

**THE CHICHESTER DISTRICT COUNCIL (ACCESS TRACK OFF CROOKED LANE,
BIRDHAM) COMPULSORY PURCHASE ORDER 2023**

REBUTTAL PROOF OF EVIDENCE OF SARAH POULTER

Planning Inspectorate Reference: APP/PCU/CPOPF5540/3326950

1. INTRODUCTION

1.1. This rebuttal proof responds to points raised in objector evidence where there are factual inaccuracies or new points raised. If I have not disputed a point raised by an objector here, that is not an indication that I agree with the point made.

2. STATEMENT OF CASE OF TONY AND LINDA CORKETT

2.1. Tree retention and protection measures

2.1.1. Paragraph 1.3.2 states that "*Major tree root damage likely to occur due to installation of all the utilities*". Paragraph 2.9 states "*Installing sewer pipes and other utilities will conflict with the numerous tree root preservation areas and it is not clear how these physical impediments will be overcome*".

2.1.2. Page 20 of the Design and Access Statement submitted with the 2013 application (see Appendix SP18) confirms that:

2.1.3. "*A large part of the Access Road will be of 'no-dig' construction to avoid damage to the roots of the trees and maintain a water supply to them. Most of the trees adjacent to the proposed access road have root levels that are well below the compacted service of the existing track and most of the new road levels are above this existing track so excavation is likely to be minimal apart from the removal of the topsoil. The existing bank will also be retained to protect the trees and their stability. The existing drainage to the lane will be improved, to avoid the ponding and flooding that occurs at the moment due to haphazard levels*".

2.1.4. An Arboricultural Method Statement and Impact Assessment was submitted with the planning application in 2013 (see Appendix SP19), followed by a letter dated 10th October 2013 from the Arboricultural consultant providing further comment in respect of services installation in proximity to trees (see Appendix SP20). That letter confirmed that the route of services had been considered, in the following paragraph:

In making my comments I have been provided with the following information which was not available at the time of writing the arboricultural impact appraisal and method statement;

Annotated PDF file – water – drawing no. P113.

Annotated PDF file – electric – reference DXR156.

Annotated PDF file – gas main – drawn by Jamie Smith (no apparent reference)..

NJUG details – typical depths of services.

The drawings provided to me show the path of service runs to be located at the centre of the access track. This is considered the best routing for a number of reasons but, specifically with regard to retained trees, this offers a route furthest from individual stems and within the area of land made up as farm track.

The conclusion of the consultant was contained in the following paragraph:

Trial excavations observed in the area of the track show there to be building waste, rubble and hard core to a depth of 300 – 400mm, points already noted in my arboricultural impact appraisal. Therefore I am of the opinion that excavations for utilities, following appropriate NJUG guidance (*National Joint Utilities Group Volume 4*) in relation to installation of services in proximity to trees, would not have an adverse effect on the retained trees.

2.1.5. Those documents were considered by CDC's tree officer and his comments are included in an email in Appendix 19 to the Corketts' Statement of Case and are summarised at paragraph 6.11 of the 2013 committee report (Appendix SP13), as follows:

6.11 CDC - Tree Officer (summarised)

The trees are located along a track sides/banks which lead to fields and mainly consist of Elm, Hazel, Ash, Hawthorn and Oak species.

The Hazel, Hawthorn and Elm clumps do not warrant TPO status. The Ash trees are prominent within the frontage and have average structural development/form and are susceptible to Ash die-back disease. Further, the odd Ash tree has decay pockets which would limit their longevity. These trees are to be retained and I note that the applicant's arboriculturalist considers these trees are currently in a safe condition. The Oak trees will require appropriate measures to enable retention and limit any potential detriment in the construction of a road which could be controlled by planning conditions. These issues have been reviewed with supporting technical solutions/information within the development scheme by certain measures (e.g. cellular road construction and retaining walls). Planning conditions should be used to control the method of retaining and constructing the access road. The method of installing and routing services within the track will also need to be the subject of further detailed assessment, but provided this follows national guidance relating to the installation of utilities, it would seem possible to install services and help limit/reduce any adverse effect on the surrounding trees rooting systems.

2.1.6. The method of road construction is explained in Upton McGougan's note in Appendix 17 to the Corketts' Statement of Case, as follows:

2.1.6.1. *“With respect to the kerbing, we have proposed a timber “pegged” edging which is traditionally used in “No dig” construction. This involves a minimal excavation into the topsoil and is less intrusive than traditional kerbing. The road construction is detailed on drawing 136.0099- 2101. This comprises on a cellular reinforced sub base with a porous block paved surface. This type of construction is suitable for use in RPA’s” [Root Protection Areas].*

2.1.7. The local planning authority considered this matter and were satisfied that the installation of services and road construction was possible without causing unacceptable harm to tree roots, and the application was approved on that basis.

2.1.8. Condition 10 on permission 16/01809/FUL provides that:

10) No development, including site works of any description or the bringing onto the site of any equipment, machinery or materials, shall take place unless and until details of a scheme to ensure the protection of all existing trees and hedges to be retained on the site (in accordance with condition 8) have been submitted to and approved in writing by the Local Planning Authority. The details shall be based on the submitted Arboricultural Impact Appraisal and Method Statement (Revision D) and BS5837:2012 and, for the avoidance of doubt, the scheme shall, amongst other things, include details of:

- the method of protecting trees (and their root systems) located adjacent to the existing access track during the construction phase of the development
- the method of constructing, draining and retaining the access roads comprising part of the development and the supervision of those works
- the method of installing and routing services to the site in areas where such services are to be located within Tree Protection Areas as defined on application drawing TPP REVD and the supervision of those works
- the location and nature of any protective fencing to be positioned on or adjacent to the site for the duration of construction works. This fencing shall be maintained until all equipment, machinery, surplus materials and soil has been removed from the site. Within the areas so fenced off the existing ground level shall be neither raised nor lowered and no materials, temporary buildings, plant, machinery or surplus soil shall be placed or stored thereon without the prior written approval of the Local Planning Authority.

The development shall not be carried out other than in accordance with the approved details.

Reason: To ensure the retention and maintenance of trees and vegetation which is an important feature of the area.

2.2. An application was made in 2014 to discharge this condition, and a meeting was due to take place on site to discuss the tree protection requirements but following obstruction of the track by local residents in February 2014, it was not possible to gain access for the meeting and that element of the application could not proceed.

2.3. The condition was partially discharged in 2016, only insofar as it related to erection of boundary fencing at the site.

2.4. The permission also includes the following informative:

2.4.1. 21) *INFORMATIVE With regard to condition 10 it is recommended that the submitted details include, amongst other things, provision for the hand digging of any excavations within trees' root protection areas, the supervision of works at critical phases of the development by a qualified arborist, the methodology for siting the H posts comprising part of the track's retaining wall and the approach to be taken when encountering tree roots exceeding 40mm in diameter. Please*

contact the Council's Tree Officer if you require further information in this regard.

2.4.2. That condition and informative provide further assurance that tree roots will be protected during construction, through approval of a suitable scheme by the local planning authority based on the approved Arboricultural Impact and Method statement.

2.4.3. Hyde's Associate Director of Construction, John Martin, has also confirmed the following:

2.4.3.1. The services will be able to be incorporated in the access road as they require a minimum depth of 600mm for both water & electric with a minimum distance of 300mm apart. BT is far less with depths required of between 300mm to 450mm. Main foul drainage can be incorporated again within the main access road with the connections to the main foul sewer situated in Crooked Lane. This will be a gravity fed system. However, in 2019/20 the government implemented the requirement for a reduction in water consumption to a level of 110 Litres per person per day on new developments, which is a reduction from the current requirement under building regulations of 125 litres per person per day. To achieve this a number of changes were implemented which include shallower baths and smaller WC cisterns (approximately 5.6l). The latter impacts on the flow of wastewater in drainage. Therefore, if the length of the drainage run and the invert levels means that we can only achieve the minimum falls required under current regulations, we would look to use a small, localised pump located within the Site to minimise the potential for blockages. This pump would be maintained by Hyde.

2.4.3.2. A VAC excavator can be used in tree root protection zones, which uses water/air and vacuum to limit impact on tree roots. This can be used during the construction of the access road.

2.4.4. Ridge have also confirmed the following:

2.4.4.1. That hand dig / air spades can be used to expose roots to avoid them. There are alternative solutions where the length of the batter / spacing of I Beams are a constraint, such as Tobermore Secura or Flex MSE (Sustainable vegetated wall system) both of which have a shallow

foundation. Flex SME has been used on similar projects in Somerset for retaining walls;

2.4.4.2. That the road construction will be strong enough to take the weight of emergency and refuse vehicles;

2.4.4.3. The Development would be connecting into foul drainage in Crooked Lane. Contractors would have to use an air spade to excavate for the required foul pipe, along with other services, along the track. As a worst case, it may require a pumped solution with the Site with a self-contained private pumping station.

2.5. **Drainage ditch along access track.**

2.6. The Corketts' Statement of Case raises concerns regarding the existing ditch in the following paragraphs:

2.6.1. Paragraph 1.3.3: *"No clear plan how ditch drainage will be achieved."*

2.6.2. Paragraph 4.6: *"The CDC Statement of Case does not mention this ditch and there is no provision for it in the width of the new road. The new road will have a Track Retaining Wall either side (refer Appendix 17). Where will the water go? There is little indication that CDC has a clear plan on how to use this CPO. Where is the evidence that once the new road is constructed that this existing ditch will not be blocked, which would risk flood water damaging existing properties."*

2.7. The proposed design retains the existing ditch along the access track, as shown in the Upton McGougan drawing on page 22 of the Ridge report in Appendix SP14.

2.8. The surface water drainage strategy submitted with the 2013 planning application (see Appendix SP21) states on page 1 that *"the current site is bounded by drainage ditches which have generally not been maintained over recent years"*. It goes on to explain that *"The access road will be drained using a permeable pavement, utilising shallow dig principles to protect the tree roots; this will also allow a natural drainage environment to be provided. The proposal includes the removal of approximately 300-400mm of impermeable compacted hardcore which currently makes up the access road base. This will be replaced with Cellweb to spread loads over tree roots, with a permeable sub-base."*

2.9. Following a site visit in July, John Martin, Hyde's Associate Director of Construction, confirmed that the ditch is filled with debris, overgrown vegetation and silt, and this is likely to be impacting the surface water storage capacity of the ditch. The ditch will be cleared as part of the access road works and will be maintained as part of the estate management.

3. Highway safety and width / design of access track

3.1.1. The Corkett Statement of Case also references concerns regarding the safety of the proposed access opposite a primary school.

3.1.2. Ridge have confirmed via email (see Appendix SP22) that: *“Re an access of this nature in terms of width and shared use, I used a local example a few weeks ago at Itchenor to the west of Birdham.*

There is an access into the Chichester Harbour Conservancy Car Park from The Street is a similar layout bar it has grass verges on either side. It may be worth drawing the inspector’s attention to this to show this approach is not unusual in the local area. The flows in and out of the car park would be substantially higher than the proposed residential development.

In terms of primary schools with accesses opposite, again not unusual across the UK. In Chichester, the Parklands Community Primary School on Durnford Close has a small residential estate opposite. Again, a good local example to quote to the inspector.”

4. Impact of social housing on social, economic and environmental wellbeing

4.1.1. The social, economic and environmental justification for the CPO are dealt with in the Proof of Evidence of Mark Bristow. However, I would also like to highlight a major piece of independent academic research which Hyde and other social housing providers have contributed to on the value of a social tenancy. This looks at the annual value brought to tenants, communities and wider stakeholders by maintaining and operating a social tenancy.

4.1.2. This report was produced by Sonnet Advisory & Impact CIC and was originally published in 2018 and was updated in 2024. Extracts from the 2024 update report are included in Appendix SP23. A full copy is available on Hyde’s website¹ and can be provided on request.

4.1.3. The report calculates savings to the state, and benefits to other public bodies, of someone living in social housing compared to someone living in temporary accommodation, with friends or family, or poor-quality private accommodation. The conclusion states that:

¹ <https://www.hyde-housing.co.uk/media/kpmhvwuh/vost-updating-and-developing-the-model-may-2024.pdf>
<https://www.hyde-housing.co.uk/media/ywum221d/vost-updating-and-developing-the-model-may-2024-appendices.pdf>

4.1.3.1. *“The 2024 VoST value per social tenancy stands at least £18,051 per annum, per tenancy from the social effects, with a further average of £3,797 per annum of build cost benefits per tenancy (£826m in total), and £1,929 per annum per tenancy of maintenance spend (£401m total). Based on this, and what can be extrapolated from sampling six housing associations, the estimated total value being brought by the social housing sector of 4.2 million social properties (2.5 million owned by housing associations) is at least £77.7 billion a year (or at least £46.3 billion for those properties owned by housing associations).”*

4.1.4. Page 7 of the report summarises the findings, including:

- 4.1.4.1. That social housing has been a safety net for many, providing stability and support, and an opportunity to develop their own coping strategies, including forming close relationships with neighbours;
- 4.1.4.2. Social housing helps to counter problems of ‘In-work poverty’ and digital exclusion which prevents access to support, opportunities and services;
- 4.1.4.3. A lack of social housing is likely to create skills shortages in key public and community service roles, putting those services at risk as key workers cannot afford to live where they work;
- 4.1.4.4. More people living in private rental and temporary accommodation on a long term basis has huge negative impacts on individual outcomes, including financial wellbeing, physical and mental health of both parents and their children, relationships and purpose, children’s wellbeing, development and education, as well as Local Authority budgets.
- 4.1.4.5. There is a real need for more supply of social housing to address these issues.

4.2. **Security presence at the site in 2016**

4.2.1. The Statement of Case of Tony and Linda Corkett states at paragraph 10.2:

- 4.2.1.1. *“We made our objection comments clear in our Objection letter (refer Appendix 10 Copperfields Objection letter 2017). Security men were installed across the road outside the school in the autumn of 2016. Our family felt threatened and we were warned not to go near the gate across the entrance to the farm track. The security men cut the locks off the gate in the track to enable a water bowser to go down the track (refer Appendix 11 Security Men 2016).”*

- 4.2.2. In September 2016 Martlet instructed Southern Testing to undertake groundwater monitoring on the Site, as required by condition 6 of the planning permission. This was needed to inform the detailed surface water drainage design to be submitted for approval by the local planning authority.
- 4.2.3. Local residents obstructed the track by repeatedly parking a car across it and placing multiple padlocks on the gate which had to be removed. The Police were initially involved in persuading the car owner to move his vehicle but were then reluctant to be involved further on the basis that it was a private dispute.
- 4.2.4. Martlet instructed Secure Site, a security firm, to station a security guard at the entrance to the track to ensure that Martlet, via its contractor, could exercise its right of way along the track, and to ensure access could be maintained for moving equipment and materials on and off the Site. This included removing padlocks that were placed on the gate. It was essential, for health and safety reasons, to ensure that the trial pits were filled with gravel once dug, as they presented a trip/fall hazard if they had been left open. The security firm were instructed not to impede access on foot for the adjoining owners, but to monitor access onto the Site to ensure that the contractor's equipment was not tampered with.

4.3. Martlet's disposal of an existing social rented home in Birdham

- 4.3.1. The Statement of Case of Tony and Linda Corkett states, at paragraph 11.3:
- 4.3.1.1. *"In the summer of 2023 Hyde had a "Sale agreed" board at one of their properties, a 2 bed house at 6, Farne Lane, Birdham, reducing the social housing stock (refer Appendix 14 Hyde Martlet Property for sale 2023). This suggests that the need for affordable housing in Birdham is not that great in Birdham or that Hyde Martlet needed some funds."*
- 4.3.2. My colleague in the Portfolio Management team at Hyde has confirmed the following:
- 4.3.2.1. This property was referred for disposal in November 2022 because of the low energy performance certificate (EPC) rating of the property and the high refurbishment & repair costs that would be needed to bring it up to an acceptable level.
- 4.3.2.2. The Government has set a target in its Clean Growth Strategy for social housing providers to upgrade all their rented properties to achieve a minimum EPC rating of C by 2035, and by 2030 for 'fuel poor' households, as part of the longer term 2050 net zero carbon ambitions.
- 4.3.2.3. As a property that was transferred under the Large Scale Voluntary Transfer agreement from CDC to Martlet, the proceeds from the disposal of

this property are ringfenced in a designated reserve account for reinvestment back into existing social housing stock or the delivery of new affordable homes in the district. The disposal of this property was not required in order to fund the Development.

4.3.2.4. In January 2024 Hyde took the decision to stop disposing of any properties in rural designated parishes including Birdham, due to the impact on the economic viability of the area. Parishes such as Birdham rely heavily on the provision of affordable homes to keep younger people and families within the area which support the running of schools, shops and farms etc.

5. Lack of information

- 5.1. The final part of section 10 of the Statement of Case of Tony and Linda Corkett lists a number of areas where there is a lack of information. It is appropriate and acceptable for more detailed design elements to be dealt with via conditions on planning permissions. Much of the information listed would be provided at discharge of condition stage.
- 5.2. Paragraph 10.11 references lack of information on number of vehicle movements. This would be provided as part of the Construction Method Statement required by condition 15 on the planning permission.
- 5.3. Paragraph 10.12 references lack of information on whether fencing on the boundary would require to be removed or replaced. Hyde's Associate Director of Construction, John Martin, has confirmed that:
 - 5.3.1. once the build up of grass cuttings and debris has been removed to allow for the construction of the access road and retaining structures, the fencing will be assessed as whether it needs to be replaced;
 - 5.3.2. In some areas it is now in extremely poor condition;
 - 5.3.3. Hyde would fund replacement fencing if it is required.
- 5.4. It is worth noting that obstruction of the access track by local residents has prevented Hyde from carrying out testing and further design work which would have enabled provision of some of the information listed. Notwithstanding that, Hyde's position is that sufficient information has been provided and approved through the planning process to demonstrate that these matters do not constitute an impediment to delivery of the Development.