



Representation Form

Selsey Neighbourhood Plan

The Neighbourhood Planning (General) Regulations
2012 - Regulation 16

Westbourne Parish Council has prepared a Neighbourhood Plan. The plan sets out a vision for the future of the parish and planning policies which will be used to determine planning applications locally.

Copies of the Westbourne Neighbourhood Plan and supporting documents are available to view on the District Council's website: <http://www.chichester.gov.uk/neighbourhoodplan>.

All comments must be received by 5:00pm on 23 March 2018.

There are a number of ways to make your comments:

- Complete this form on your computer and email it to: neighbourhoodplanning@chichester.gov.uk
- Print this form and post it to us at: **Neighbourhood Planning, East Pallant House, 1 East Pallant, Chichester PO19 1TY**

Important Note: All comments will be publicly available, and identifiable by name and organisation (where applicable). Please note that any other personal information provided will be processed by Chichester District Council in line with the Data Protection Act 1998.

How to use this form

Please complete Part A in full, in order for your representation to be taken into account at the Neighbourhood Plan examination.

Please complete Part B overleaf, identifying which paragraph your comment relates to by completing the appropriate box.

PART A	Your Details
Full Name	Angie Fenton
Address	Quod, Ingeni Building, 17 Broawick Street, London
Postcode	██████████
Telephone	██████████
Email	████████████████████
Organisation (if applicable)	Quod
Position (if applicable)	Associate
Date	22/03/2018

PART B

To which part of the document does your representation relate?

	Appendix 1	Policy Reference:	003
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Do you support, oppose, or wish to comment on this paragraph? (Please tick one answer)

Support Support with modifications Oppose Have Comments

Please give details of your reasons for support/opposition, or make other comments here:

Please refer to attached covering letter.

The Selsey NDP does not allocate additional housing sites other than those already granted planning permission, does not have regard for national policy or advice contained in guidance issued by the Secretary of State and is not in general conformity with the strategic policies within the CDC Local Plan.

The draft Selsey NDP does not therefore meet the basic conditions required to allow the NDP to be put forward to a referendum.

(Continue on separate sheet if necessary)

What improvements or modifications would you suggest?

Please refer to attached covering letter.

Extend the Selsey Settlement Boundary further to include sites which are suitable for housing so to help CDC meet its identified need for housing in the future.

(Continue on separate sheet if necessary)

If you have additional representations feel free to include additional pages. Please make sure any additional pages are clearly labelled/ addressed or attached.

Our ref: AF/Q50307
Your ref:
Email: angie.fenton@quod.com
Date: 22 March 2018



Neighbourhood Planning
East Pallant House
1 East Pallant
Chichester
PO19 1TY

By email

Dear Sirs,

Representations to the Draft Selsey Neighbourhood Plan Regulation 19 Version (2017) Submitted on Behalf of Thawscroft Limited

Background

We write on behalf of our client, Thawscroft Limited, the owner of a circa 7 acre (2.8 hectare) site on the western side of Old Farm Road (the Site). A Site Location Plan is presented at **Document 1**. In 2011/12 and particularly within the early stages of the aborted Selsey Neighbourhood Plan (NDP) preparation process, the suitability of the Site for housing was recognised and supported by interested parties. The Site was initially allocated within the revised settlement boundary for residential development in the first two drafts of the NDP (2014 and 2015), subject to overcoming any flood related constraints. The Site was also listed in the most recent CDC SHLAA (May 2014) but discounted for the sole reason that it was unknown whether flood risk could be overcome.

Following the Selsey NDP Examination in November 2015, the Inspector wrote in his Interim Report (**Document 2**) that there was no reason why the Site should not be included in the Selsey Settlement Boundary, and that the areas of the Site outside Flood Zone (FZ) 3 are suitable for residential development, with the areas in FZ 3 used for amenity space / garden space. However, the NDP was withdrawn in February 2016 and re-drafted at Regulation 14 stage. The revised 2017 NDP removed the western expansion of the settlement boundary in favour of expanding to the north of Selsey, thus removing the Site from the draft settlement boundary. The revised settlement boundary includes two sites to the north of the town which have already been granted planning permission. Both of these sites are already within the Council's 5 Year Housing Supply (5YRHS) and there are no therefore no new housing sites allocated for development in the Selsey NDP.

Since the most recent (2017) Neighbourhood Plan was first published, the local and national policy context has changed. The emerging Chichester Local Plan (Issues and Options) was published in August 2017, committing the LPA to finding more housing sites in the District. The Government's Housing White Paper was published in February 2017, confirming the Government's intention to ensure that more homes are built in sustainable locations. Furthermore, the Government's draft document "Planning for the Right Homes in the Right Places", was published for consultation in September 2017. This document sets out a standardised methodology for calculating OAN throughout the country. If this method is adopted, Chichester's OAN will rise from 435 dpa to 609 dpa. In March 2018, the draft NPPF Revisions was published, confirming the Government's planning priority of delivering more homes.





Both the current and draft NPPF requires Neighbourhood Plans to support the Local Authority's strategic development needs and plan to positively to support local development. CDC clearly needs more housing sites throughout the District in the short term and the target of 150 homes in Selsey as set out in the Local Plan is a minimum, not a quota. The proposed extension of the Selsey Settlement Boundary solely to the north to encompass two sites, which have already been granted planning permission and are already listed in the District's 5 year housing land supply, is not consistent with the District's strategic development needs and is therefore not consistent with national policy, when there is a suitable and deliverable site adjacent to the settlement boundary, just 500 metres from the town centre.

The Selsey NDP does not allocate additional housing sites other than those already granted planning permission, does not have regard for national policy or advice contained in guidance issued by the Secretary of State and is not in general conformity with the strategic policies within the CDC Local Plan. The draft Selsey NDP does not therefore meet the basic conditions required to allow the NDP to be put forward to a referendum.

Our reasoned justification for this is set out below.

The Site

This is an undeveloped and vacant Greenfield site bounded to the east and south by an established residential estate, which is comprised of two storey semi-detached houses and caravan parks to the west and north.

The Site is situated approximately 500 metres west of Selsey High Street and just outside the Selsey Settlement Boundary.

Policy Context

Meeting housing need is a nationally important planning objective and the NPPF sets out that local development plans should seek to meet the objectively assessed development needs across the housing market area where this is consistent with sustainable development. The recently published draft NPPF puts housing as the top planning priority for the Government, committing to delivering 300,000 homes. Key to this is the new standard calculation of local Objectively Assessed Need (OAN), based on ONS growth and affordability, alongside a Housing Delivery Test. The draft NPPF also sets out an expectation for OAN to be accommodated, including any unmet needs from neighbouring areas, unless there are strong reasons not to. Notably, from 2020, it is proposed that the presumption in favour of sustainable development will apply where an Authority's delivery is below 75% of its OAN housing requirement.

Paragraph 13 of the draft NPPF addresses Neighbourhood Plans, stating that NDP's should support the delivery of strategic policies of local plans and should shape and direct development that is outside of these strategic policies.

The draft NPPF indicates at paragraph 61 that the number of homes stated in strategic plans are minima and at paragraph 31 states that:

"Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies"



The current NPPF (2012) requires a positive approach to plan making and sets housing numbers in Local Plans as a minimum. At paragraph 16, the NPPF states that Neighbourhood Plans should support the development needs of the District, stating:

“The application of the presumption will have implications for how communities engage in neighbourhood planning. Critically, it will mean that neighbourhoods should:

- *develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development*
- *plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan” (our emphasis)*

With regard to the CDC Local Plan (2015), paragraph 1.14 - 1.16 addresses local housing numbers, setting out that each Parish, such as Selsey who are preparing a Neighbourhood Plan, will be expected to deliver the number of homes required of them, as set out in the Local Plan as a minimum. Paragraph 1.14 of the Local Plan also confirms that housing targets should be stated as minima, stating:

“Whilst it is possible for a Parish to prepare a Neighbourhood Plan prior to the adoption of the Local Plan, this could result in the Neighbourhood Plan being overridden if it does not allocate at least the minimum amount of development detailed in the Local Plan” (our emphasis)

Paragraph 1.16 of the Local Plan states:

“Each Parish will be expected to ensure that its Neighbourhood Plan(s) satisfy at least the required number of homes assigned in this Plan, as a minimum” (our emphasis)

Paragraph 5.8 of the Coastal West Sussex Strategic Market Housing Assessment (2012) which covers Chichester District also emphasises the need for Local Plan housing targets to be expressed as minima, stating:

“Given the evident development constraints across the Sussex Coast Housing Market, the SHMA Update recommends that a common statement is jointly prepared which articulates the strategic development constraints which exist; and that housing requirements in Local Plans are expressed as ‘minima’” (our emphasis)

It is evident, therefore, that housing requirements expressed in the CDC Local Plan should be considered to be minima.

The current CDC housing target is therefore a minimum of 435 dpa until 2019 (when it will raise to the actual OAN of a minimum 505 dpa) and for Selsey a minimum of 150 homes must be provided over the lifetime of the Local

Plan. The current Local Plan expires in 2019, when the revised Local Plan, with the actual OAN of 505 dpa should come into force.

Policy 23 (Selsey Strategic Development) of the adopted Local Plan states:

“Land at Selsey will be allocated for development in the Selsey Neighbourhood Plan including any amendments to the Settlement Boundary. Development which is required to be planned for will include:

- 150 homes; and
 - Supporting community facilities and open space....
- ...Taking into account site-specific requirements, development should:*
- Be planned as an extension(s) to Selsey, that is well integrated with the town and provides good access to existing facilities... **(our emphasis)**

There is no upper limit preventing the settlement boundary from being expanded to allow more than 150 homes coming forward on sustainable sites in Selsey. The provision of 150 homes in Selsey should therefore be read as a minimum consistent with the terms of the Local Plan. The NPD should be promoting the expansion of the settlement boundary to help the District meet its housing need.

Housing Delivery and Need in Chichester

Paragraph 47 of the NPPF requires LPAs to identify and update annually a supply of specific deliverable sites, to provide five years’ worth of housing against their housing requirements.

Section 6 of the NPPF provides guidance on the delivery of a wide choice of homes. Paragraph 47 advises local authorities that, in order to boost the supply of housing, they should:

*“use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period” **(our emphasis)***

CDC acknowledges that it has a record of under delivery of housing and that it is required to provide a 20% buffer, in addition to its OAN. The current CDC target of 435 dpa is less than the extent of the actual OAN of 505 dpa set out in the Local Plan. Due to capacity constraints on the A27, the Examining Inspector of the Chichester Local Plan allowed the Plan to be adopted in 2015 on the basis that CDC would meet a target of 435 dpa with a review within five years in which time CDC must find sites to meet its OAN of 505 dpa by end of 2019. This is evident in paragraph 56 of the Inspector’s Report (May 2015).

Paragraph 7.9 of the adopted Local Plan (2015) confirms that the Local Plan does not meet its current OAN, stating:

“The Council acknowledges that whilst accommodating a significant increase in housing provision the plan does not meet the current objectively assessed need for housing (OAN).

A number of matters which remain uncertain now may, when resolved, enable housing provision to be increased. These include the government’s proposals for improvements to the A27 around Chichester, sewerage infrastructure, and the quantification of housing delivery within the South Downs National Park. For this reason the Council will review the Local Plan within five years to aim to ensure that OAN is met”

With regard to housing delivery, paragraph 7.10 of the adopted Local Plan confirms that the even the lower target of 435 dpa is higher than has been delivered over the past decade, stating:

“The Local Plan makes provision to deliver 7,388 homes over the period 2012-2029. This equates to an average housing delivery of approximately 435 homes per year. This represents a significantly higher level of housing than has been delivered over the past decade” (our emphasis)

The emerging Local Plan Review (Issues and Options), published in July 2017 further acknowledges that the District is struggling to meet its housing need, stating in Section 1:

“It is only two years since the Council adopted the Chichester Local Plan: Key Policies (2014-2029). However, at the Local Plan examination, the Government appointed Inspector concluded that the Plan fell short of meeting the full housing needs of the area. Although the Council was allowed to adopt the Plan, the Inspector required us to commit to review the Local Plan within five years to aim to ensure that housing needs are fully met”

This confirms that more sustainable housing sites are needed throughout the District and all endeavours should be made to bring forward suitable and deliverable sites where possible. It provides a clear indication that a step change is required in housing delivery in Chichester and the requirement for Selsey is likely to be significantly more than 150 homes.

At paragraph 3.5.5 of the emerging Local Plan, Selsey is identified as one of 10 locations considered a suitable ‘area of search’ that may have potential for large scale development. However, it also acknowledges that further investigation is needed before sites can be allocated, stating:

“it should be emphasised that considerable further investigation and evidence will be needed before it is possible to identify specific sites for development and ensure that all the associated infrastructure requirements and environmental impacts have been fully addressed”

This investigation was carried out by the site owner and the wider development team during the preparation of a recently refused planning application, seeking consent for 68 homes (ref: 16/03997/OUT) (which is currently the subject of an appeal). Consultation responses from Highways England, the Environment Agency, Natural England and Southern Water during the determination period confirm that there are no infrastructure or environmental

constraints to developing the Site. Part of the reason that the planning application was refused on the grounds that the Site remains in the countryside and the effect on the junctions at Stockbridge and Whyke junctions. Mitigation is currently being agreed with Highways England on the latter.

Our client is aware that the recent planning applications for residential development to the north of Selsey will result in the minimum number of homes for the town being met. Outline planning permission exists for 139 dwellings at Park Farm (ref: 14/02186/OUTEIA). There is also an extant consent for 110 homes at Drift Field (15/00490/FUL) granted on 17 August 2015.

Despite these planning permissions, the Council's capacity to deliver housing at the predicted levels in future years was questioned by an Inspector in a recent appeal decision (APP/L3815/W/16/3165228), dated 18 August 2017 (**Document 3**). In his Decision, which allowed a development of 100 houses on a site outside of a settlement boundary in Oving, because a number of sites in the 5YRHS were not considered to be deliverable, the Inspector found that the Council's five year supply at that time should be reduced by 658 dwellings. On this basis, CDC could not even meet its target of 435 dpa. Notably, one of the sites that the Inspector highlighted was the development at Park Farm (within the proposed Selsey Settlement Boundary) which he instructed should be reduced by 39 units in the CDC five year supply. The Inspector questioned whether it can be delivered at the rate that the Council predicts. Reserved matters have not been discharged on the outline consent and no house builder has come forward for the site.

Since the appeal decision the Council has published a claimed Five Year Supply (December 2017), however this is reliant on the strategic sites coming forward at an unlikely delivery pace. This 5YRHS is likely to be challenged at appeal.

Inconsistency of Selsey Neighbourhood Plan with National Policy and Guidance

The Selsey Neighbourhood Plan 2017 states at page 6:

"The Chichester Local Plan: Key Policies 2014-2029 has allocated 150 homes to Selsey. These new houses will be a mix of open-market, affordable and housing association properties. Priority will be given to the development of infill and brownfield sites where possible, practical and feasible as the primary means of delivering the housing quota"

This statement is wholly inconsistent with national policy. The minimum target of 150 homes in Selsey is not an allocation, nor is this number a quota. There is no upper limit preventing more than 150 homes coming forward on sustainable sites in Selsey. The provision of 150 homes in Selsey should be read as a minimum, consistent with the terms of the Local Plan and national planning policy.

It is also relevant that the CDC Local Plan is currently undergoing an early review due to the District not meeting its OAN of 505 dpa. The evidence base and the emerging Chichester Local Plan identifies a clear and urgent need for housing development in the District and the emerging Local Plan devolves responsibility for identifying sites to meet the housing needs of Selsey to the Neighbourhood Plan. Significantly, the Council has been unable to identify a 5 year supply of housing land in the District, based on its actual OAN of 505 dpa.



The NPPF requires policies within local plans to be consistent with the principles and policies set out in the NPPF, including the presumption in favour of sustainable development. Sites must be identified to meet the housing needs of the area and in preparing the Neighbourhood Plan, Selsey Town Council is required to allocate sites with the objective of contributing to the achievement of sustainable development. These sites should be in sustainable locations, making the fullest possible use of public transport. Site allocations should also favour land that is of lesser environmental value.

Residential development on our client's site would form a logical extension to the settlement boundary and residential estate to the east (known as 'The Paddocks'). The principle of residential development on this site would be policy compliant if the Selsey Settlement Boundary were extended. The Site was once favoured for residential development as acknowledged by its allocation in the July 2014 and 2015 versions of the withdrawn NDP, albeit with a caveat against flood risk, before the Plan was withdrawn.

The NDP must be in line with local and national planning policy. The Local Plan puts the responsibility on the Selsey NDP to propose a minimum of 150 homes. The NDP should support the District's need to find suitable and deliverable housing sites by extending its settlement boundary to allow sustainable sites to come forward during the lifetime of the NDP, subject to development management considerations, which can be dealt with at planning application stage.

Deliverability of the Site

The adopted CDC Local Plan and the emerging CDC Local Plan (Issues and Options) both clearly set out the Council's objective to try to find more sites to meet its OAN of 505 dpa plus 20% before 2019.

The Strategic Housing Land Availability Assessment (SHLAA) (May 2014) identifies the housing potential of sites that fall within the Chichester Local Plan area (over the period to 2029). The SHLAA is not a technical study and should not be relied upon as a policy document. However, the appeal site was included in the 2014 SHLAA as "Land West of the Paddocks". The sole reason given for discounting this site in the SHLAA is that the flood constraints were unknown at that time.

To summarise, the landowner has recently invested in private hydrological modelling of the Site and Amec Foster Wheeler (now Wood plc), as the appointed flood risk consultants, have been liaising with the Environment Agency on behalf of the owner. Following consultation on a recently refused planning application for 68 units on the site, the EA has no technical objection to the site being developed for residential use and has agreed with the mitigation measures proposed, subject to passing the sequential test (Document 4a). This decision has been appealed to the Planning Inspectorate on the grounds that a sequential test was carried out. Notwithstanding, the very allocation of the Site in the early versions of the NDP, when it was the preferred location for residential development in Selsey, means that the sequential test was already passed. A development can therefore be designed so that the homes are within Flood Zones 1 and 2. The Flood Risk constraint has been overcome.

Furthermore, infrastructure was built into Old Farm Road in the 1990's to service a development on this site.



The 7 acre site was once part of a 21 acre field which was developed in the 1980's and 1990's. When the first 14 acres were developed (now an established housing estate), the spine road (Old Farm Road), sewage system and the surface water drainage system had capacity built into their systems to accommodate housing development on the remaining 7 acres. Following the completion of the Medmerry Flood Defences, our clients' site is ready for development with the necessary utilities infrastructure in place and can be delivered in the short term. The site is free of constraints, is in a highly accessible location and is clearly suitable for development, as the first version of the Neighbourhood Plan acknowledged.

During the recent planning application consultation, West Sussex County Council (WSSC) confirmed that the proposed development of 68 homes would not have a significant adverse effect on local road network (**Document 4b**). In advance of the appeal Hearing, the owner has had discussions with Highways England and have come to an agreement to provide a financial contribution to mitigate against identified junctions on the A27. Details will be set out in the S106 Agreement, should the development be approved.

The remaining matter to be overcome with regard to the refused planning application is the Site's location outside of a settlement boundary. There is no technical reason for this site to remain vacant and undeveloped and is suitable and deliverable in the short term.

Summary and Conclusion

The Governments planning priority is to deliver homes in sustainable locations. National policy is clear that housing numbers in Local Plans are minima. The Selsey NDP does not conform with the following basic conditions:

- (a) it does not have regard for national policy or advice contained in guidance issued by the Secretary of State and does not therefore meet the basic conditions.

- (e) It is not in general conformity of the strategic policies contained in the Local Plan in that it does not seek to provide more than the minimum number of homes.

This is prime, suitable development land and it is deliverable now. The Selsey Settlement Boundary should be expanded to the west to encompass this site. The consultation responses for the recent planning application confirm that there is no technical flood risk issues within the site, subject to mitigation measures and passing the Flood Risk Sequential Test. Highways England has agreed a financial contribution to mitigate against any (small) effect on the Stockbridge and Whyke junctions and WSSC confirmed that there would be no severe impact on the local road network.

In line with the NPPF, the Town Council should plan positively for the area and help the District Council meet its development needs. It is clear that CDC will struggle to confirm a 5 year supply when the OAN rises from the target of 435 (expires in 2019) to 505 dpa (actual OAN) or 609 dpa, using the Government's standard method of calculating OAN from.



We trust this letter is of assistance and that the District and Town Council's will support the development potential of this site for residential uses in the short term. We would welcome the opportunity to appear at the NDP Examination. Should you have any questions, please do not hesitate to contact us.

Yours faithfully,

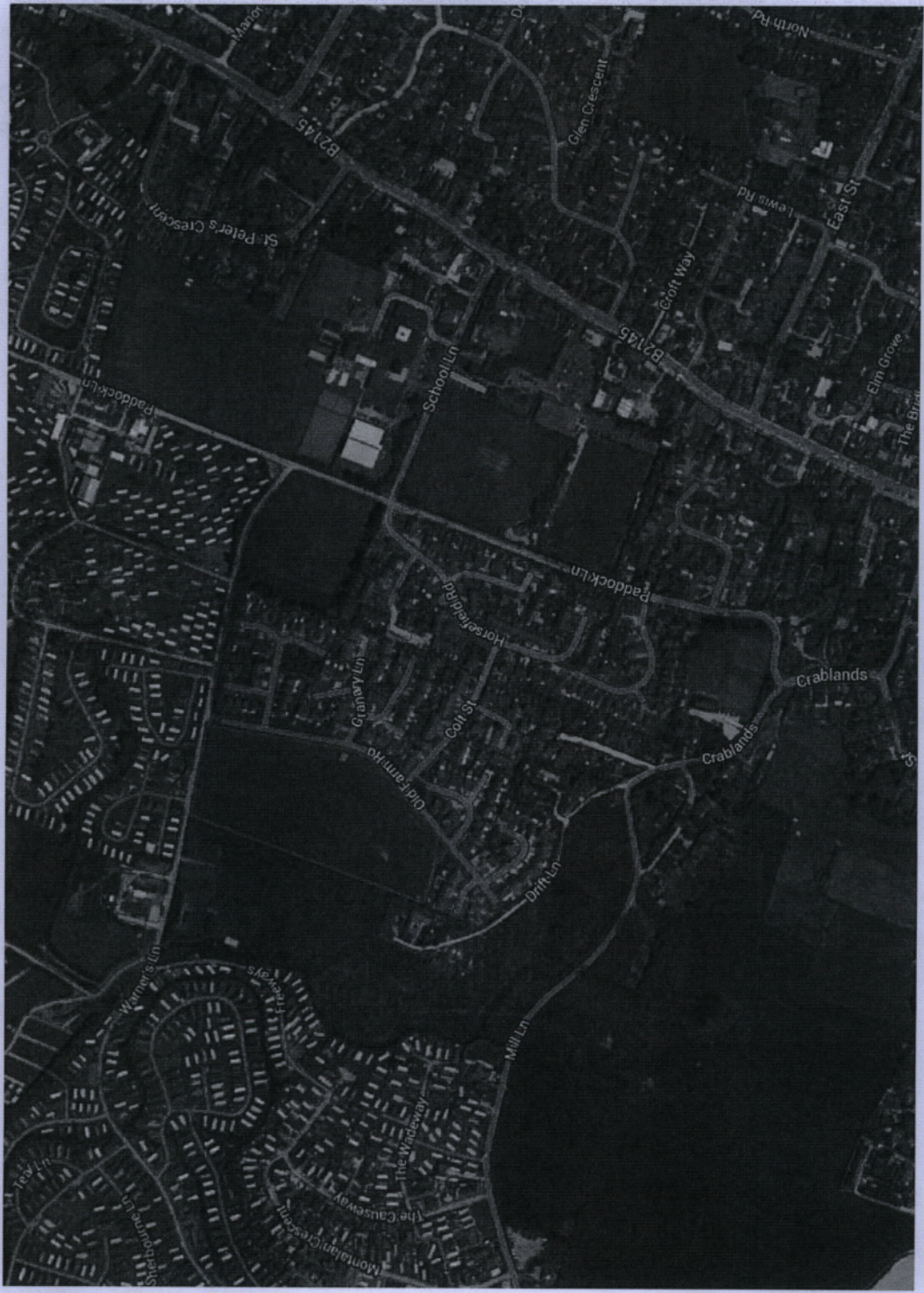


Angie Fenton
Associate



DOCUMENT 1

SITE LOCATION





DOCUMENT 2

WITHDRAWN SELSEY NDP
INSPECTORS INTERIM REPORT

Selsey Neighbourhood Plan

Interim Conclusions of Independent Examiner

Prepared by

JOHN SLATER BA(Hons), DMS, MRTPI

John Slater Planning

Examiners Interim Conclusions on Selsey Neighbourhood Plan

1. This is an interim report setting out my provisional findings regarding my examination of the Selsey Neighbourhood Plan. I have previously set out some initial conclusions in my document, "Initial Comments of the Independent Examiner" which I issued on 2nd September 2015. This document was used for the basis of the debate that took place at the Public Hearing into the Plan which I conducted on 18th November 2015. At this point I would like to place on record my appreciation for the candour and the positive attitude that all parties brought to the discussions. My reflections afterwards were that everyone was constructive in their contributions and appreciated fully the challenges all parties faced, in moving forward.
2. At the hearing we looked at a number of specific areas where I had raised concerns during my initial review of the Plan. In the annexe to the report I will set down in more detail where my concerns lie.
3. As I explained at the introduction to the Hearing Session, the neighbourhood plan legislation restricts me, to come to only three possible recommendations when conducting an examination, namely
 - To recommend that the plan goes to referendum
 - To recommend that the plan goes to referendum, if modified
 - To recommend that the plan does not go forward to referendum
4. During the hearing session, I indicated that in a number of areas where I had fundamental areas of concern, that were leading me to be minded to find that the Plan did not meet Basic Conditions. It is always open to the Examiner to make recommendations as to how the Plan could be modified to ensure that it can meet the Basic Conditions test. However, in this case, my concern is that the overall extent of the changes required go to the heart of the Plan itself. There are major issues with the layout and the organisation of the documentation and its content. In particular, the way the plan is organised is such that content could be readily considered to constitute Plan policy that was not in fact development plan policy. That could mean that users of the document, whether it be landowners, developers, residents, planners and other decision makers will not be totally clear as to what is expected from a planning proposal in terms of how it complies with the Neighbourhood Plan.
5. The Plan document comes in 2 parts – Part 1 is an Audit of the town and Part 2 is entitled *Planning Guidance Design Guide and Key Policies*. In the second Part there is much information that describes the town and how it has developed and what the Plan is trying to achieve in a number of key areas with then a section of specifically numbered policies at the end of the document. Much of the supporting information should be removed from the Neighbourhood Plan but should be in some supporting companion document.
6. I found the general layout of the documentation confusing and difficult to navigate. For example, if I wanted to see what the requirements for the design of new housing in the town, I would find information and expectations in

several parts of the document. Whilst there is no prescription as to how a neighbourhood plan should be organised, there is a requirement that plan policy is clear and unambiguous. Many plans have all the content regarding particular issues in individual chapters which sets out the objectives of the neighbourhood plan, the policy itself, followed by the justification/ evidence to support the policy.

7. Furthermore, it is clear that much of the document has not changed or been updated since an early version of the Plan that had been subject to public consultation. At the hearing it was acknowledged that closer editing may have been carried out to eliminate some of the more obvious examples, but the intention was that the plan being submitted would be close to the original so that residents would have recognised that they had been consulted on. However, it is the Submission Version of the Plan that is before me for examination. There are a number of examples, where the Plan has been overtaken by events, particularly residential allocations that have now been granted consent and indeed in at least one case development is under construction.
8. The issue has arisen in part due to the prolonged period of the Plan's gestation, starting in 2011/12, when the Localism Act was still a Bill as the document still refers to the legislation. It is inevitable that the world does not standstill in the meantime and "that is the lot of the plan maker" but it is incumbent upon the authors to update the Plan to represent the position as it exists at the time of Submission.
9. Another problematic area resulting from the Plan's production period is the fact that in the meantime some Government policy and advice has been changed or issued. Selsey was one of the early adopters of the new neighbourhood planning arrangements, at a time that there was little guidance or policy. Since that time the Government has, published Planning Practice Guidance and issued other Ministerial Statements that give clear advice on preparing neighbourhood plans.
10. One particular area that has been the subject of a major shift in Secretary of State advice and policy, relates to the extent to which neighbourhood planning can address the way that new housing is designed to take account of climate change. It is clear that the issue of addressing sustainability lies at the heart of the Selsey Plan's overall vision to be "at the forefront of setting priorities to alleviate the effects of climate change". That is quite an understandable driver bearing in mind that the sea surrounds Selsey on three sides. However the Government has significantly "moved the goalposts" through the Ministerial Statement made by Eric Pickles MP on 25th March 2015 when he stated that "qualifying bodies preparing neighbourhood plans should not set in theirneighbourhood plans, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings". This has, at a stroke, undermined a large element of the Selsey Neighbourhood Plan.

11. The Town Council in its response to my Initial Comments dated 12th October 2015 acknowledged that the Secretary of State's had changed significantly but offered a robust rebuttal: -

"There comes a time where we must say that "this is our plan" and whilst we accept that policy may change around it, at the point of writing it has to be "our Plan" If we were to keep pace with every change that has taken place and will take place, it would cost of tens of £thousands and would be a hotchpot of ideas rather than a vision dealing with key issues and setting out usable policies"
12. Whilst I may personally share some of the Town Council's frustration nevertheless the legislation is clear that one of the tests of the Basic Conditions is to address the question has it been prepared "having regard to national policy and advice contained in guidance issued by the Secretary of State.". it is against the Secretary of State's advice at the time of the examination that is the benchmark rather than what was the advice at the time the earlier versions of the Plan were being written.
13. It is the conflict with Secretary of State policy and advice that leads to my continued concern that the plan as submitted does not pass all the tests to meet the Basic Conditions.
14. I have given much thought as to whether it would be possible for me to make recommendations to bring the Plan into line with Government advice. The extent of the required rearrangement of the document, the deletion of much of the policy and the guidance that lays at the heart of what the plan is seeking to achieve, plus the necessary updating of the Plan, goes to my mind, well beyond what it is possible for an examiner to undertake. Furthermore, the Plan that would emerge would bear no resemblance to the Plan that the Town Council had prepared and had consulted widely upon with its residents and other groups.
15. At the Hearing, I indicated that having heard the discussion, my conclusion at that time had not changed, namely that the Plan could not be said to meet the Basic Conditions and I trust that the parties at the hearing could at least understand the basis for my conclusions
16. During the discussion the Town Council representatives indicated that they wished to reflect on my conclusions and decide if and how they as a Town Council wished to respond and indeed decide whether to proceed with the Neighbourhood Plan. I therefore offered to prepare an interim report rather than complete my final examination report, which was likely to conclude that the plan in its present form should not proceed to referendum.
17. I need to make it clear and for the avoidance of doubt that this interim report does not represent the conclusion of my examination. I can understand the Town Council's anxiety that I do not formally make my final recommendation before the Town Council as a whole had the opportunity to consider its options. Essentially the options open to it are to produce an amended version of the Plan or take a decision not to proceed with a neighbourhood plan,

which would have implications for the future level of receipt of CIL moneys. At the hearing I did respond by saying that it would not be appropriate to radically change the Plan without the plan going through the necessary stages of public consultation as laid out in the Neighbourhood Plan Regulations, in effect going back to the Regulation 14 stage.

18. The examination currently stands adjourned and from my viewpoint, there are 2 options available. I can continue my examination and produce my report with the likely recommendation that the Plan does not meet Basic Conditions and should not proceed to referendum. Alternatively, I believe that it would be open to the Town Council to request to the Local Planning Authority that it no longer wished for the plan in its current form to proceed to examination and that it intends to produce a new version of the Plan which will then be the subject of a new round of pre submission consultation. In that scenario my examination of the current plan would cease. At the Hearing the representatives of the Local Planning Authority expressed their willingness to work closely with the Town Council on the redrafting of the policies and the restructuring of the documentation.
19. One advantage would be that by that time Chichester DC could be in a position to have its CIL scheme in place which will also address my concerns that some of the contribution policies do not pass the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations.
20. To conclude this part of my report, I appreciate that my conclusions will come as a major disappointment to the Town Council and the working group who have put a lot of hard work and commitment into producing the Plan. Many of the issues that I have identified fall outside the control of the Town Council. The preparation of an Interim Report is an unusual approach but I hope that it is helpful in helping the Qualifying Body to come to a view on how it wishes to proceed.
21. I therefore look to the Town Council to respond to me in due course and indicate whether it wishes me to proceed with the completion of my examination or whether it intends to tell the Local Planning Authority that it wishes to withdraw the current version of the Neighbourhood Plan.

John Slater BA(Hons), DMS, MRTPI.

7th December 2105

ANNEX: THE BASIS OF INTERIM CONCLUSIONS

Neighbourhood Plan policies should be restricted to the "Use and Development of Land"

The Neighbourhood Plan does include a section at the end entitled Non Planning Objectives but there is much material in the main body of the Plan document that relates to matters which go beyond the "use and development of land". Some whole sections of the Plan cover non planning matters such as the Chapter entitled Community Safety – Police, Ambulance, Fire and Wardens. To give some further examples, I would point to support for Youth Dreams, comments regarding enhanced civil enforcement in areas with restricted access, parking fees, policies for the lobbying for public transport services. Government policy as set out in the Planning Practice Guidance is that such matters should ideally be in a companion document or annex and certainly be clearly identified as non planning policies

Structure of the Document

Again the national guidance is that policies in the Plan are clear and unambiguous and should be drafted with such clarity that a decision maker can apply them consistently and with confidence when determining planning applications. Policies should be concise, precise and supported by appropriate evidence. I found the whole document to be a confusing mixture of background information, guidance and policy. Users of the Plan, when referring to the document would not be clear as to what policies and elements of the document are relevant to their planning application. Much of the document contains text that readers will quite reasonably assume as being statements of policy. I will give some examples below to illustrate the point

"development will be expected to incorporate, where feasible, low carbon energy generation and distribution by these means- or connect to nearby networks where there is available capacity for this to be viable"

"therefore, well designed "cottage" or terraced two up two down type housing should be included in new development"

"new development immediately on the coastline must be positioned so that the primary living space has clear views of the sea"

'every roof should be covered with photovoltaic panels and/ or passive water heating units"

"smaller brownfield sites in the town can be used as permanent/ static traveller sites

In part the confusion comes from the structure of the document, where matters are covered in earlier parts of the document which is separate from the section that

deals with the policy. Users of the Plan should not be faced with any ambiguity in understanding what they are required to comply with in terms of the policy section's requirement or whether they are meant to respond to the guidance and aspirations that are being promoted in the earlier part of the Plan. For example, much of the document is headed Local Design and Planning Policy, when the actual policies are contained at the end of the document. There is much text which purports to be Guidance contained in the main body of the document but which is then not reflected in the policy and this displays a lack of clarity. A fundamental restructure of the Plan would look to bring all information as to a particular topic together so that everything the plan has to say about a particular issue is contained in that section and then there is no ambiguity as to what is and what purports to be policy statements and the supporting text.

Status of Some Plans

There is no map that shows the full extent of the area covered by the Neighbourhood Plan policy. Equally the status of a number of the Plans is ambiguous. For example the Land Use Plan 2012 is not a just a reflection of existing land use, which maybe a useful background document as part of the Plan's evidence base, but some of the indications are that there are brownfield and green field sites *with development potential*. It is not clear if this is a reflection of planning policy or part of the site selection criteria. It then also includes a site which is an employment allocation. I heard at the Hearing that the land to the rear of the employment allocation should also have been designated as an employment allocation rather than as greenfield site with development potential which was a cartographical error. However, the owner of that land would be prejudiced by a change to reflect that mistake. Similarly, it is not appropriate for a neighbourhood plan to be showing a possible conservation area boundary change as it would cause confusion as to whether conservation area policies apply. That falls outside the remit of a neighbourhood plan.

Some of the document needs updating

There are numerous examples where the plan has not been updated since originally drafted, for example it consistently refers to the Localism Bill, reference to Medmerry "should be completed by mid 2013", "discussions are on going regarding use of Academy playfield for junior football", " WSCC are preparing a report re use of Seal School for football and cricket". A very material update that has not been made is that the plan referred to housing need, by reference to persons on the housing register, being 448 in 2013 the figure now stands at 127. Other editing errors include the need to introduce a number into the text of Policy TAW01 dealing with the allocation for the temporary agricultural workers' accommodation.

The submission plan should provide information as to the fact that planning consents have been granted for a number of the housing allocation sites. The status of the allocations then changes to becoming commitments that will deliver the housing needs for the town as set by the now adopted Chichester Local Plan- Key Policies.

The Submission Version does not reflect that Government policy has Changed

Much of the Plan is dedicated to ensuring that new development is built to the highest possible standards of environmental and energy efficiency. The plan contains much detailed guidance as to how this is to be achieved and a number of the requirements are enshrined with the design policies. However, since the Ministerial Statement of 25th March it is not possible for neighbourhood plans to include any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings. This renders much of the text of the plan irrelevant and can no longer be incorporated in a neighbourhood plan. Therefore, planning requirements relating to new development incorporating energy efficiency features, use of photovoltaics, grey water plumbing, ground source heat pumps, triple glazing and requiring all front and back doors to have entrance porches have to be deleted from the plan.

The requirement for all applications to be accompanied by a Crime Impact Statement cannot be a neighbourhood plan policy. The requirement for applications to be accompanied by particular documents is secured by their inclusion as local list requirements on what is required to make a valid planning application.

Thawscroft

It is clear that the planning status of that land has changed over the lifetime of the plan and it has now been withdrawn as an allocation, although the site does appear as a site with development potential and it is described as a site that the flooding situation may be assessed during the lifetime of the plan. The plan includes a map that does not show the extent of the development land as it includes land with a local nature designation. My view is that it is not appropriate to allocate any site for residential development if it falls within Flood Zone 3. The sequential tests set out in the NPPF indicate that sites falling in Flood Zone 1 should be developed in preference to areas liable to flooding. There was a useful discussion at the hearing about whether I should allocate just that part of the site that lays outside flood Zones 2 and 3. It would be possible to include the gardens and open space in the areas on the edge of the flood zone. I also believe that the settlement boundary can contain the whole site if the site were to come forward as it is a sustainable location for new housing should the flooding objection be removed. This is a matter that the Town Council may consider helpful in looking forward.

Policy Not Justified by Evidence

The NPPF requires that policy must be justified by evidence and in some areas I do not consider that the Plan has made the case in a sufficiently robust manner. My main concern is that the requirement for residential schemes of above a single unit being required to contribute to highway improvements, has not been justified. It may well be that the need for the policy will disappear once CIL is introduced which would allow the parish to direct some of its receipts to the highway and other infrastructure

improvements without having to pass the tests of Regulation 122 of the CIL Regulations 2010

Meeting the Legislative tests

There are a number of areas where the Plan does not meet the requirements of Localism Act and the Regulations. These are, it includes policies which deal with waste matters, which are classed as excluded development and which cannot be included in a neighbourhood plan as County Matters. It could be argued that it seeks to deal with matters outside the Plan area in that it makes comments regarding the A27 highway improvements. Finally, it is not explicit as to the Plan period, which I understand from the Inquiry is to tie in with the Local Plan. However, I must stress these issues could have been dealt with as modifications that I could have recommended if the Plan were to move forward in my examination. I merely bring them to the attention of the Town Council



DOCUMENT 3

**ALLOWED APPEAL DECISION
APP/L3815/W/16/3165228**

Appeal Decision

Inquiry held on 6, 7, 13, 14, 15 and 16 June 2017

Site visit made on 16 June 2017

by Kevin Gleeson BA MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 August 2017

Appeal Ref: APP/L3815/W/16/3165228

Land at the corner of Oving Road and A27, Chichester PO20 2AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an outline application for planning permission.
 - The appeal is made by Welbeck Strategic Land II LLP and DC Heaver and Eurequity IC Ltd against Chichester District Council.
 - The application Ref 16/02254/OUT, is dated 27 June 2016.
 - The development proposed is described as development of the site to provide 100 dwellings (Use Class C3), with associated access, parking, outdoor space, landscaping and infrastructure.
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Decision

1. The appeal is allowed and outline planning permission is granted for development of the site to provide 100 dwellings (Use Class C3), with associated access, parking, outdoor space, landscaping and infrastructure at Land at the corner of Oving Road and A27, Chichester PO20 2AG in accordance with the terms of the application Ref 16/02254/OUT, dated 27 June 2016, subject to the conditions in the schedule at the end of the decision.

Preliminary Matters

2. The appeal was made on the basis of the Council's failure to determine the application within the prescribed period. Following the lodging of the appeal the Council indicated that they would have refused the scheme had they been in a position to determine the application, firstly on the basis that the proposal was contrary to the Council's development strategy, secondly that it would have an adverse landscape and visual impact and thirdly that it would fail to secure the provision of necessary infrastructure.
 3. The application was submitted in outline, with only access for determination at this stage. All other matters are reserved for future consideration. I have therefore treated any submitted details concerning layout, appearance, scale and landscaping as being illustrative only.
 4. A draft agreement under Section 106 of the Town and Country Planning Act, 1990 was discussed at the inquiry and a signed and dated agreement was provided following the inquiry. This contains obligations in respect of affordable housing, recreational disturbance, highway improvements and open space land and play areas. As such the agreement addresses the Council's
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third putative reason for refusal. I shall return to these matters later in my decision.

Main Issues

5. The main issues are:
- whether the appeal site would be suitable for housing;
 - the effect of the proposed development on the character and appearance of the surrounding area; and
 - whether there are any other material considerations which would justify a determination other than in accordance with the development plan.

Reasons

Suitability of the Site for Housing

6. The Development Plan comprises the Chichester Local Plan: Key Policies 2014-2029, (the Local Plan) adopted in 2015. An emerging Site Allocations Development Plan Document (the emerging DPD) was submitted to the Secretary of State for Examination in March 2017. In addition, since the inquiry closed, the Council has undertaken consultation in respect of Issues and Options for its Local Plan Review.
7. Policy 2 of the Local Plan sets out the Council's Development Strategy and Settlement Hierarchy, identifying locations for sustainable development. It identifies Chichester as a sub-regional centre and the focus for major development.
8. Policy 2 identifies a presumption in favour of sustainable development within the settlement boundaries. The appeal site lies outside of but adjacent to the settlement boundary for Chichester city which is bounded by the A27 to the west. Being within the parish of Oving, it is therefore within the defined Rest of the Plan Area where development is restricted to that which requires a countryside location, meets an essential rural need or supports rural diversification.
9. Policy 5 of the Local Plan establishes indicative parish housing numbers including 235 for Chichester city and 0 for Oving. These figures exclude strategic housing allocations whilst for Chichester city the policy recognises that suitable sites will be allocated through the emerging DPD. This may include sites adjoining the Chichester city settlement boundary in neighbouring parishes including sites separated from the settlement boundary by the A27.
10. The parish housing numbers in Policy 5 are indicative and the Council accepts that they are not a ceiling. Nevertheless, the numbers provide a broad indication of the potential scale of housing which would be acceptable.
11. Policy 45 of the Local Plan states that within the countryside, outside of settlement boundaries, development will be granted where it requires a countryside location and meets an essential, small scale and local need which cannot be met within or immediately adjacent to existing settlements.
12. The emerging DPD considered the appeal site as an option for the Chichester city parish but it was not proposed for allocation because there were sufficient

available brownfield sites within the existing settlement boundary to meet the requirement for 235 dwellings. As 324 net dwellings have been permitted on sites of six or more dwellings within Chichester city since 2012 the parish figure set in the Local Plan has already been exceeded.

13. The weight to be given to the emerging DPD is guided by paragraph 216 of the National Planning Policy Framework (the Framework). It is at a relatively advanced stage and has been prepared in the context of the Local Plan which itself was adopted after the publication of the Framework. However, there are still unresolved objections to relevant policies including the decision not to include the appeal site as an allocation. Consequently I give moderate weight to the emerging DPD.
14. Accordingly I find that the proposed development would be contrary to Policy 45 of the Local Plan, being outside of the settlement boundary for Chichester. It would be contrary to Policy 2, being within the Rest of Plan Area as defined by that policy and the scale of development would not be consistent with the indicative housing numbers for Chichester and Oving parishes as set out in Policy 5.

Character and Appearance

15. Approximately half of the northern boundary of the appeal site is formed by the rear gardens of dwellings fronting onto Oving Road and the Kingdom Hall of Jehovah's Witnesses at the eastern end of these properties. There are two mature trees elsewhere on the northern boundary with interspersed limited planting. Both the western and southern boundaries are marked by continuous planting whilst the eastern boundary of the site is open. The western boundary abuts the A27 whilst to the east is agricultural land with scrub land to the south. The site is currently in agricultural use having previously been used for gravel extraction. Land to the south of the appeal site, owned by Suez, is a former landfill site. The appeal site is not subject to any particular landscape designation.
16. Beyond the site boundaries the northern side of Oving Road is fronted by residential and employment uses. To the east of this frontage, extending northwards, the area is currently being developed as the Shopwyke Lakes urban extension. The A27 provides the current development boundary to the city of Chichester with a range of residential and commercial developments extending up to this boundary.
17. The proposal is in outline form with all matters reserved apart from access. Illustrative plans have been submitted showing land use and green infrastructure, building heights zones, movement and access and a masterplan layout.
18. The appeal site is located within Landscape Character Area SC9: Chichester to Yapton Coastal Plain in the *West Sussex Landscape Character Assessment, 2003*. Characteristics of this extensive character area include the low lying flat open landscape with large scale arable farming. The loss of distinction between different settlements due to urban expansion is recognised as a key sensitivity for the character area.
19. The Land Use Consultants Report, *The Future Growth of Chichester: Landscape and Visual Amenity Considerations, 2005*, (the LUC Report) also identified the

- site as within Landscape Character Area 4A: Chichester Coastal Plain. This is characterised by features including a flat landform, large productive arable farmland and gravel workings and valued locally for its rural character with the open nature of the landscape described as being visually sensitive.
20. Within Character Area 4A the appeal site formed part of Landscape Character Parcel 39: Sherwood Worked Ground. This described the landscape quality/condition as poor given that landscape structures and features had been lost through gravel extraction with a low sensitivity to change. It was also described as providing a neutral contribution to the landscape setting of Chichester and the wider landscape. Whilst the assessment was published in 2005 and the site has now recovered to some extent I find that the conclusions still generally apply.
 21. With regard to the effect on settlement pattern the LUC report acknowledged that although the land parcel adjoins the existing urban edge of Chichester, the size of the parcel means that development in this location would extend the influence of Chichester substantially eastwards.
 22. The appeal site has limited landscape value and only contributes in a small way to the setting of the city. Consequently I find that by virtue of the relationship of the appeal site to the existing development of the city of Chichester as a whole and the Shopwyke Lakes development in particular the impact of the proposed development on the character of the surrounding area would be limited. Nevertheless, the character of the appeal site would change from fringe farmland to residential development and associated open space, giving it and the immediate locality an urban character.
 23. I also find minimal conflict with the requirement within *A Strategy for the West Sussex Landscape* which aims to secure development which contributes to and reinforces landscape character. However, because of its proximity to neighbouring development to the north, I do not regard the proposal as piecemeal development. Furthermore I see no reason why a strong landscape framework as an identified environmental opportunity for National Character Area 126: South Coast Plain, within the *National Landscape Character Assessment* could not be achieved at detailed design stage.
 24. In visual terms, the appeal site is screened from all but immediate roads and dwellings by virtue of boundary hedgerow and woodland belts. It can be seen from the South Downs but is not highly visible in panoramic views. When viewed from Shopwyke Road the impression is of an open rural landscape although taller vehicles on the A27 intrude into views as an indication of the site's local context. Views from the A27 / Oving Road junction place such traffic in the foreground although the impression of the site is that it forms an area of openness. With development there would be a loss of visual amenity and sense of countryside for adjoining residents, users of Shopwyke Road and the A27 and pedestrians and cyclists at the crossing of the A27. New houses would be visible from Oving Road and the A27 but with the limited visibility and low visual sensitivity there would be limited visual harm.
 25. As Policy 7 relates to the masterplanning of strategic development sites I do not find it relevant in this case although the objectives which it seeks to achieve, including the creation of a sense of place, the incorporation of a green infrastructure strategy and demonstrating respect for the natural environment, could be achievable in masterplanning of the appeal site.

26. I find that the criteria which new development must meet in terms of detailed design which are set out in Policy 33 of the Local Plan could be addressed at the reserved matters stage. However, there would be conflict with the requirement of this policy to respect the character of the site by virtue of the proposed change to residential development.
27. Policy 40 which seeks to secure sustainable design and construction can be addressed at detailed design stage. Moreover, as I have found that the proposal would not represent piecemeal development, there would be no conflict with paragraph 58 of the Framework which requires the optimisation of the development of a site including the incorporation of green and other public spaces.
28. The clear focus of Policy 47 of the Local Plan is heritage and the Council alleges no harm in respect of such matters. Furthermore, those aspects of Policy 47 concerned with design including respecting distinctive local character can be addressed at reserved matters stage. However, the proposed development would harm the predominantly open and undeveloped character of the immediate area and the openness of views by virtue of the introduction of new development.
29. Policy 48 of the Local Plan requires development to avoid harm to the openness of views of particular features none of which apply in this case. In respect of the South Downs National Park I do not find the appeal site as falling within its setting, not least because of the development of Shopwyke Lakes between the appeal site and the National Park. Whilst the proposed development would bring increased activity and traffic movements there would be no loss of tranquillity as the site is located adjacent to the busy A27. The Council's own sustainability appraisal as part of the Local Plan Review recognises that of the strategic options being considered the appeal site is one of the less sensitive options in landscape terms.
30. I do not accept that the site is isolated from Chichester notwithstanding the barrier which the A27 provides because the Shopwyke Lakes development is also located beyond the A27. As identified in the Chichester City Impacts Study the relationship between the city and the countryside would change as a result of development to the east of the A27 and would displace countryside further away from the city centre core. However, the proposals would not be physically or spatially separated from the city or lead to a loss of distinction between different settlements or their identity. In addition the proposal would not result in a loss of the sense of connection to the countryside which could be achieved through the provision of open space and green links to the countryside secured through detailed design. However, for reasons already given I consider that the proposal would be contrary to Policy 48 by virtue of its impact on landscape character.
31. The scale and nature of the proposed development would result in the sense of openness being reduced and some very local views into open countryside would be lost. I therefore find that the proposal would result in modest harm to the rural character and appearance of the area due to the introduction of built development. However, with screening and landscape enhancements these effects would be largely confined to the immediate vicinity of the site with no significant intrusion into the open countryside. Nevertheless, the proposal would conflict with Policies 33, 47 and 48 of the Local Plan.

Other Material Considerations

32. The Report of the Inspector on the Examination into the Local Plan identified an OAN for the Local Plan area, excluding the South Downs National Park, of 505 dwellings per annum (dpa). A lower housing requirement of 435 dpa was set for the period 2012-2029 recognising constraints within the District. Nevertheless, the Inspector found that the Council could demonstrate a five year housing land supply.
33. Paragraph 47 of the Framework states that to boost significantly the supply of housing, local planning authorities should identify and update annually a supply of specific deliverable sites, sufficient to provide five years' worth of housing against their housing requirements. An additional 5% buffer should be provided to ensure choice and competition in the market and where there has been a record of persistent under delivery the buffer should be increased to 20%. The Council accepts that its record of previous housing under delivery justifies a 20% buffer. It is also common ground that the Sedgefield approach should be used to address the identified under delivery.
34. Footnote 11 of the Framework states that for a site to be deliverable it should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that the housing will be delivered on the site within five years. It should also be viable. Moreover, sites with planning permission should be considered deliverable until permission expires unless there is clear evidence that the schemes will not be implemented within five years.
35. The Council's assessment of five year housing land supply for the Local Plan area, dated 1 November 2016 identified a potential housing supply of 3,503 dwellings over the period 2017-2022 compared with an identified housing requirement of 3,023 net dwellings, giving a surplus of 480 net dwellings, equivalent to 5.8 years of housing supply.
36. The Council's position, based on the most recent data available on 30 April 2017 is that it can demonstrate a 6.0 year supply in respect of the period 2017-2022 with a potential supply of 3,636 dwellings and showing a surplus of 613 new dwellings. This is based on predicted completions for the 2016/17 monitoring period.
37. The Council's assessment of five year housing land supply is for the period 2017-2022 thereby looking forward from the monitoring date of 1 April 2017. The appellants' position was that five year supply should be tested against the five year period running from when actual verified completions data is available, thereby assessing delivery over the 2016-21 period.
38. The Council points to Planning Practice Guidance (PPG) which indicates that local planning authorities should have an identified five year supply at all points during the Plan period. On this basis the Council justifies looking forward to the next five year period particularly since the period until 31 March 2021 is already well under five years.
39. There is no single correct approach to this question or prescriptive guidance either way as recent decisions of Inspectors and the Secretary of State confirm and neither the Framework nor PPG are definitive.

40. Whilst there is evidence that the Council has continually over-predicted housing delivery compared to actual completions the Council's estimate for net completions in the year 2016/17 of 465 net dwellings which exceeds the Local Plan requirement demonstrates an improving position. On this basis I consider that the five year period should extend from 2017/18 to 2021/22.
41. In terms of delivery rates the Council's assumption is that sites will deliver 65 to 75 homes per annum based on no more than four house sales per month achieved by a single housebuilder on each site with higher numbers where two or more developers are involved. In line with PPG advice the appellants have considered average annual delivery rates of national housebuilders active within the District providing a figure of 43 completions per annum and an analysis of local data which indicates average delivery rates of 31 dpa on sites over 50 units and 36 dpa on sites over 100 units. On the basis of more extensive evidence provided by the appellants I find the Council's delivery rates to be over-optimistic and I have therefore assumed a rate of 40 dpa on sites with a single developer.
42. With respect to the elements of supply the latest position is as set out in *Chichester Local Plan Area – Five Year Housing Land Supply 2017-2022 Updated Position at 1 November 2016*. My findings on those sites which were in dispute between the Council and the appellants are as follows.
43. *Site 1, Field North West of the Saltings, Birdham*. The site has an extant detailed planning permission with pre-commencement conditions discharged and a developer identified. There is a question over deliverability related to access issues. The developer has sought support from the Council to bring forward a compulsory purchase order (CPO) to resolve outstanding matters. The Council's solicitors have indicated that this could be completed within three years which would allow two years for the delivery of 15 houses which would not be an unrealistic delivery timetable. Whilst no decision has been taken on whether or not to progress with a CPO the fact that the developer has identified the potential need for one calls into question the timescale for delivery. On this basis the site would fail the test of deliverability as it is not available now. As a result I reduce the supply by 15 units.
44. *Sites 5 and 6, Bartholomews Ltd. Bognor Road, Chichester*. The appellants argued that there should be a reduction of 88 units. Both sites benefit from detailed planning permission although delivery is dependent upon the relocation of uses which would not release these sites until late 2018 or early 2019. No developer is yet identified although there appears to be sufficient time for the site to be marketed and sold in order for delivery to commence in 2019 or 2020. This would allow two to three years for the delivery of housing up to 31 March 2022. On this basis I consider that that the sites would be likely to deliver the 108 dwellings indicated in the Five Year Housing Land Position.
45. *Site 7, Portfield Football Ground, Chichester*. This site has planning permission which was renewed in January 2016 and allows five years for the approval of reserved matters. Development appears to be dependent upon the delivery of the Westhampnett Road roundabout which is likely to be delivered through a major retail scheme at Barnfield Drive. The Portfield site alone is not looking to deliver the highway improvements and therefore the delivery of housing is dependent upon delivery by others. Although the retail scheme has outline

planning permission it is not clear when a reserved matters application will be submitted or when the highway works will be implemented. Evidence of site clearance in preparation for groundworks offers little certainty in my view. As the site will only be marketed again once the roundabout has been constructed and the planning permission proposed a 50% affordable housing contribution a revised application may be required. This uncertainty suggests that delivery is not a realistic prospect and therefore I have removed the 80 units on this site from my assessment.

46. *Site 8, Graylingwell Park, Chichester.* The dispute in relation to this site concerns delivery rates with the Council indicating delivery of 75 dpa whilst the appellants suggest 60 dpa. The Council's rate is significantly above the average annual delivery rates for the district and the site specific rates achieved since 2011 with the delivery rate of 75 achieved only once in the past seven years. In addition, average delivery rates for the larger Graylingwell Park site indicate 60 dpa being completed since 2011 and this appears to be a reasonable rate of delivery in this case. Consequently I consider that the appellants' suggested reduction in delivery of 61 units for the period 2017-22 to be appropriate.
47. *Site 15, Land adjacent to Tesco Petrol Filling Station, Fishbourne Road East, Chichester.* Whilst acknowledging that this site has planning permission and has the potential to deliver student housing within the next five years, the appellants argued that the site should be excluded from the supply as the Council had not provided evidence that student accommodation should contribute to the five year supply. The Council included this site and others at Bishop Otter Campus, College Lane, Chichester and Portfield Quarry and UMA House, Shopwyke within their five year supply. It considered that together these schemes would provide 718 student units which would be the equivalent of releasing 206 dwellings to the market. PPG advises that all student accommodation can be included towards the housing requirement based on the amount of accommodation it releases in the housing market.
48. There has been significant growth in student numbers at the University of Chichester (and Chichester College of Further Education) with an increase of 26% from 2009/10 to 2014/15 with non-local students increasing by 46% over that period. This appears to have led to an increase in the number of students taking up accommodation in the private rented sector resulting in less private housing available to first time buyers. Nevertheless, there is no up-to-date evidence that the need for student housing has been included as part of the adopted housing requirement.
49. The Council's case is that the appropriate test is whether there is a realistic prospect that, with the development of new purpose built student accommodation students could move from the private rented sector releasing space for others thereby freeing up general market housing. I have doubts about the evidence regarding the release of sites because it is based on census data from 2011 and the Council acknowledged that there is no quantified information on how the increase in student numbers may have affected student household sizes.
50. There is little evidence before me from either the appellants or the Council that general market dwellings has been occupied by students or that the proposed provision of student housing would release housing into the general market.

Moreover, I have nothing to show whether student numbers are continuing to grow or whether this additional accommodation is part of some future expansion programme at the University. Consequently I find that it has not been demonstrated that the provision of new student accommodation would address, let alone exceed the increase in student numbers and therefore justify inclusion in the five year supply. Accordingly 206 units should be removed from the Council's five year housing land supply.

51. *Site 24, St Wilfrid's Hospice, Grosvenor Road, Donnington.* This site has outline planning permission for the demolition of the existing hospice and the construction of 21 dwellings. Delivery is dependent upon a new hospice being built and for occupants to be transferred before development can commence on the housing. With delivery of the replacement hospice by 2019 followed by the sale and redevelopment of the existing site there is a realistic prospect that development of the site should be able to deliver 21 units within the five year period.
52. *Site 25, Land South of Clappers Lane, Bracklesham, East Wittering and Bracklesham.* The dispute between the appellants and the Council about this site concerns the delivery timescale. As a reserved matters application has now been approved for the site a full year of completions in 2018/19 is a **realistic prospect. Consequently I do not consider the Council's delivery of 110 units within the five year period to be unachievable.**
53. *Site 32, Land on the north side of Shopwyke, Oving.* For the period 2017/18-2021/22 the appellants indicated that delivery would exceed the figure indicated by the Council because of the later completion of houses originally expected in 2016/17. Consequently this provides a surplus of 14 dwellings over the Council's assessment.
54. *Site 36, Park Farm, Park Lane, Selsey.* Outline planning permission exists for residential development on this site. The Council's assumption that the site will deliver housing in the 2018/19 monitoring period is dependent upon the submission and approval of reserved matters prior to construction commencing. There is no evidence of when a reserved matters application will be submitted and no evidence of developer interest. On this basis with no evidence of housebuilder interest, or track record, the delivery is unlikely to occur until 2019/20 and delivery rates of 50 dpa are optimistic. Based on the general delivery rate of 40 dpa which I have adopted I consider that for the 2017-2022 period the delivery should be reduced by 39.
55. *Site 39, Land west of Garsons Road, Southbourne.* This site has outline planning permission and an application for a discharge of a condition has been submitted by a housebuilder although no reserved matters application has been submitted. Consequently I consider that there is a realistic prospect of development commencing in 2018/19 although the prospect of completing 30 units appears ambitious. Nevertheless, there is no reason to conclude that the site cannot be developed in full within the five year period.
56. *Site 47, Land north of Stane Street, Madgwick Lane, Westhampnett.* With a housebuilder involved in this site there is progress towards delivery although no reserved matters application has yet been submitted. On that basis the delivery of 40 units in 2018/19 appears optimistic and I therefore reduce that figure to 20 assuming that delivery does not occur until the third quarter of 2019/20. The Council assumes the delivery of 65 which is considerably higher

than the 40 dpa suggested by the appellants and which is based on the evidence outlined above. Nevertheless, taking account of the site's greenfield nature, lack of significant constraints and marketable location I have assumed a delivery rate of 50 dpa. However, this would still result in the delivery within the five year period being reduced by 65 units.

57. *Site 51, West of Chichester, Whitehouse Farm, Chichester.* Although there has been a delay to the completion of the Section 106 agreement for this site it appears that any slippage can be recovered through accelerating the preparation of the reserved matters application before the outline permission is issued. The Council's delivery timescales appear realistic although the delivery rates appear optimistic based on the rates which I have assumed. With two developers on site in 2019/20-2020/21 and a third in 2021/22 delivering 40 dpa each I have assumed delivery to be 280 dwellings compared with the Council's indicative delivery of 315 units resulting in a reduction of 35 units from the supply for 2017-22.
58. *Site 52, Tangmere Strategic Development Location, Tangmere.* This site is allocated for 1000 homes to be delivered by 2029. Policy 18 of the Local Plan requires that a masterplan will be approved by the Council prior to the approval of any planning applications. In order to secure delivery on this site the Council is looking to use CPO powers because of a lack of progress involving landowners and developers about the preparation of a masterplan. The Council suggests that the CPO process would not delay the process by more than a few months. Whilst it is not certain that the Council would have to use CPO powers to bring forward this site it does indicate that the site would currently fail the test of deliverability. On this basis there does not appear to be a realistic prospect of delivery of 160 units identified by the Council for 2020/21 and 2021/22 and therefore I have removed them from the supply of deliverable sites.
59. *Site 55, Clarke's Yard, Billingshurst Road, Wisborough Green.* The Council accepts that the likelihood of this site being developed within five years is limited and therefore should be taken out of the supply figure, thereby reducing it by a further 11.
60. The appellants' case was that an overall reduction of 842 units should be made to the Council's supply equating to a shortfall of 384 units when compared against the Council's claimed surplus of 458 for the period 2016-2021. For the period 2017-2022 the Council's surplus was assessed as 613 dwellings. My own assessment for the period 2017-2022 indicates a reduction in supply of 658 dwellings equating to a shortfall of 45 dwellings when measured against the plan requirement. On this basis I find that the Council cannot demonstrate five years' supply of housing land based upon the five year housing requirement of 3,023 dwellings reflecting the updated housing land supply position at 30 April 2017.
61. Policies 2 and 45 of the Local Plan seek to restrict development in the countryside and set out the Council's approach to the distribution and location of housing. They are therefore relevant policies for the supply of housing which, according to paragraph 49 of the Framework, should not be considered to be up-to-date if the local planning authority cannot demonstrate five year supply of deliverable housing sites. Accordingly, paragraph 14 of the Framework is engaged which states that the presumption in favour of

sustainable development means that planning permission should be granted, unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole or unless specific Framework policies indicate that development should be restricted, none of which apply in this case.

62. The provision of up to 100 dwellings would make a significant contribution to the supply of housing when considered against the Council's failure to meet its housing requirement. This contribution should be seen in terms of addressing the undersupply of 45 dwellings by a considerable margin and also in terms of the housing requirement and the Framework advice to boost significantly the supply of housing.
63. Moreover, the provision of 30% policy compliant affordable houses carries weight where the Council acknowledges that affordable housing delivery has fallen short of meeting the total assessed affordable housing need, notwithstanding a recent increase in delivery. With some 1,910 households on the Housing Register in need of affordable housing, in spite of stricter eligibility criteria being introduced in 2013 there is a considerable degree of unmet need for affordable housing in the District. Consequently I attach substantial weight to this element of the proposal.

Other Matters

64. A number of other matters were raised by interested parties. The traffic impact of the proposed development can be addressed through the provisions of the Section 106 agreement and I consider this further below.
65. Concerns were also raised about the loss of productive agricultural land and that the absence of any community facilities or supporting infrastructure within the proposed development would in itself be unacceptable and would also place unacceptable burden on the facilities provided at Shopwyke Lakes. The land is of low agricultural grade (Grade 4) as a result of the earlier gravel extraction. Neither of these matters would provide reasons to dismiss the appeal.

Planning Obligations

66. In their Section 106 agreement the appellants have undertaken to provide 30% of the homes as affordable housing which is in accordance with Policy 34 of the Local Plan and the Planning Obligations and Affordable Housing SPD. A contribution of £181 per dwelling, in line with Policy 50 of the Local Plan, would be provided in order to mitigate recreational disturbance pressures on Chichester Harbour Special Protection Area through the provision of appropriate measures.
67. The proposed housing would generate additional traffic impacts on the A27. In order to mitigate those impacts a contribution of £261,500 would be provided for a range of improvements to the A27 to increase road capacity, reduce traffic congestion, improve road safety and improve access to the city in accordance with Local Plan Policy 8. In order to create an appropriate environment for residents of the proposed development a new open space and play area would be provided within the site in accordance with Policies 33, 52 and 54 of the Local Plan.
68. I am satisfied that these provisions are necessary to make the development acceptable in planning terms, directly related to the development and fairly and

reasonably related to the development. Accordingly they are consistent with Regulation 122 of the Community Infrastructure Regulations, 2010. I have therefore taken account of them in reaching my decision.

Planning Balance

69. I have found that the appeal site is outside of the settlement boundary for Chichester city, in breach of Policy 45 of the Local Plan and is not allocated for development in the emerging DPD. The proposed development plan would also be contrary to Policies 2, 5, 33, 47 and 48 of the Local Plan and would result in modest harm to the rural character and openness of the area.
70. I have also found that the Council cannot currently demonstrate a five year supply of deliverable housing sites. Paragraph 49 of the Framework states that in the absence of a five year supply relevant policies for the supply of housing should not be considered up-to-date and that housing applications should be considered in the context of the presumption in favour of sustainable development.
71. In these circumstances paragraph 14 states that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole, or specific policies in the Framework indicate that development should be restricted.
72. The appellants argued that Policies 2 and 45 of the Local Plan, with which the proposals conflict, were also out of date for other reasons. These were that the Council's housing requirements in the Local Plan do not meet the requirements of paragraph 47 of the Framework and was based on old data. In addition the appellants argued that significant new evidence had come to light about housing need and that the existing Local Plan in failing to allocate sites was not comprehensive. However, as I have concluded that paragraph 14 is engaged because of a lack of five year housing land supply it is not necessary to consider these matters further.
73. Balanced against the conflict with the development plan is the contribution to the supply of housing which up to 100 dwellings would make, including 30 affordable homes. In the context of the settlement size, a development of 100 units is of an appropriate scale. In addition, the proposed development would make a significant contribution to current housing shortfall of new homes in the context of the housing requirement in the Local Plan of 435. I have given significant weight to these benefits.
74. The Council and interested parties raised concerns about the proposal undermining the development plan. The Framework places a clear and bold emphasis on the primacy of the development plan and the opportunities communities have to shape the scale, location and timing of development. The Localism Act has put the power to plan back in the hands of communities, but with this power comes a responsibility: a responsibility to meet their needs for development and growth, and to deal quickly and effectively with proposals that will deliver homes, jobs and other facilities. This greater involvement will consequently depend upon the expeditious preparation of local plans that make provision for the future needs of those areas. The approach set out in paragraphs 49 and 14 of the Framework therefore does not undermine the development plan process or the role of local involvement. Rather, it only

becomes applicable when that process has not achieved one of its fundamental tasks, namely the provision of an adequate supply of housing land.

75. Taking all of this into account, including all other material considerations, I find that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposed development when assessed against the policies in the Framework as a whole. On this basis a decision other than in accordance with the development plan is justified.

Conditions

76. Planning conditions were discussed with the Council, appellants and the Rule 6 Party at the inquiry. In considering conditions I have had regard to both the Framework and PPG in respect of the need for individual conditions and their precise wording.
77. Conditions relating to the submission of reserved matters and the timing of commencement are needed due to the outline nature of the application (Conditions 1 and 2). A condition specifying the relevant drawings is required as this provides certainty (3). It is necessary to impose a condition in relation to vehicular access in the interests of highway safety (4) whilst conditions are also necessary to address the potential archaeological significance of the site (5 and 6). In order to protect the interests of nearby residents and in the interests of highway safety a condition requiring the submission and approval of a Construction and Environmental Management Plan is imposed (7). I have amended this condition because in its original form it was too prescriptive.
78. To protect and enhance the wildlife and ecological potential of the site a condition requiring the provision of nesting boxes for birds and bat roosting structures is imposed (8) whilst conditions are also required in order to address the possible effects of land contamination and thereby protect the health of future occupiers (9 and 10). As the site is located in an area with the potential to be affected by ground gases and vapours a condition is required to ensure compliance with local and national policy (11). Conditions are required to ensure that the development is satisfactorily drained (12) and to ensure the satisfactory alleviation of flood risk including the efficient maintenance and ongoing operation of the Sustainable Urban Drainage System (13 and 14).
79. I have amended condition 15 to ensure that it is more precise in ensuring that the principles of sustainable development and construction required by Policy 40 of the Local Plan and the Framework are achieved (15). In addition, I have removed the mechanism for the alteration of the condition as it was not necessary.
80. I have imposed a condition to protect occupiers of the proposed development from unreasonable noise nuisance (16) and a condition to ensure the provision of fire hydrants on site to protect the living conditions of future residents (17). A condition requiring the preparation and implementation of a Travel Plan is necessary in order to encourage and promote sustainable transport (18). Finally, I have imposed conditions to ensure that the development is adequately served by the necessary infrastructure networks (19) and to ensure that the development is constructed reflecting the topography of the site (20). A separate condition limiting the hours of construction is not necessary as this matter can be addressed as part of the CEMP under condition 7.

81. PPG advises that care should be taken when using conditions which prevent any development authorised by the planning permission from beginning until the condition has been complied with. In this respect it is necessary for conditions 5, 7, 9, 10, 11, 12, 13, 14, 16, 20 and 21 to be pre-commencement conditions.

Conclusion

82. For the reasons set out above, and taking into account all matters presented in written submissions and raised at the inquiry, I conclude that the appeal should be allowed.

Kevin Gleeson

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY

Gwion Lewis, of Counsel

Landmark Chambers, instructed by
Nicola Golding, Principal Solicitor
Chichester District Council

He called:

Robert Davidson,

Principal Planning Officer (Policy),
Chichester District Council

Deb McManus,

Chartered Landscape Architect,
West Sussex County Council

Jeremy Bushell,

Principal Planning Officer (DM),
Chichester District Council

FOR THE APPELLANT

Christopher Young, of Counsel,

No. 5 Chambers, instructed by
Dominic Lawson, Dominic Lawson Bespoke
Planning

He called:

Richard Pestell,

Director, Peter Brett Associates

Jeffrey Richards,

Office Director, Turley

James Stacey,

Director, Tetlow King Planning

Julian Cooper,

Director, SLR Consulting

Dominic Lawson,

Director, Dominic Lawson Bespoke Planning

John Baird

Osborne Clarke*

RULE 6 PARTY

Paul G Tucker,
of Queens Counsel

Kings Chambers, instructed by
Richard Shaw, Savills

Richard Shaw

Director, Savills*

*Mr Baird and Mr Shaw only contributed to the discussion on planning conditions and the S106 agreement

INTERESTED PERSONS

Simon Oakley

West Sussex, Chichester and Tangmere
Councillor. Speaking in a personal capacity.

Sjoerd Schulyeman

Chairman, Oving Parish Council

Jeremy Matcham

Local Resident

DOCUMENTS

- ID1. Housing Supply: Net Additional Dwellings, England: 2015-16, DCLG, submitted by the Council.
- ID2. Extract of Letter from Inspector re Mid Sussex District Plan Housing Requirement, dated 20 February 2017, submitted by the Council.
- ID3. Extract from Defining the HMA and FEMA, Greater Brighton and Coastal West Sussex Strategic Planning Board, prepared by GL Hearn, February 2017, submitted by the Council.
- ID4. Opening Statement on behalf of the Appellants.
- ID5. Opening Submission of the Council.
- ID6. Email regarding Bartholomews Phase 1 dated 26 May 2017, submitted by the Council.
- ID7. Draft Section 106 Agreement, submitted by the Appellants.
- ID8. Extract form Market Demand Report: Chichester, April 2016 prepared by Cushman & Wakefield, submitted by the Appellants.
- ID9. Extract from Planning Practice Guidance: Housing and Economic Development Needs Assessments, submitted by the Council.
- ID10. Statement on behalf of Suez Recycling and Recovery UK Ltd.
- ID11. Report to Chichester District Council Cabinet: Chichester Local Plan Review: Timetable and Issues and Options Consultation, 19 June 2017, submitted by the Council.
- ID12. Report to Chichester District Council Cabinet: Chichester Local Plan Review: Timetable and Issues and Options Consultation, 19 June 2017, extract from Appendix 1, submitted by the Council.
- ID13. Extract from Chichester Local Plan Review, Sustainability Appraisal of the Issues and Options Consultation Document, May 2017, submitted by the Council.
- ID14. Letter from the Secretary of State for Transport to the Chief Executive of Highways England, re A27 Chichester Improvement Scheme, dated 28 February 2017, submitted by the Appellants.
- ID15. Letter from the Leader of West Sussex County Council to the Secretary of State for Transport re A27 Chichester Improvement Scheme, dated 3 March 2017, submitted by the Appellants.
- ID16. Letter from the Chief Executive of Highways England to the Leader of West Sussex County Council, re A27 Chichester Improvement Scheme, dated 11 April 2017, submitted by the Appellants.
- ID17. Letter from the Leader of West Sussex County Council to the Chief Executive of Highways England re A27 Chichester Improvement Scheme, dated 20 April 2017, submitted by the Appellants.

- ID18. Letter from the Leader of West Sussex County Council to the Secretary of State for Transport re A27 Chichester Improvement Scheme, dated 21 April 2017, submitted by the Appellants.
- ID19. Press Release re A27 Chichester Improvement, dated 1 March 2017 submitted by the Appellants.
- ID20. A27 Chichester Bypass Scheme Assessment Report; Executive Summary, submitted by the Appellants.
- ID21. Appeal Decision: Land to the south and west of Whitworth Way, Wilstead, Bedfordshire MK45 3EF. APP/K0235/W/16/3147287, submitted by the Appellants.
- ID22. Appeal Decision: Land Adjacent and to the rear of 13 Holly Tree Drive, Nether Peover, Cheshire. APP/A0665/A/14/2224763, submitted by the Appellants.
- ID23. Home Truths 2017. Average Ratio of House Prices to Incomes by Local Authority Area, submitted by the Appellants.
- ID24. Updated Assessment of Historic delivery Rates in Chichester District since 2006/07 on sites over 50 dwellings, submitted by the Appellants.
- ID25. **Summary of Appellant's Reductions in Delivery to Contested Sites, submitted by the Appellants.**
- ID26. Statement by Simon Oakley.
- ID27. Updated Summary of Appellant's Reductions in Delivery to Contested Sites, submitted by the Appellants.
- ID28. Extract of Letter from Inspector re Warwick District Local Plan, dated 1 June 2015, submitted by the Appellants.
- ID29. Application Form for Outline Planning Permission re Land north of Shopwyke Road, Chichester (Shopwyke Lakes), dated 9 December 2011, submitted by the Appellants.
- ID30. Extract from Shopwyke Lakes Design and Access Statement, December 2011, submitted by the Appellants.
- ID31. Chichester Local Plan Review, Sustainability Appraisal of the Issues and Options Consultation Document: Other Strategic Locations, May 2017, submitted by the Appellants.
- ID32. Revised list of Suggested Planning Conditions, submitted by the Council.
- ID33. Solihull Metropolitan Borough Council v Gallagher Estates Limited and Lioncourt Homes [2014] EWCA Civ 1610, submitted by the Appellants.
- ID34. Gladman v Daventry District Council and the Secretary of State for Communities and Local Government [2016] EWCA Civ 1146, submitted by the Appellants.

- ID35. Oadby and Wigston Borough Council v Secretary of State for Communities and Local Government and Bloor Homes Ltd [2016] EWCA Civ 1040, submitted by the Appellants.
- ID36. Bloor Homes East Midlands Ltd. V Secretary of State for Communities and Local Government and Hinckley and Bosworth Borough Council [2014] EWHC 754 (Admin), submitted by the Appellants.
- ID37. Gladman Developments Limited v Wokingham Borough Council [2014] EWHC 2320 (Admin), submitted by the Appellants.
- ID38. R. (On the Application of Redditch BC v First Secretary of State [2003] EWHC 650 Admin, submitted by the Appellants.
- ID39. Report to Chichester District Council's Overview and Scrutiny Committee re Review of the Housing Allocation Scheme, dated 13 June 2017, submitted by the Appellants.
- ID40. Closing Submissions of the Council.
- ID41. Closing Submissions on Behalf of the Appellants.

SCHEDULE OF CONDITIONS

1. (i) Details of the layout, scale, appearance and landscaping (hereinafter called "reserved matters") shall be submitted to and be approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
(ii) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
3. The development hereby permitted shall be carried out in accordance with the following approved drawing: Site Access Plan 10017-SK-002 Rev E.
4. No works on site in terms of construction of the buildings hereby permitted shall be carried out until such time as the vehicular access and associated visibility splays serving the development has been constructed in accordance with Site Access Plan 10017-SK-002 Rev E. Once provided the visibility splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level.
5. No development shall take place until a written scheme of investigation shall have been submitted to and approved in writing by the Local Planning Authority before the commencement of any building works. The specification shall include proposals for an initial trial investigation and for mitigation of damage through development to deposits of importance thus identified. The investigation shall be undertaken by an appropriately qualified archaeologist,

and shall include the recording of findings and subsequent publication of results.

6. No development shall take place other than in accordance with the written scheme of investigation approved under condition 5.
7. No development shall take place until a Construction and Environmental Management Plan (CEMP) comprising a schedule of works and accompanying plans has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved CEMP shall be implemented and adhered to throughout the entire construction period.
8. Prior to construction of any dwelling hereby permitted details shall be submitted to and be approved in writing by the Local Planning Authority showing the location of 10 no. nesting boxes for birds and 2 no. bat roosting structures across the site together with a timetable for their installation. The approved bird nesting boxes and bat roosting structures shall be installed in accordance with the approved timetable and shall be retained thereafter.
9. No development shall take place until a land contamination Phase 2 intrusive investigation report has been submitted to and approved in writing by the Local Planning Authority detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011+A1:2013 - Investigation of Potentially Contaminated Sites - Code of Practice. The findings shall include a risk assessment for any identified contaminants in line with relevant guidance.
10. No development shall take place until a land contamination Remediation Scheme has been submitted to and been approved in writing by the Local Planning Authority detailing how any necessary remediation will be undertaken, any ongoing monitoring, what methods will be used and what is to be achieved. A competent person shall be nominated by the developer to oversee the implementation of the Remediation Scheme. The report shall be undertaken in accordance with national guidance as set out in DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination CLR11. Thereafter the approved remediation scheme shall be fully implemented in accordance with the approved details.
11. No development shall take place until:
 - i) an assessment of the risks posed by any ground gases and/or vapours has been submitted in writing to and approved in writing by the Local Planning Authority; and
 - ii) where the approved risk assessment identifies ground gases or vapours posing unacceptable risks, no development shall begin until a detailed scheme to protect the development from the effects of such contamination has been submitted to and approved in writing by the Local Planning Authority.

A verification report shall be submitted to and approved in writing by the local planning authority before the development is first occupied/brought into use. The approved scheme shall be implemented and maintained thereafter.

12. No development shall take place until full details of the proposed means of foul water sewerage disposal and timetable for implementation have been submitted to and approved in writing by the Local Planning Authority as part of the application for the approval of reserved matters. The details shall include both on-site and off-site works and shall be implemented as approved in accordance with the agreed timetable.
13. No development shall take place until a detailed surface water drainage strategy based on the principles of Sustainable Urban Drainage System (SuDS) shall be submitted to and approved in writing by the Local Planning Authority which shall demonstrate that the site is capable of containing the 1 in 100 year storm event plus 30%, with discharge to a functioning ditch system restricted to greenfield runoff rates.
14. No development shall take place on the SuDS until full details of the maintenance and management of the SuDS system, has been submitted to and approved in writing by the Local Planning Authority.
15. The development hereby permitted shall be designed and constructed to achieve the sustainable design and construction objectives of Policy 40 of the Chichester Local Plan: Key Policies 2014-2029.
16. No development shall commence until a scheme for protecting the proposed **development from external noise including road traffic, has been submitted to and approved in writing by the Local Planning Authority as part of the application for the approval of reserved matters. The scheme shall include:**
 - (i) An assessment of existing sound levels in the area including the background sound level (LA90), road traffic (LA10), ambient for both day and night periods (LAeq). All measurements shall be made according to British Standard 7445-1:2003 and British Standard 7445-2:1991. The background sound levels (the LA90) shall be established in accordance with the procedure set out in BS 4142:2014. All sound levels shall be presented on an hourly basis for day and 15 minute basis for night, and on the respective averaging period for the sound indices in (iv) below.
 - (ii) Prediction of noise levels at the proposed residential façades including predictions at each storey above ground floor for both day and night periods, and predictions of noise within the proposed buildings.
 - (iii) Noise mitigation measures including consideration of building orientation, glazing types, inclusion of acoustic ventilation, bunding, fencing and any other measures to protect the future occupiers.
 - (iv) A scheme of validation testing upon completion of the development to demonstrate that the following sound levels have been achieved:

Living Room: Between 07:00 and 23:00, 35 LAeq, 16hour
Dining Room: Between 07:00 and 23:00, 40 LAeq, 16hour
Bedroom: Between 07:00 and 23:00, 35 LAeq, 16hour
Between 23:00 and 07:00, 30 LAeq, 8hour and 45 LAfmax

The approved scheme shall be implemented as approved and no occupation of the approved buildings shall occur until testing has been completed that demonstrates compliance with the above figures. Once compliance has been demonstrated the scheme shall be maintained in perpetuity thereafter.

Garden and Amenity Areas: Garden and amenity areas shall not exceed 55 LAeq, 16hour.

Note: For the purpose of this condition day means the 16 hour period 07:00 to 23:00 and night means the 8 hour period 23:00 to 07:00.

17. No dwelling hereby permitted shall be occupied until details showing the approximate location of fire hydrants have been submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation of any dwelling, details showing the precise location, installation and ongoing maintenance of the fire hydrants to be supplied shall be submitted to and approved in writing by the Local Planning Authority. The fire hydrant(s) shall thereafter be maintained as in accordance with the approved details.
18. No part of the development hereby permitted 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 and in accordance with the agreed timescales.
19. Development shall not commence until full details of how the site will be connected to all relevant utilities and services infrastructure networks (including fresh water, electricity, gas, telecommunications and broadband) have been submitted to and approved in writing by the Local Planning Authority. These details shall demonstrate the provision of suitable infrastructure to facilitate these connections and the protection of existing infrastructure on site during works. The development will thereafter proceed only in accordance with the approved details.
20. Development shall not commence until details of site levels and longitudinal and latitudinal sections through the site of the dwellings have been submitted to and be approved in writing by the Local Planning Authority as part of the application for the approval of reserved matters. The development thereafter shall be carried out in accordance with the approved details.

Mr Stephen Harris
Chichester District Council
Development Control
East Pallant House
East Pallant
Chichester
West Sussex
PO19 1TY

Our ref: HA/2016/118976/01-L02
Your ref: 16/03997/OUT
Date: 13 February 2017

Dear Mr Harris

Outline permission for erection of 68 no. dwellings and approval of access, all other matters reserved.

Land west of Old Farm Road, Selsey

Thank you for consulting the Environment Agency on the above application. We initially provided comments on 9 January (HA/2016/118976/01-L01) and are providing the following advice to clarify our position.

Environment Agency Position

We have **no objections** to the proposed development, as submitted, **subject to the inclusion of the following condition** in any permission granted.

Without the inclusion of this condition the proposed development constitutes inappropriate development in an area of flood risk, and should not be approved.

Condition – Flood risk mitigation

The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) (Amec Foster Wheeler ref. CLon002_36613-03, dated November 2016) and the following mitigation measures detailed within the FRA:

1. Finished floor levels are set no lower than 4.55m above Ordnance Datum (AOD);
and
2. The detailed residential layout conforms to the sequential approach described at section 5.1 and figure 5.1 of the FRA, locating all dwellings outside of the defended 1 in 200 year plus climate change (2115) flood extent.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within

Cont/d..



the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reasons

The site is located within tidal Flood Zone 3 of our Flood Map. This indicates a high probability of flooding from the sea (1 in 200 year), in accordance with the national Planning Practice Guidance (PPG) (Ref. 7-065-20140306).

Paragraph 100 of the National Planning Policy Framework (NPPF) states that development in areas of flood risk should be made safe without increasing flood risk elsewhere. Paragraph 103 states that planning decisions should ensure that such development is located in the areas of lowest flood risk within the site, and that development is appropriately flood resilient and resistant.

This is supported by Policy 42 of the Chichester Local Plan: Key Policies 2014-2029 (adopted July 2015).

The mitigation measures described in the FRA are required to ensure that the development is safe and resilient, and located within the areas of lowest flood risk at the site.

The above condition is required to ensure that these measures are implemented, in order to protect people and property from flooding throughout the lifetime of the development, in accordance with the NPPF and local planning policy.

Sequential Test

The local planning authority (LPA) must decide whether they are satisfied that the application demonstrates there are no reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. This is required by paragraph 101 of the NPPF.

Our Flood Risk Standing Advice reminds you of this and provides advice on how to do this. Further advice is also accessible in the PPG (Ref ID: 7-033-20140306).

We note that the methodology described in the Sequential Test report states that sites have been dismissed on the basis of size. We recommend that you consider the appropriateness of the methodology in determining the application.

The responsibility for determining whether the Sequential Test has been met lies with the LPA. Our role is to advise on the process of the Sequential Test, with regards to flood risk. We do not comment upon comparative assessment of land, its availability or suitability for a particular form of development. In addition we would not comment on the sustainability justifications of development as these are beyond the scope our remit within the planning system.

Further flood risk advice to LPA and developer

We recommend that a Flood Warning and Evacuation plan is developed for the site and where possible flood resilience measures are introduced into the building.

Safe access and egress

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise LPAs to formally consider the emergency planning and rescue implications of new development in making their decisions.

The PPG states that LPAs should consult their emergency planning staff to ensure evacuation plans are suitable through appropriate planning conditions (Ref. 7-054-20150415).

We therefore recommend seeking comments from the relevant emergency planners.

Please note that it is not our role to assess the detail of flood evacuation or emergency plans. We do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/ users covered by our flood warning network

Flood resilience/ resistance measures

We strongly recommend that consideration be given to use of flood proofing measures to reduce the impact of flooding when it occurs. Flood proofing measures include barriers on ground floor doors, windows and access points and bringing in electrical services into the building at a high level so that plugs are located above possible flood levels.

We recommend reading the following guidance:

'Improving the flood resilience of new buildings'

'Prepare your property for flooding: A guide for householders and small businesses'

Consultation with the relevant building control department is recommended when determining if flood proofing measures are effective.

Yours sincerely

Mr David Griggs
Planning Advisor

Direct dial 02030 259625

Direct e-mail PlanningSSD@environment-agency.gov.uk

cc Quod

**WEST SUSSEX COUNTY COUNCIL
FLOOD RISK MANAGEMENT CONSULTATION**

DATE: 4th January 2017

FROM: Kevin Brook

**TO: Chichester District Council
FAO: Steve Harris**

PLANNING REFERENCE: 16/03997/OUT

LOCATION: Land On The South Side Of Warners Lane Selsey West Sussex

RECOMMENDATION:

Advice	<input checked="" type="checkbox"/>	Modification	<input type="checkbox"/>	More Information	<input type="checkbox"/>
Objection		No Objection	<input checked="" type="checkbox"/>	Refusal	

West Sussex County Council (WSCC), in its capacity as the Lead Local Flood Authority (LLFA), has been consulted on the above proposed development in respect of surface water drainage.

The following is the comments of the LLFA relating to surface water drainage and flood risk for the proposed development and any associated observations, advice and conditions.

Flood Risk Summary

Modelled surface water flood risk	Low risk
Comments:	
Current uFMfSW mapping shows that the majority of proposed site is at 'low' risk from surface water flooding.	
This risk is based on modelled data only and should not be taken as meaning that the site will/will not definitely flood in these events.	
Any existing surface water flow paths across the site must be maintained or appropriate mitigation strategies proposed.	
Reason: NPPF paragraph 103 states – 'When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere..'	
Therefore, a wholesale site level rise via the spreading of excavated material should be avoided.	

Modelled ground water flood risk susceptibility	Low risk
Comments:	
The majority of the proposed development is shown to be at 'low risk' from ground water flooding based on the current mapping.	
Where the intention is to dispose of surface water via infiltration/soakaway, these should be shown to be suitable through an appropriate assessment carried out under the methodology set out in BRE Digest 365 or equivalent.	
Ground water contamination and Source Protection Zones.	
The potential for ground water contamination within a source protection zone has not been considered by the LLFA. The LPA should consult with the EA if this is considered as risk.	

Records of any historic flooding?	No
Comments:	
We do not have any records of historic surface water flooding within the confines of the proposed site. This should not be taken that this site has never suffered from flooding, only that it has never been reported to the LLFA.	

Ordinary watercourses nearby?	No
Comments:	
Current Ordnance Survey mapping shows no ordinary watercourse within the site boundary.	
Local or field boundary ditches, not shown on Ordnance Survey mapping, may exist around the site. If present these should be maintained and highlighted on future plans.	

Is the proposed development within or close to an existing Flood Zone, as defined by the National Planning Policy Framework (NPPF):	Yes
Comments:	
Part of the development is within Flood Zone 3a and as such the Environment Agency should be consulted.	

Future development - Sustainable Drainage Systems (SuDs)

The FRA/Drainage Strategy for this outline application proposes that sustainable drainage techniques would be used to control the surface water from this development. These methods would, in principle, meet the requirements under the NPPF and associated SuDS guidance.

Approved Document Part H of the Building Regulations 2000 establishes a hierarchy for surface water disposal, which encourages a SuDs approach beginning with infiltration where possible e.g. soakaways or infiltration trenches. The disposal of surface water via infiltration/soakaway should be shown to have been investigated through an appropriate assessment carried out under the methodology set out in BRE Digest 365 or equivalent.

Development should not commence until finalised detailed surface water drainage designs and calculations for the site, based on sustainable drainage principles, for the development have been submitted to and approved in writing by the Local Planning Authority. The drainage designs should demonstrate that the surface water runoff generated up to and including the 100 year, plus climate change, critical storm will not exceed the run-off from the current site following the corresponding rainfall event.

Development shall not commence until full details of the maintenance and management of the SuDS system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved designs.

Please note that Schedule 3 of the Flood and Water Management Act 2010 has not yet been implemented and WSCC does not currently expect to act as the SuDS Approval Body (SAB) in this matter.

Kevin Brook
Flood Risk Management Team



DOCUMENT 4A

**WEST SUSSEX CO CO HIGHWAYS CONSULTATION RESPONSE
PLANNING APPLICATION 16/03997/OUT**

(CONFIRMING NO OBJECTION SUBJECT TO CONDITIONS)

**WEST SUSSEX COUNTY COUNCIL
STRATEGIC PLANNING CONSULTATION**

DATE: 13th March 2017

**FROM: Dominic Smith TO: Chichester District Council
FAO: Steve Harris**

SUBJECT: SY/16/03997/OUT

Outline Application for the construction of 68 residential units with primary access off Old Farm Road.

Land On The South Side Of, Warners Lane, Selsey, West Sussex

RECOMMENDATION:

Advice	<input checked="" type="checkbox"/>	Modification	<input type="checkbox"/>	More Information	<input type="checkbox"/>
Objection	<input type="checkbox"/>	No Objection	<input checked="" type="checkbox"/>	Refusal	<input type="checkbox"/>

West Sussex County Council (WSSCC), in its capacity as the Local Highway Authority (LHA), has been reconsulted on additional information submitted in respect of application SY/16/03997/OUT.

The LHA has previously objected to the application on the following grounds:

- Access arrangements had not been subject to a Stage 1: Road Safety Audit
- No visibility splays had been provided on the access
- No vehicular tracking had been undertaken on the access arrangements
- Insufficient pedestrian access to the site

Having reviewed the additional information, the LHA no longer raises an objection to the application. Recommended conditions and obligations can be found at the end of the following report.

Pedestrian Access

The Applicant has introduced a number of pedestrian accesses across the site, as to enhance access for pedestrians into the site and reduce the journey length of walking journeys. The strategy now includes two accesses to the north of the site vehicular access and a further access to the south, from the site to the public highway. Uncontrolled (dropped kerb and tactile paving) crossings have been shown at each of the locations, and a Section 278 Agreement will be required to undertake works on the highway. The plan shows demarcation of the crossings on the carriageway. However, no demarcation of the carriageway, or raised crossing points, should be provided as part of a Section 278 submission.

Road Safety Audit

An audit has been undertaken in accordance with the WSSCC Road Safety Audit policy. All matters identified by the Auditor have been addressed in accordance with the Auditor recommendations.

Visibility and Vehicular Tracking

Both visibility and tracking diagrams have been provided as part of the Transport Statement, and have been subject to review by the Auditor. Visibility has been provided in accordance with Manual for Streets guidance, based on the recorded 85th percentile vehicular speeds, and tracking demonstrates that a large vehicle (e.g. refuse vehicle) can achieve access to the site.

Conditions

Access

No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the approved drawing.

Reason: In the interests of road safety.

Visibility

No part of the development shall be first occupied until visibility splays of 2.4 metres by 40m metres have been provided to the south of the site site vehicular access onto Old Farm Road, and 2.4 metres by 30m to the north, 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 metre above adjoining carriageway level or as otherwise agreed.

Reason: In the interests of road safety.

Construction Management Plan

No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved 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,
- 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 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.

S106 Requirement

- The provision of uncontrolled crossings, in accordance with drawing THA-MHA-00-DR-A-0001-A1-CO6

Informatives

Section 278 Agreement of the 1980 Highways Act - Works within the Highway

The applicant is advised to enter into a legal agreement with West Sussex County Council, as Highway Authority, to cover the off-site highway works. The applicant is requested to contact The Implementation Team Leader (01243 642105) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.

Dominic Smith
Strategic Planning