a 'No'	65	8.55%
Turnout		42.03%

### 3. OPTIONS:

1. To 'make' the Walberton Neighbourhood Plan 2019-2031 to become part of the Development Plan for Arun District Council.

Or

2. To not 'make' the Walberton Neighbourhood Plan 2019-2031 which would not become part of the Development Plan for Arun District Council.

<b>4. CONSULTATION:</b>		
Various rounds of consultation has been undertaken as part of the Neighbourhood Plan process.		
Has consultation been undertaken with:	<b>YES</b>	<b>NO</b>
Relevant Town/Parish Council	<b>X</b>	
Relevant District Ward Councillors	<b>X</b>	
Other groups/persons (please specify) The community, Statutory bodies and relevant stakeholders as per the regulations	<b>X</b>	
<b>5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)</b>	<b>YES</b>	<b>NO</b>
Financial		<b>X</b>
Legal		<b>X</b>
Human Rights/Equality Impact Assessment		<b>X</b>
Community Safety including Section 17 of Crime & Disorder Act		<b>X</b>
Sustainability		<b>X</b>
Asset Management/Property/Land		<b>X</b>
Technology		<b>X</b>
Other (please explain)		<b>X</b>
<b>6. IMPLICATIONS:</b>		
Once 'made', the Walberton NDP will become part of the Development Plan for the District and will be used by the Council when determining planning applications for this area.		

**7. REASON FOR THE DECISION:**  
Arun District Council as the Local Planning Authority under section 61E(4) of the 1990 Act, needs to bring a Neighbourhood Development Plan into force.

**8. BACKGROUND PAPERS:**  
The web link provides access to the background stages and formulation of the NDP:  
[Walberton Neighbourhood Development Plan 2 | Arun District Council](#)

**ARUN DISTRICT COUNCIL  
REPORT OF THE CONSTITUTION WORKING PARTY TO FULL COUNCIL  
ON  
14 JULY 2021**

**SUBJECT: CONSTITUTION WORKING PARTY REPORT TO FULL COUNCIL**

**REPORT AUTHOR: Solomon Agutu, Interim Monitoring Officer**  
**DATE: 14 July 2021**  
**EXTN: 37432**  
**LEAD MEMBER: Chair of constitution Working Party Cllr Bowers**

**EXECUTIVE SUMMARY:**

Full Council is asked to agree the recommendations of the Constitution Working Party on the suggested amendments to the Constitution following implementation of the Committee style of governance and following the first round of Committee meetings.

**RECOMMENDATIONS to Full Council from the Constitution Working Party:**

That Full Council :

1. Agrees to revise the general Terms of Reference as set out in Appendix 1 Part 2 so that Committees are required to have regard to value for money not ongoing savings and efficiencies;
2. Agree to the name changes of Committees set out in Appendix 1 Part 1;
3. Agree to the Changes to the Articles set out in Appendix 1 Part 3; and
4. The proposal to add Member Question Time as a standing item on each Service Committee agenda be deferred for a period of 6 months to allow time to assess the impact of non-Committee Member attendance at physical meetings.

**2. BACKGROUND**

The Full Council made a binding statutory resolution on 15 January 2020 (Minute 388) to change its form of governance to a Committee system effective from the Annual Council Meeting on 19 May 2021.

The first meeting of each committee under the new Committee System was asked to consider its Terms of Reference and where necessary seek clarification of these Terms of Reference or any other matter from Full Council via the Constitution Working Party which is charged with reviewing the Constitution.

In addition to the suggestions from Committees the Monitoring Officer identified a provision which needed to be clarified, firstly in the Articles and secondly in the Terms of Reference.

Further it has been suggested that some of the names of Committees are not descriptive enough or if they are, they mean more to Officers than they do to residents and the names need to be resident focused.

These proposals were considered by the Working Party on 28 June 2021. This report contains the Working Party's recommendations to Full Council.

**General Terms of Reference of all committees and value for money**

The General Terms of Reference as drafted require all Committees to have regard to the ongoing requirement to make savings and efficiencies. This requirement is felt to be misdirected as the requirement should be to have regard to value for money. The proposal from the Working Party is to make a change to what accurately reflects the role of the Committee.

**Introducing Member Question Time as standing items on Committee agendas**

Some Committees have found that there is a need to have a Member Question Time similar to Public Question Time. In a Committee system, where there are no portfolio holders, the Committee Chair or Vice-Chair can only answer questions as the Chair of the Committee not as part of the Executive as there is no executive. The arguments for and against are set out in the minutes of the Working Party meeting which are attached.

**Change to Committee Names**

Appendix 1 Part 1 contains proposals to change some Committee names. The arguments are mentioned in the minutes and include that the new names represent a better understanding of what the Committee does and would be better understood by the public. The argument against is that these names have been known by Members for some time and have only just recently been adopted and there is no evidence of public confusion.

**Article 5 - Role and function of Chairs**

This is a typographical omission and the addition is designed to correct an incomplete cross referencing.

**3. OPTIONS:**

- 1. To agree the recommendations from the Constitution Working Party
- 2. Not to agree the recommendations from the Constitution Working Party

**4. CONSULTATION:**

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council	NA	
Relevant District Ward Councillors	NA	
Other groups/persons (please specify)	NA	

<b>5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES:</b>	YES	NO
-------------------------------------------------------------------------------------	-----	----

<b>(Explain in more detail at 6 below)</b>		
Financial		NO
Legal		No
Human Rights/Equality Impact Assessment		
Community Safety including Section 17 of Crime & Disorder Act		NO
Sustainability		NO
Asset Management/Property/Land		NO
Technology		
Other (please explain) Constitution Working Party 28 June 2021		
<b>6. IMPLICATIONS:</b>		
All the implications are adequately explained in the body of the report.		

**7. REASON FOR THE DECISION:**

**General Terms of Reference of all Committees and value for money**

The General Terms of Reference as drafted require all Committees to have regard to the ongoing requirement to make savings and efficiencies. This requirement is felt to be misdirected as the requirement should be to have regard to value for money. The proposal from the Working Party is to make a change to what accurately reflects the role of the Committee.

**Introducing Member Question Time as standing items on Committee agendas**

The increased attendance at all meetings from non-Committee Members seemed to be a by-product of virtual [Zoom] meetings and this proposal should be deferred for a while to allow time to review what might happen as a result of the Council returning to conducting physical meetings

**Change to Committee Names**

Appendix 1 Part 1 contains proposals to change some committee names. The new names represent a better understanding of what the committee does and would be better understood by the public. While Development Management represents the true nature of the function of the Committee and distinguishes it from Planning Policy Committee.

**Article 5 - Role and function of Chairs**

This is a typographical omission and the addition is designed to correct an incomplete cross referencing.

**8. BACKGROUND PAPERS:**

**Report to the Constitution Working Party – as attached**

**Minutes from the Constitution Working Party – as attached.**

Appendix 1 Part 1

Current Name	New Name
Corporate Policy & Performance Committee	<b>Policy and Finance Committee</b>
Residential and Wellbeing Services Committee	<b>Housing and Wellbeing Committee</b>
Environment and Neighbourhood Services Committee	<b>Environment Committee</b>
Economic	<b>Economy Committee</b>
Planning	<b>Development Management Committee</b>

Appendix 1 - Part 2 -terms of reference

PART 1 - GENERAL TERMS OF REFERENCE

Extract from Part 3 Paragraph 3 of the Constitution

Current

3.1.6 In discharging its functions, Committees must have regard to the ongoing requirement to make savings and efficiencies.

Change to

3.1.6 In discharging its functions, Committees must have regard to **providing value for money.**

Appendix 1- Part 3 -Articles

PART 2 – ARTICLES OF THE CONSTITUTION

ARTICLE 5 – CHAIRING THE COUNCIL

1.0 ROLE AND FUNCTION OF THE CHAIR

Current

The Chair will be appointed by the Full Council annually as set out in Part 3 of this Constitution.

Change to

The Chair will be appointed by the Full Council annually as set out in Part 3 **and part 5** of this Constitution.



# Public Document Pack

Subject to approval at the next Constitution Working Party meeting

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## CONSTITUTION WORKING PARTY

28 June 2021 at 6.00 pm

Present: Councillors Bennett, Bower, Chace, Cooper, Daniells, P English, Haywood and Yeates.

Councillors Dixon and J English were also in attendance for all or part of the meeting.

### 1. APPOINTMENT OF CHAIR AND VICE-CHAIR

The Working Party

RESOLVED

That Councillor Bower be Chair for the remainder of 2021/22.

The Working Party

RESOLVED

That Councillor Andy Cooper be Vice-Chair for the remainder of 2021/22.

### 2. DECLARATIONS OF INTEREST

There were no Declarations of Interest made.

### 3. MINUTES

The minutes of the meeting of the Working Party held on 2 March 2021 were approved by the Working Party as a correct record with the Chair confirming that these would be signed at the first opportunity made available to him.

### 4. START TIMES

The Working Party

RESOLVED

That its start times for meetings during 2021/22 be 6.00 pm.

Constitution Working Party - 28.06.21

5. NEW COMMITTEE SYSTEM - CHANGES TO THE CONSTITUTION FOLLOWING FIRST CYCLE OF MEETINGS

The Interim Monitoring Officer introduced his report stating that now the first cycle of meetings under the new Committee style of governance had been completed, this was an opportunity to review any proposals for change as put forward by some of the new Committees.

The Working Party's attention was drawn to Appendices 1 and 2 of the report which set out each request.

The first at Appendix 1 Part 1 presented to Members a table suggesting that 4 out of the 6 new Service Committees have their names changed to provide a better understanding of what that Committee did and to make these Committees more understandable to members of the public. The changes presented were:

<u>Current Name</u>	<u>New Name</u>
Corporate Policy & Performance	Policy and Finance Committee
Residential & Wellbeing Services Committee	Housing and Wellbeing Committee
Environment and Neighbourhood Services Committee	Environment Committee
Economic	Economy

Before inviting debate, the Chair confirmed that he was disappointed to see that no change had been proposed to change either the name of the Planning Policy or Planning Committee as he believed that it was confusing to members of the public to have two Committees similarly named and that there could be confusion or misunderstanding with regard to their functions if their names were not changed.

In view of this, the Chair proposed an amendment to change the name of the Planning Committee to the Development Management Committee. This was seconded by Councillor Cooper.

In debating this amendment, the argument for no change was that there was no evidence of public confusion and that no request to a change of name had been made at the first meeting in the first cycle of meetings by any of the Committees, though there were some Members who felt strongly that the change of name of the Planning Committee was urgently required.

Following further discussion, and on putting this amendment to change the name of the Planning Committee to the Development Management Committee, to the vote it was declared CARRIED.

The Chair then returned to the substantive recommendation which he duly proposed, and this was seconded by Councillor Cooper.

The Working Party

#### RECOMMEND TO FULL COUNCIL

That the name changes of Committees set out in Appendix 1, Part 1, be agreed as set out below, with the addition of the change in name to the Planning Committee to become the Development Management Committee.

<u>Current Name</u>	<u>New Name</u>
Corporate Policy & Performance	Policy and Finance Committee
Residential & Wellbeing Services Committee	Housing and Wellbeing Committee
Environment and Neighbourhood Services Committee	Environment Committee
Economic	Economy

The Interim Monitoring Officer then turned to the next change as set out in Appendix 1, Part 2, Terms of Reference explaining that the general Terms of Reference required Committees to have regard to the ongoing requirement to make savings and efficiencies. This requirement was felt to be misdirected as the requirement should be to have regard to value for money. The proposal put forward was to make a change to what accurately reflected the role of the Committee. The change was to:

#### PART 1 – GENERAL TERMS OF REFERENCE

Extract from Part 3 Paragraph 3 of the Constitution

Current

3.1.6 In discharging its functions, Committee must have regard to the ongoing requirement to make savings and efficiencies

Change to

3.1.6 In discharging its functions, Committees must have regard to **providing value for money.**

Following some discussion, the proposal to change was then proposed by Councillor Bower and was then seconded by Councillor Cooper.

Constitution Working Party - 28.06.21

The Working Party

RECOMMEND TO FULL COUNCIL

To agree to revise the general Terms of Reference at set out in Appendix 1, Part 2, so that Committees are required to have regard to value for money not ongoing savings and efficiencies.

The Chair invited the Interim Monitoring to explain the next recommendation at Appendix 1, Part 3, Articles relating to Article 5 – Chairing the Council. This was because there had been a typographical omission and the addition '**and Part 5**' was to correct an incomplete cross referencing.

The Working Party

RECOMMEND TO FULL COUNCIL

That the change to the Articles as set out in Appendix 1, Part 3 be approved.

The Chair then alerted Members to the final recommendation which the Interim Monitoring Officer explained. This was to consider the addition of a Member Question Time as a standing item on each Service Committee agenda allowing non-Committee Members to ask a question(s) . If agreed, a draft procedure for this had been set out in Appendix 1 Part 4 for the Working Party to approve.

In debating this recommendation, confusion was expressed as the Constitution did allow any Member of the Council the right to attend any meeting and with the permission of that Committee the right to address the meeting on a specified item or items of business, as long as that Member did not have a conflicting interest. This led to the question being asked as to whether this additional opportunity was necessary?

The Chief Executive outlined that now that the first cycle of meetings under the new structure had been completed, it had been apparent that many non-Committee Members were attending meetings with a desire to take part in debate and ask questions. It was outlined that a return to physical meetings could result in the enhanced attendance by non-Committee Members seen over the past 15 months could naturally reduce. The proposal presented was a way of overcoming the desire for non-Committee Members to ask questions but confined to a procedure similar to what was in place for Member Questions at Full Council meetings.

The Chair's view was that the increased attendance at all meetings from non-Committee Members seemed to be a by-product of virtual [Zoom] meetings and so he thought that this recommendation should be deferred for a while to allow time to review what might happen as a result of the Council returning to conducting physical meetings.

Following discussion, Councillor Cooper proposed that this recommendation be held in abeyance [around 6 months] to allow time to assess the return to physical meetings and how this may impact non-Member participation. This proposal was seconded by Councillor Bennett.

On this proposal being put to the vote it was declared CARRIED.

As the Member Question proposal had not been approved, this meant that the suggested procedure in place for its management was also deferred.

The Working Party

#### RECOMMEND TO FULL COUNCIL

The option to (a) add Member Question Time as a standing item on each Service Committee agenda be deferred for a period of 6 months to allow time to assess the impact of non-Committee Member attendance at physical meetings and (b) when reviewed in six months' time, the procedure set out in Appendix 1 Part 4 be considered.

(The meeting concluded at 6.56 pm)

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**ARUN DISTRICT COUNCIL  
REPORT TO THE CONSTITUTION WORKING PARTY  
ON 28 JUNE 2021**

**SUBJECT: New Committee System – Changes to the Constitution Following First Cycle of Meetings**

**REPORT AUTHOR: Solomon Agutu, Interim Monitoring Officer**  
**DATE: 15 June 2021**  
**EXTN: 37432**  
**DEPT: CORPORATE SUPPORT**

**EXECUTIVE SUMMARY:**

The Working Party is asked to consider and make recommendations to Full Council amendments to the Constitution following implementation of the Committee style of governance and first cycle of Committee meetings.

**RECOMMENDATIONS:**

The Working Party is asked to recommend to Full Council:

1. To agree to revise the general Terms of Reference as set out in Appendix 1 Part 2 so that Committees are required to have regard to value for money not ongoing savings and efficiencies;
2. Agree to (a) the addition of Member Question Time as a standing item on each Service Committee order of business (agenda) and if so agreed (2) to further agree the procedure set out in Appendix 1 Part 4;
3. Agree to the name changes of Committees set out in Appendix 1 Part 1; and
4. Agree to the Changes to the Articles set out in Appendix 1 Part 3.

**2. BACKGROUND**

The Full Council made a binding statutory resolution on 15 January 2020 (Minute 388) to change its form of governance to a Committee system effective from the Annual Council Meeting on 19 May 2021.

The first meeting of each Committee under the new Committee System was asked to consider its terms of reference and where necessary seek clarification of these terms of reference or any other matter from Full Council via the Constitution Working Party which is charged with reviewing the constitution. These suggestions are contained in this report.

In addition, the Monitoring Officer has identified provisions which need to be clarified, firstly in the articles and secondly in the terms of reference.

Further it has been suggested that some of the names of the Committees are not descriptive enough or if they are, they mean more to Officers than they do to residents and the names need to be resident focused.

**General Terms of Reference**

The General Terms of Reference require Committees to have regard to the ongoing requirement to make savings and efficiencies. This requirement is felt to be misdirected as the requirement should be to have regard to value for money. The proposal is to make a change to what accurately reflects the role of the Committee.

**Member Question Time - Appendix 1 Part 4**

Some Committees have found that there is a need to have a Member Question Time similar to Public Question Time. In a Committee system, where there are no portfolio holders, the Committee Chair or Vice-Chair can only answer questions as the Chair of the Committee not as part of the Executive as there is no Executive. The argument in favour is that this facility enables Members not on a Committee to raise specific questions as of right and not in the discretion of the Committee. The argument against is that the Chair’s response does not represent the views of the Committee and that we need a break with the past system.

**Committee Names**

Appendix 1, Part 1, contains proposals to change some Committee names. The argument for is that the new names represents a better understanding of what the Committee does and would be better understood by the public. The argument against is that these names have been known by Members for sometime and have only just recently been adopted and there is no evidence of public confusion.

**Article 5 - Role and Function of Chairs**

This is a typographical omission and the addition is designed to correct an incomplete cross referencing.

**3. OPTIONS:**

N/A

**4. CONSULTATION:**

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council	NA	
Relevant District Ward Councillors	NA	
Other groups/persons (please specify)	NA	
<b>5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)</b>	YES	NO
Financial		NO
Legal		No
Human Rights/Equality Impact Assessment		



Community Safety including Section 17 of Crime & Disorder Act		NO
Sustainability		NO
Asset Management/Property/Land		NO
Technology		
Other (please explain)		
<b>6. IMPLICATIONS:</b>		
N/A		

**7. REASON FOR THE DECISION:**  
To correct errors of proofreading and to give business efficacy to the Constitution

**8. BACKGROUND PAPERS: NONE**

## Appendix 1 Part 1

Current Name	New Name
Corporate Policy & Performance Committee	<b>Policy and Finance Committee</b>
Residential and Wellbeing Services Committee	<b>Housing and Wellbeing Committee</b>
Environment and Neighbourhood Services Committee	<b>Environment Committee</b>
Economic	<b>Economy Committee</b>

## Appendix 1 - Part 2 - Terms of Reference

### PART 1 - GENERAL TERMS OF REFERENCE

Extract from Part 3 Paragraph 3 of the Constitution

Current

3.1.6 In discharging its functions, Committees must have regard to the ongoing requirement to make savings and efficiencies.

Change to

3.1.6 In discharging its functions, Committees must have regard to **providing value for money.**

## Appendix 1- Part 3 - Articles

### PART 2 – ARTICLES OF THE CONSTITUTION

#### ARTICLE 5 – CHAIRING THE COUNCIL

##### 1.0 ROLE AND FUNCTION OF THE CHAIR

Current

The Chair will be appointed by the Full Council annually as set out in Part 3 of this Constitution.

Change to

The Chair will be appointed by the Full Council annually as set out in Part 3 **and part 5** of this Constitution.

## APPENDIX 2

### BUSINESS AT MEETINGS

3.1. The order of business at meetings will be as follows:

- (i) appoint a person to preside if the Chair or Vice-Chair are not present;
- (ii) receive apologies for absence and note any substitutions;
- (iii) receive any declarations of interest from Members in accordance with the Members' Code of Conduct;
- (iv) approve the minutes of the last meeting;
- (v) receive questions from members of the public
- (vi) receive questions for any Member with a pecuniary interest;
- (vi)(a) receive questions for any Member who is not a Member of the Committee**
- (vii) receive any items which the Chair of the meeting is of the opinion should be considered as a matter of urgency by reason of special circumstance;
- (viii) receive the Chair's report of any consultations undertaken with officers since the last meeting; and
- (ix) receive and consider officer reports in connection with the items on the agenda for the meeting, including any supplementary items, and taking decisions in line with the Committee's responsibilities as set out in Part 3 of this Constitution

### New

#### 13A. QUESTIONS BY MEMBERS NOT ON THE COMMITTEE

##### 13.1 Submitting Questions

Members may ask questions of the Chairmen of Committees, or the Vice-Chairmen in their absence, at meetings of the Committee, subject to written notice of the question being submitted to the Monitoring Officer 5 working days prior to the meeting.

a) All questions:

- must be relevant to the terms of reference of the Committee ;
- should be limited to obtaining information or pressing for action; and
- must not exceed one minute in duration.

b) Questions may be rejected by the Chief Executive/Chair if they:

- are not within the terms of reference of the committee ; or
- may be defamatory, frivolous or offensive; or
- are substantially the same as a question put at a meeting in the past six months;

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# Public Document Pack Agenda Item 13

Subject to approval at the next Corporate Policy and Performance Committee meeting

59

## CORPORATE POLICY AND PERFORMANCE COMMITTEE

17 June 2021 at 6.00 pm

Present: Councillors Gunner (Chair), Pendleton (Vice-Chair), Cooper, Dixon, Oppler, Roberts, Seex, Stanley and Walsh.

Councillors Bower, Brooks, Clayden, Mrs Cooper, Coster, Edwards, Thurston and Worne were also in attendance for all or part of the meeting.

### 79. WELCOME

The Chair welcomed Members and Officers to this first and virtual meeting of the Corporate Policy and Performance Committee.

The Chair confirmed that this meeting was being held in accordance with the resolution made at the Extraordinary Council Meeting held on 12 May 2021 (Minute 551) which continued Section 5 Part 5 of the Constitution (The Virtual Meeting Procedure Rules) and declared the use of Council powers, under Section 111 of the Local Government Act 1972, and the general power of competence under Section 1 of the Localism Act 2011, for making advisory decisions, as appropriate.

### 80. DECLARATIONS OF INTEREST

Councillor Walsh declared a Personal Interest in Agenda Item 10 [Minutes from the Meeting of the Planning Policy Committee - 1 June 2021 – Minute 42 – Delivery of West Bank Strategic Allocation] as a Member of the Littlehampton Harbour Board, representing Arun District Council.

Councillor Pendleton also declared a Personal Interest in the same item as a Member of the Littlehampton Harbour Board, but in her capacity as a West Sussex County Councillor.

### 81. URGENT ITEMS - START TIMES

The Committee

RESOLVED

That its start times for meetings during 2021-22 be 6.00 pm.

### 82. PUBLIC QUESTION TIME

The Chair confirmed that no questions had been submitted for this meeting.

83. TERMS OF REFERENCE FOR THE CORPORATE POLICY AND PERFORMANCE COMMITTEE; MATTERS RESERVED; AND DELEGATION TO OFFICERS

The Chair invited the Interim Monitoring Officer to present his report. He provided a short introduction confirming the Committee's Terms of Reference as given by Full Council and he asked the Committee if it wished to make suggestions for change to the Constitution Working Party as appropriate. He outlined to Members that this report was different to others that had already been presented to other Committees where reference had been made to the Matters Reserved scheme. This Committee was different in that a large number of its Terms of Reference were policy matters which were reserved to Members, it was not necessary to have a reserved matters scheme unless Members wanted one.

No requests were made by the Committee to change its Terms of Reference, though in making reference to the Committee's Calendar of Meetings for 2021/22, the Chair proposed that the next meeting of the Committee scheduled for 2 September 2021 be moved to 1 September 2021, for a range of reasons. This proposal was seconded by Councillor Pendleton.

Following discussion around the need to make this change in date, Councillor Walsh proposed an amendment which was that the meeting date be 31 August 2021. This was seconded by Councillor Stanley.

Following some discussion around the need to ensure that any change in meeting date should be consulted with all Members of the Committee in advance, Councillor Walsh's amendment was put to the vote. As the result of this vote was split with 4 voting for and 4 voting against, the Chair used his casting vote and the amendment was declared NOT CARRIED. A vote was then held on the substantive motion to move the date to 1 September 2021, and on putting this to the vote, the result was again split with 4 voting for and 4 voting against. The Chair then used his casting vote and the substantive amendment was then declared CARRIED.

The Chair then returned to the substantive recommendations as outlined in the Interim Monitoring Officer's report.

The Committee

RESOLVED – That

- 1) the general Terms of Reference for Committees in Part 3 Paragraph 3 of the Constitution be noted and the specific Terms of Reference for the Corporate Policy and Performance Committee as established by Full Council on 19 May 2021 as set out in part 1 and Part 2 of Appendix 1 attached to the report be noted;

- 2) no suggestions were identified to be considered by Full Council through the Constitution Working Party (CWP) for clarifications of these Terms of Reference;
- 3) the schedule of Corporate Policy and Performance Committee meetings as set out in the Calendar of meetings provided as an e-link in the background papers section of this report be noted but as amended at the meeting in that the next meeting of the Committee be moved from 2 to 1 September 2021; and
- 4) it was confirmed that there were no matters to be on the matters reserved scheme whereby matters not reserved by Committee to itself are delegated to Officers by default and set out in Appendix 2 (attached).

84. CARAVAN SITES AND CONTROL OF DEVELOPMENT ACT, 1960 - FIT AND PROPER PERSON TEST

The Chair invited the Group Head of Technical Services to present his report. He explained that in Arun there were over 1,100 households that lived in residential park homes and that most site owners managed these households effectively treating their residents well. It was confirmed that in 2017 the Government undertook two calls for evidence and that in 2018 it published its response. Part of this response included a package of measures which were committed to in policy to include introducing legislation to prevent exploitative service charges on residents and to prevent complex and opaque ownership structures from depriving residents of security of tenure. A Working Group had been established (which Arun participated in) to help promote awareness of rights amongst residents. In addition, the Government committed to engaging with Local Authorities through a forum which Arun had set up nationally which was the Site Licencing Officers Group which had a membership of over 200 Local Authorities. This had been an effective way to focus on best practice and to engage with the Government. The final piece of the Government's response was to introduce a 'fit and proper persons test' to protect the best interest of residents on sites and this was added to Local Authorities' existing powers in order to target the worst offenders in this sector.

The Group Head of Technical Services explained that in response to this, Officers had worked with the Site Licencing Officers Forum to commission barristers to help with the implementation of this new regulatory function which led to the production of two policies [the Fit & Proper Person Determination Policy and the Fit & Proper Person Fees Policy] which had been attached as appendices to the report for the Committee to approve so that they could be adopted. This new regime had to be implemented by local authorities on 1 July 2021. Legislation confirmed that applications could be received by local authorities from 1 July 2021 until midnight on 30 September 2021, with the local authority being able to recover costs, once the appropriate Fees Policy had been adopted.

The Chair then invited questions. One Member made reference to the part of the Policy that referred to the instance where if a site manager was unable or unwilling to submit a Fit and Proper Person Test then could the Council install its own Fit and Proper Person to then manage the site '*with the site owner's permission*'. This led to further questions being asked as to what would happen if the Council did not get this permission and what would be the consequences for that site. The same Member also asked if there was an ongoing rating mechanism after the initial judgement or whether this test happened annually to deal with future acquired criminal offences.

In response, the Group Head of Technical Services confirmed that as part of the technical consultation it was suggested to Government through the forum that Local Authorities should have powers to act in such circumstances and not be reliant upon site owners' cooperation but that this was not currently legislated for so in situations of non-cooperation the Council could revoke the licence meaning the site owner was committing a criminal offence by continuing to run a site without one and that penalties could be imposed by the Courts. He further confirmed that inclusion on the Fit and Proper Person Register would last for five years after which a new application would have to be submitted, but that if evidence was brought to the Council then a review of status and inclusion on the register could happen in the interim.

In response to another Member asking whether these were nationally drafted or local versions of policies, the Group Head of Technical Services explained that the Officer Forum provided template policies for all its member Local Authorities to assist in implementation and to ensure consistency where site owners had properties over several Districts' jurisdictions.

Councillor Walsh then proposed the recommendations which were then seconded by Councillor Stanley.

The Committee

RESOLVED – That

- 1) The Fit and Proper Person Determination Policy be adopted;
- 2) The Fit and Proper Person Fees Policy be adopted;
- 3) Delegated authority be given to the Group Head of Technical Services to have the ability to make minor revisions to the Fit and Proper Persons Fee Policy, including amendments to the fees schedule.

85. SUPPLEMENTARY ESTIMATE TO COVER COSTS AWARDED AGAINST THE COUNCIL IN APPEAL P/58/19/PL

The Chair invited the Director of Place to present his report. He explained that planning permission for application P/58/19/PL had been refused by the then Development Control Committee contrary to the advice of Officers from this Council, West Sussex County Council and the Council's appointed Highways consultant.



In deciding the subsequent appeal, the Inspector had concluded that the Council had acted unreasonably in refusing planning permission and had awarded costs against the Council. This report sought a supplementary estimate of up to a maximum of £26,000 to settle that award of cost.

The Chair then invited questions. One Member, commenting on the Planning Inspector's decision, asked whether the Council would have fared better if it had provided more photographic evidence and he asked how well the Council had performed in providing sound evidence for the appeal. In response, the Director of Place could not confirm if any specific photographs had been provided as part of the evidence submitted (but would confirm this outside of the meeting) but he did confirm that plentiful evidence had been provided to the Inspector and he invited Members to learn from what the Inspector had confirmed in Paragraph five of the decision letter, which was read out as follows:

*'Committee Members are not bound by this advice, and I accept that they have important local knowledge. However, in this case the extensive professional evidence from both main parties prior to the determination of the application indicates that this application should have been permitted. Furthermore, as can be seen in my main decision, I have not been presented with evidence at appeal which leads me to disagree with the recommendations of these professionals at the application stage. Therefore, this application should clearly have been permitted. Consequently, refusing the application on this basis is unreasonable behaviour.'*

He concluded that, though Members had the right to make a decision that was contrary to an Officer's recommendation, this had to be done in a reasonable manner and the Planning Inspector had come to the view that the decision taken was unreasonable. Further confirmation was sought in terms of where the fault for this decision laid and whether the appeal had been defended robustly enough. The Director of Place was asked if, after consulting the appeal paperwork, to circulate to all Committee Members his response regarding the inclusion of photographs.

Another Member asked for clarification on whether the report concerned a single application or multiple applications, and how the figure of £26,000 had been established as settlement negotiations were still on-going. Concern was expressed as to whether such negotiations could be weakened on the Council's side as it had publicly declared a maximum figure it would be prepared to settle at. The Director of Place confirmed that this report related to one application [P/58/19/P] and that a figure had been set although Officers were still in discussion with the appellant around agreement on what the reasonable costs associated with the reasons for refusal were. The Member, having been given the right to respond by the Chair, suggested that the wording in the recommendation be amended so that it was clear that it related to just one planning application. Concern was expressed that confirming an award sum in a public setting was 'perhaps declaring the Council's hand' and could weaken Officers' power of negotiation. A suggestion was made as to whether this item should be deferred until further evidence gathering had taken place.

The Director of Place explained that the costs discussed in the report were a debt because the Council's actions had been deemed to be unreasonable. He urged Members not to defer this matter to the next meeting of the Committee as the Council would run the risk of being legally challenged for not meeting its debt. A Member spoke about there being lessons to be learnt by Officers and Members of the Development Control Committee in accepting Officer advice and ensuring decisions made were robust enough to stand up to inspection.

The Interim Monitoring Officer outlined the awarding of costs process for Members' clarity confirming that when a Planning Inspector made a decision that costs should be awarded the amount was not quantified at that stage but agreed through subsequent negotiation which, if unsuccessful, returned for determination. He acknowledged that publicly agreed budgets could pose a risk to negotiations but also indicated to the appellant that that was all the money available, and that there might be the case to hold some of these type of discussions in the exempt part of the agenda. The Director of Place confirmed that this was an upper estimate but as correspondence with the appellant was still ongoing was reluctant to give further details in the meeting.

A non-Committee Member raised possible contradictions within the Planning Inspector's written decision which could have suggested the need for a judicial review but that the Council's Solicitor was not asked to explore this and only considered the issue of appropriate assessment which was not an issue when the planning application went to the Development Control Committee and was not discussed. The Director of Place explained that he had believed a judicial review, whether a decision maker had got something wrong in law sufficiently that the decision be substantially flawed, was not justified. Legal advice had been sought which confirmed there were no reasonable grounds to pursue a judicial review and that this had previously been explained separately to the Member.

In response to the Chair, the Interim Group Head for Corporate Support confirmed that a figure did need to be set as the report was budget related and the budget would need to be regularised. In concluding the discussion, the Chair suggested that these matters be dealt with under Exempt business going forward.

Councillor Roberts then proposed the recommendation which was then seconded by Councillor Cooper.

The Committee

#### RECOMMEND TO FULL COUNCIL

That approval be given to a retrospective supplementary estimate of up to a maximum of £26k to settle the award of costs in respect of application P/58/19/PL (equivalent to a Council Tax Band D of £0.42) in order to regularise the budget position.

86. SUPPLEMENTARY ESTIMATE TO COVER COSTS FOR DEFENDING APPEAL ON LAND SOUTH OF BARNHAM STATION, BARNHAM

The Chair invited the Director of Place to present his report. He explained that the Council had refused an application for substantial development south of Barnham railway station and that there had been ten sound reasons for this refusal. As a result, the applicant had appealed against the decision and it was confirmed that the appeal would be heard by way of a Public Inquiry that was estimated to last eight days later in 2021.

The Council now needed to fund its legal representation to include Counsel costs and costs associated with the appointment of planning consultants and any specialist consultants to assist with defending the appeal. A supplementary estimate of £50,000 was requested in this respect.

The Director of Place outlined that there was no alternative to defending the appeal, but that Council Officers could defend the appeal instead of appointing planning consultants but that they did not have the capacity to undertake such a huge task and that if this option was suggested as an alternative it would mean that Officers would be taken away from their normal activities to act as the Council's witness for this appeal. Notwithstanding that, a supplementary estimate of some form would still be needed to pay for the services of an Advocate to act on the Council's behalf in this matter. The Director of Place confirmed that the £50,000 was the approximate cost of the Advocate and a total of £30,000 was for expert witnesses with these sums representing a worst case scenario for budgeting purposes.

In response to Members, the Director of Place confirmed that the application had been refused by Officers under Delegated Authority and not by the Development Control Committee, the reasons for this application not being presented to Committee were explained.

Another non-Committee Member implored Members to allow the Council to make the strongest possible representation by approving this recommendation.

Following further discussion, Councillor Stanley then proposed the recommendation which was then seconded by Councillor Oppler.

The Committee

RECOMMEND TO FULL COUNCIL

That approval be given to a supplementary estimate of £50,000 for costs associated with defending the appeal in respect of application BN/142/20/OUT. These include Counsel costs and costs of the appointment of planning consultants and any specialist consultants to assist with defending the appeal. A supplementary estimate of £50,000 equates to a Band D equivalent Council Tax of £0.80.

87. CORPORATE PLAN 2018-2022 - QUARTER 4 AND END OF YEAR PERFORMANCE REPORT FOR THE PERIOD 1 APRIL 2020 TO 31 MARCH 2021 FOR THE CORPORATE PLAN AND SERVICE DELIVERY PLAN INDICATORS

The Group Head of Policy presented this report confirming that the commentary for each indicator set out the extent to which each target had achieved for the period covering 1 April 2020 to 31 March 2021 with an explanation where necessary and also setting out which indicators required special monitoring in 2022.

It was explained that there was an error in the report at Paragraph 1.14 [Actions] where it had been suggested that the targets for SDP 16 [Business Rates Collected] and SPD 18 [Cost of Emergency Accommodation] be changed for 2021/22. There were no recommendations to change these indicators.

The Chair then invited debate and questions reminding Members that this item was being presented to this Committee so that it could fulfil its scrutiny role.

A range of questions were then asked, which have been summarised below:

- SDP 6 [Vacant Private Sector Dwellings Returned to Occupation] – praise was directed towards the Council’s Empty Homes Officer for achieving another award for her work undertaken. In the commentary it stated that much of that success had been due to the temporary provision of additional administration resource. It was hoped that this resource could continue to ensure that this valuable work could provide a long term solution to this problem.
- SDP 7 [Income received from general fund assets] – it was important for Arun to continue to have a strong presence as a landlord.
- SDP 1 [Major Applications Determined in 13 weeks] SDP 2 [Minor Applications determined in 8 Weeks] and SDP 3 [Other Applications Determined in 8 Weeks] – concern was expressed over the way the Council was measuring these indicators. They were being presented as successes when in fact the targets were failing in that they were only over-achieving by using extensions of time agreements. The Director of Place explained that an Extension of Time agreement was a voluntary agreement between the Council and the applicant to agree that rather than determine an application within the real time period of 8 or 13 weeks, an arrangement could be agreed for a longer determination time usually to allow time to iron out a wide range of issues, and examples were provided.

The point was made that if the Council was under performing in anything that the first stage in improving performance was to acknowledge that there was under performance and to then address the problem.

- CP7 [Homelessness Applications where Homelessness is Prevented] – what were the reasons for this target being below target, apart from Covid. The Director of Services explained that the reason for underperformance had mostly been attributed to Covid-19 but that there were other reasons in that the probate rented sector was stagnant; family relationships were under strain, partly due to the pandemic and subsequent on and off lockdowns. As a result, the ability to negotiate for people to remain living at home had become very limited.

88. MINUTES FROM THE MEETING OF THE PLANNING POLICY COMMITTEE - 1 JUNE 2021

The Chair introduced this item explaining that at Minute 42 [Delivery of West Bank Strategic Allocation] there were two recommendations for this Committee to consider. It was explained that the minutes had been provided to the Committee as a supplement pack which had been uploaded to web on 15 June 2021.

The Director of Place was invited to explain the recommendations to the Committee. He outlined that this item related to West Bank, Littlehampton and that this strategic site allocation in the Local Plan had not been delivered due to a variety of challenges and so consequently an alternative plan of action was now proposed which where the recommendations that had been resolved by the Planning Policy Committee on 1 June 2021. The issue for this Committee was that there was a cost associated with that alternative strategy which had not been budgeted for and so this was why this Committee was being asked to approve the funding required to allow the actions approved on 1 June 2021 to be taken forward. Members' attention was drawn to the second recommendation for it to consider which was for the Council to accept financial contributions from third parties to support the delivery of Recommendations (1) and (2) approved on 1 June 2021. The Director of Place confirmed that he had been in discussion with a number of third parties [third party landowners] and that financial commitments had been made totalling £50,000 towards the cost of this work and that there might be other contributions that could come forward in due course. Members were asked to reflect on this in considering the two recommendations which were before them.

*(At this point in the meeting, Councillor Walsh redeclared his Personal Interest made at the start of the meeting).*

There were key concerns expressed by several Members relating to spending £100k on this project despite this site being an allocation in the Council's Local Plan. The concerns were centred around the sea defences at Clymping breaking through and the flooding that had extended up to the A259 and to other parts of the road, making this land extremely floodable. Another issue was the cost of the required flood work which had been estimated to be in the £30-40m mark which would be an additional cost on top of buying the land and developing it. Based on such facts, there was great uncertainty that this land would ever be an attractive proposition and so there was a reluctance to spend up to £100k on what was seen as a risk. It was acknowledged that if the decision was made to not pursue this work, there was no alternative suggestion of where this housing might go if de-allocation was pursued. This was therefore a difficult

decision for the Committee to make and it had to consider the amount of money to be spent on potentially an undevelopable piece of land.

The Committee was reminded that £50k had since been committed from external funders and so the recommendation before the Committee needed to be amended in terms of the £100k supplementary estimate which should now read £50k.

Many of the points being raised by the Committee were a repeat of the debate that had taken place at the Planning Policy Committee on 1 June 2021. The Chair reminded Councillors that the matter before this meeting was to decide whether to recommend to Full Council that a supplementary estimate of £50k be approved, not the merits around whether this was a suitable site or not.

The Chair asked if this decision had to be considered today and whether it should be deferred pending the outcome of the bid made to the Community Renewal Fund. The Director of Place confirmed that any deferral would mean that four months of valuable work would be lost.

Following further discussion, Councillor Cooper then proposed the recommendations, amended to show a figure of £50k, and this was seconded by Councillor Roberts.

The Committee

RECOMMEND TO FULL COUNCIL – That

(1) should any application for funding for this project submitted to the UK Community Renewal Fund be unsuccessful, then a supplementary budget of up to £50,000 to fund the cost of recommendations (1) & (2) approved by the Planning Policy Committee on 1 June 2021, be agreed as the Council's contribution to the cost of the project; This equates to a Council tax equivalent of £0.80 for a Band D property; and

(2) the Council accept financial contributions from third parties to support the delivery of recommendations (1) and (2) approved by the Planning Policy Committee on 1 June 2021.

#### 89. FEEDBACK FROM JOINT ARUN AREA COMMITTEES

Although there were no items for this meeting, the Chair provided the Committee with a brief update as he had been consulted by West Sussex County Council regarding the abolition of Joint Arun Area Committees. He was consulting with Group Leaders with regard to the response that should be sent back to West Sussex County Council.

90. OUTSIDE BODIES

The Chair confirmed that there were no feedback reports from Outside bodies to present to this meeting.

91. LOCAL COUNCIL TAX SUPPORT SCHEME

The Committee received a report from the Chief Executive confirming that in accordance with the provisions of the Officer Scheme of Delegation in the Council's Constitution, he had taken a decision to incur expenditure and to take urgent action to continue the Covid-19 Hardship Fund for claimants or the Local Council Tax Support Scheme for 2021-22. The Committee was being asked to ratify the decision made by the Chief Executive.

The Committee

RESOLVED – That

(1) the urgent decision to continue the Covid-19 Hardship Fund for claimants of the Local Council Tax Support Scheme for 202/21, which continued an additional discretionary discount of up to £150 per household for working age claimants be ratified and

(2) the funding of the proposal from the balance of the funding allocated in 202/21 (approximately £210k) be noted.

92. CONTAIN OUTBREAK MANAGEMENT FUND (COMF) GRANT

The Committee received and noted a report from the Interim Group Head for Corporate Support and Section 151 Officer which provided an update on the Contain Outbreak Management Fund (COMF) grant allocations.

A question was asked regarding the Settled Status Advisor and the deadline in place. The Interim Group Head of Corporate Support and Section 151 Officer confirmed that she would provide a written response to the Committee outside of this meeting.

93. THE COUNCIL'S RESPONSE TO THE COVID-19 PANDEMIC SITUATION

The Committee received and noted a report from the Chief Executive which updated the Committee on the Council's response to the pandemic situation.

A range of questions were asked in terms of the arrangements in place to conduct a gradual return to staff working in the Civic Centre from 19 July 2021 onwards.

The Chief Executive confirmed that in preparing for the opening of the Civic Centre, the next meeting of the Planning Committee would be held physically, the date to be confirmed. This meeting would need to adhere to any Covid-19 restriction in place. Tests were underway to ensure that the webcasting equipment, cameras and projector were working sufficiently.

The Chief Executive was asked if all physical meetings would take place in the Council Chamber so that the webcasting equipment could be used moving forward. Other points made were the need to accept that as a result of the 15 month lockdown, many things would need to operate differently, such as the way in which the Council interacted with the public as demand would be different.

94. WORK PROGRAMME

The Chief Executive introduced the Committee's draft Work Programme for 2021-22 confirming that this was work in progress.

As a way forward, the Chair invited Councillors to have a think about future items and to email suggestions to him so that he could discuss these with Officers.

The Committee was reminded that one of its strategic aims was to address climate change by way of approving an Action Plan. This would be added to the work programme and would also be incorporated into the new Corporate Plan which was in the process of being developed via a series of Member workshops that would be held in July and August 2021. It would be this Committee that would oversee the development and adoption of a new Corporate Plan.

Having corrected when the Budget Monitoring Report would be reported to the Committee in February 2022 instead of 9 March 2022 and having received no further suggestions, the Chair thanked Members for their input.

(The meeting concluded at 8.41 pm)