



## Appeal Decision

Inquiry held on 3 – 5 October and 10 October 2023

Site visits made on 4 and 5 October 2023

by H Baugh-Jones BA(Hons) DipLA MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 9<sup>th</sup> November 2023

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Appeal Ref: APP/L3815/W/23/3322020

Land North of Highgrove Farm, Main Road, Bosham, West Sussex

- 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 application for planning permission.
  - The appeal is made by Barratt David Wilson Homes against Chichester District Council.
  - The application Ref 21/00571/FUL, is dated 4 March 2021.
  - The development proposed is Construction of 300 dwellings (including 90 affordable dwellings), community hall, public open space, associated works and 2 no. accesses from the A259 (one temporary for construction).
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### Decision

1. The appeal is allowed and planning permission is granted for Construction of 300 dwellings (including 90 affordable dwellings), community hall, public open space, associated works and 2 no. accesses from the A259 (one temporary for construction) at Land North Of Highgrove Farm, Bosham, in accordance with the terms of the application, Ref 21/00571/FUL, dated 4 March 2021, subject to the conditions set out in the Schedule to this decision.

### Preliminary Matters

2. Two separate planning obligations (by Agreement and by Unilateral Undertaking (UU)) have been submitted under Section 106 of the Town and Country Planning Act 1990 and were discussed at the Inquiry. I allowed further time after the close of the Inquiry for them to be completed and executed. The Agreement makes provision for a number of provisions, some of which would be located on site whilst others seek to provide contributions to off-site schemes including in relation to the A27 works. The UU solely makes provision for a contribution to the A27 works. I return to these obligations later in my decision.
3. Statements of Common Ground were provided in advance of the Inquiry covering a number of topics. These demonstrated a significant narrowing of matters in dispute between the Council and appellant. This has been reflected in my consideration of the appeal.
4. There is no dispute that the Council is currently unable to demonstrate a five-year supply of deliverable housing land (the five-year housing land supply (5-year HLS)). It was agreed between the parties in advance of the Inquiry that the variation between them on the extent of the HLS shortfall is not material. Consequently, it was not necessary to hear evidence on HLS and no witnesses were called by either party in relation to that topic. The appellant accepts that the proposal would be in breach of **the development plan's strategic policies** for

the location of housing. Nevertheless, the development plan is out-of-date for the purposes of Footnote 8 of the National Planning Policy Framework (the Framework), and I take this into account in the planning balance later on in my decision.

5. A substantial amount of evidence was put forward by interested parties during the Inquiry in relation to **matters pertaining to the area's character and appearance**. I therefore made this a main issue.

#### Main Issues

6. The main issues are:

- Whether the proposal would make adequate provision for:
  1. Highways infrastructure with particular regard to the A27
  2. Local recreational and travel infrastructure
- The effects on the Chichester Harbour and Solent Maritime Special Areas of Conservation with particular regard to nitrates
- The effects on the Singleton and Cocking Tunnels Special Area of Conservation with regard to protected species
- The effects on the character and appearance of the area including having regard to the Chichester Harbour Area of Outstanding Natural Beauty (AONB)

#### Reasons

##### Highways infrastructure

7. The appellant accepts that there would be some residual impacts on the highway network in general and on the A27 in particular. Paragraph 110d) of the Framework seeks to ensure that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Framework paragraph 111 goes on to say that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
8. Notably, neither National Highways or the County Council (in its capacity as the local highway authority) objected to the proposal, subject to mitigation, and I have no clear reason to adopt a contrary position.
9. There is no dispute that the A27 is at capacity. Policy 8 of the Chichester Local Plan (2015) (the Local Plan) includes specific provision for contributions to A27 improvements. It is supported in that by the Planning Obligations and Affordable Housing Supplementary Planning Document (2016) (the 2016 SPD) that sets out a cost-per-dwelling-based contribution requirement. Given the time that has passed since the adoption of the Local Plan and SPD, it is an inescapable fact that the required contributions do not reflect the up-to-date costs of providing the A27 improvements.
10. The emerging Local Plan (eLP) and a draft Supplementary Planning Document (SPD) therefore set out policy and calculations for funding updated works along the A27. However, these are based on the need arising from all the site

allocations within the eLP and so the draft SPD goes further than simply updating the previous set of calculations for funding the A27 works. The eLP is some time away from being examined and there is no dispute that it attracts only limited weight. Similarly, the draft SPD is inextricably linked to the allocations in the eLP and I find it difficult to also give it more than limited weight.

11. I acknowledge that the policy purposes are broadly the same between the adopted and emerging Local Plans. However, Planning Practice Guidance (PPG) is clear that contributions towards infrastructure, and indeed anything else, should be supported by adopted policy. That is not the situation here. Whilst I **therefore have some sympathy with the Council's position, there is insufficient** justification for requiring a higher level of contributions than those set out in the 2016 SPD and supported by the Local Plan.

#### Local recreational and travel infrastructure

12. **The appellant's** updated traffic modelling suggests that the proposal would result in 291 AM peak hour trips and 221 during the PM peak hour period. Of these, 63% would be by car or van (184 AM; 139 PM) with only 1% by motorcycle or scooter (3 AM; 2 PM). This assessment uses the industry standard Trip Rate Information Computer System (TRICS), and no compelling evidence has been produced to the contrary. Not all trips would occur at the same time and would likely be spread over the whole periods of daily peak travel. I acknowledge that people would be more likely to use cars during periods of inclement weather or after dark for some journeys. However, there are bus stops next to the site that provide a frequent service between Emsworth and Chichester.
13. Clearly those wishing to undertake main shopping trips would not be inclined to walk or cycle. Nevertheless, bus travel would be a viable option and it would also be possible to cycle to these settlements and to Fishbourne for other purposes including top-up shopping. Moreover, the proposal would provide new pedestrian and cycle links to Bosham and further afield. Consequently, there are clear alternatives to car travel for the **proposed development's occupiers to** access higher order services and facilities. Furthermore, Bosham and Fishbourne have railway stations that would provide for alternative longer distance travel. A new pedestrian and cycle route would also be created towards Bosham station. Taking all of this into account, I find it very difficult to conclude that there would be an unacceptable impact on highway safety or local recreational and travel infrastructure.
14. The proposal would provide a new community hall and allotments that would be available to the wider Bosham community and in this respect, I find it to be acceptable. Taking all of this into account along with my conclusions on the A27 matter, the proposal would accord with Policy 8 of the Local Plan and with the Framework.

#### Chichester and Langstone Harbour Special Protection Area (SPA) and the Solent Maritime Special Area of Conservation (SAC)

15. The appeal site lies within the 5.6km Zone of Influence for the SPA and the SAC. Chichester Harbour forms part of the wider SPA. This environment is being subjected to high nutrient levels, particularly phosphorous and nitrogen.

These nutrients, which arise mainly from agricultural uses and wastewater, encourage algal growth which damages the sensitive marine ecosystem.

16. The evidence tells me that ceasing the current agricultural use of the site would provide a nutrient load saving sufficient to allow for the construction of 207 of the 300 proposed houses before any additional nutrient loading would occur. The appellant proposes to address the shortfall by agreement with the landowner of Chilgrove Farm to take land out of agricultural use to achieve nutrient neutrality for the remaining 93 houses. Heads of Terms have been agreed as part of a legal agreement with the landowner. Timings would be such that there would be no additional nutrient load during the construction process.
17. There needs to be a suitable mechanism for achieving this. I have given consideration to the use of a planning condition that would prevent the development from going ahead until the land at Chilgrove Farm had been taken out of agricultural use. Planning Practice Guidance (PPG) sets out that such conditions should not be used where there are no prospects at all of the action being performed within the time limit proposed by the condition. That would not appear to be the case here given that Heads of Terms have been agreed between the appellant and owner of Chilgrove Farm. There is sufficient certainty that the land at Chilgrove Farm will be taken out of agricultural use to ensure that the proposed development would be nutrient neutral.
18. I am therefore satisfied that the proposed development would not result in additional nutrient loading thereby ensuring there would be no likely significant adverse effect on the integrity of the SPA or the SAC. The proposal would accord with Local Plan policies 49 and 50 and with the Framework.

#### Singleton and Cocking Tunnels Special Area of Conservation (SCT SAC)

19. The appeal site is also within 12km of the SCT SAC, which supports **Barbastelle and Bechstein's** bats within disused railway tunnels. These bat species are amongst **the UK's rarest mammals**. The western edge of the site is formed mostly by a line of trees and other vegetation and provides what is known as a functionally linked habitat, outside of the SAC, by providing flightlines along which the bats commute to reach foraging habitats.
20. Barbastelle bats, in particular, will travel long distances and can forage 10-15km from their roosting sites and have been detected **along the site's western boundary**. **There is no dispute that the vegetation along the site's western boundary provides a flightline for this bat species**. Barbastelle bats are a light-sensitive species so any disturbance to the darkness of the flightline has the potential to cause harm to them.
21. The Draft Sussex Bat Special Area of Conservation Planning and Landscape Enhancement Protocol produced by the South Downs National Park Authority and Natural England suggests that only significant impacts or severance of flightlines need to be considered at distances over 6.5km but below 12km from the SCT SAC. The proposal would not result in severance of the flightline and indeed would enhance it through additional tree planting along the northern part of the western boundary, where vegetation is currently very sparse. In addition, there would be a new linear open space created north-south in the eastern part of the site. This would also provide a potential flightline for bats.

22. There would be no lighting within the open space or indeed any of the roads within the development, with the possible exception of the site access. A condition has been suggested to control the type of lighting and thus, the amount of light spill within and outside the proposed dwellings next to the **site's western boundary**. I consider this to be a satisfactory mechanism to ensure the continued darkness of the flightline. I accept that property owners may introduce additional garden lighting and that such breaches of the condition might be difficult to enforce in practicality. However, I am not convinced that it would be so difficult to enforce, that it would not be possible **to ensure the ongoing control of lighting along the site's western boundary**.
23. Natural England (NE) provided advice throughout the application process and was consulted on the proposed lighting measures. NE remains satisfied that there will not be an adverse effect on the integrity of the SAC irrespective of whether the proposed lighting measures are secured.
24. Having undertaken my own assessment, I conclude that subject to the retention and enhancement of the vegetation along **the site's western boundary** and the addition of a new area of unlit open space on the other side of the site, in combination with the control of internal and external lighting, there would be no significant impact on the integrity of the SAC in terms of the effect on flightlines.
25. The proposal would accord with Local Plan policies 49 and 50 and with the Framework.

#### Character and appearance

26. The appeal site comprises a large arable field next to the edge of the settlement. It is bordered on its northern boundary by a railway line and by the A259 along its southern boundary. The landscape including the site and within its vicinity is relatively flat. From the A259, there are pleasant views across the site to the more, hilly landscape of the South Downs.
27. Clearly, a development of the scale proposed would have some effect on the character of the landscape given the change that would result from an open field becoming one occupied by built form. However, I do not find that the site or the land around it to the north of the A259 has any special landscape qualities that might otherwise elevate it to a level where the effects of the proposed development would take on greater significance in terms of the weight to be given to any harm.
28. There can be no doubt that the proposed dwellings would significantly alter the view and would take away the ability for people to appreciate it in the way they may do currently. That said, the A259 is a main arterial route and drivers would most likely be concentrating on the road ahead rather than turning their heads about 90 degrees to take in the view. The same principle applies to those travelling along the A259 by cycle. Walkers and bus passengers would be more likely to notice a marked change to this part of the local landscape and for them, the current view would be affected. Nevertheless, I did not see any pedestrians walking along the footpath past the site during either of my site visits. It does not seem to me that the route sees significant pedestrian use and thus the effects of the proposed development in this context would be minimal and acceptable.

29. At my site visit, I was asked to take in the view from Chequer Lane at a point next to Hammer Pond Cottage from where there are also open views towards the South Downs. It is evident that the dwellings within the proposed development would intervene in this view and have a diminishing effect on the appreciation of the distant hills. From the road, only a very small proportion of the South Downs can be glimpsed. The full view can only be obtained by walking from the road into the field. However, this is not a public route and I give only limited weight to the harm that would result from the proposed development in these views.
30. There is no dispute that the site occupies the immediate setting of the Chichester Harbour AONB **as most of the AONB's northern** boundary is contiguous with the A259. The proposed development therefore has the potential to adversely affect the setting of this designated landscape.
31. Looking from the site towards the south into the landscape forming part of the AONB, views are limited to the middle distance by existing vegetation and a number of existing dwellings. Irrespective of the **AONB's designation, there is** little to indicate that this part of the local landscape displays the scenic beauty for which the AONB was designated.
32. Moreover, there are varied local landscapes opposite the **AONB's northern** boundary along its length ranging from open fields to urban edges which include the large area of housing next to the site. In this overall context, the proposed development would not appear alien or lead to adverse impacts on the designated area.
33. There would be some, albeit limited harm to the character and appearance of the area. The proposal would not therefore accord with policy 6 of the Local Plan or policy 7 of the Bosham Neighbourhood Plan (2016).

#### Planning Obligations

34. The Agreement and the UU are executed documents dated 12 October 2023. I have considered the various obligations with regards to the statutory requirements in Regulation 122 of the Community Infrastructure Levy Regulations (the CIL Regulations) and the policy tests in paragraph 57 of the Framework. I have had regard to the 2016 SPD in reaching my conclusions.

#### UU provisions

35. Beginning with the UU; it makes provision for a financial contribution of £1,803 per dwelling in order to mitigate the additional traffic the proposed development would generate on the strategic road network. Policy 8 of the Local Plan seeks to provide improvements to junctions on the A27 Chichester Bypass to reduce congestion and improve safety. The contribution reflects the calculation formula in the SPD. The SPD relates directly to allocations in the Local Plan in which only part of the site is allocated.
36. However, given that the A27 junctions are at capacity and that there would be additional trips generated by the development, it is necessary and reasonable to ensure new development does not result in an unsustainable level of additional trips. The contribution is therefore acceptable.



## Agreement provisions

### A27 Junctions

37. Within the Agreement, there is also provision for a contribution to the A27 junction works, which is based on the formula in the draft SPD. I have already found that this to be un-justified because there is no adopted policy to support the contribution sought by the Council. Accordingly, it has not been demonstrated that this obligation is necessary, and I have not taken it into account in reaching my decision to grant permission for the development.

### Affordable Housing

38. Provision is made for a total of 90 affordable homes with a mix of affordable and First Homes units. They would be built in three stages linked to the occupation of the open market dwellings. Given the need for affordable housing in the district, the obligations are necessary to meet that need in accordance with Local Plan policy 34.

### Recreational Mitigation Disturbance

39. The contribution is necessary to mitigate the impact of recreational disturbance on the protected European sites arising from visits to those areas by residents of the development.

### Open Space, Play, Sport and Allotments

40. The obligations related to open space, play and sport provision are necessary to provide a satisfactory recreational environment for future residents of the development and provided new facilities for the **district's growing population** in accordance with Local Plan policies 33, 52 and 54. The provision of allotments is necessary to meet the 2016 SPD requirement and address a shortfall in the overall supply of allotments.

### Community Hall

41. The community hall would be proportionate to the needs and size of the residential population occupying the development and would also provide a facility for the wider community. The provision of the facility would accord with **the Framework's social objectives and the requirements of the 2016 SPD**.

### Travel Plan and Travel Plan Audit Fee

42. The provision of a Travel Plan is necessary to encourage the use of sustainable transport modes given that the development would lead to an increase in the **number of Bosham's residents**. The Audit Fee would be used to monitor the implementation of the Travel Plan as is also necessary to ensure it is effective.

### Highway Works

43. This scheme is necessary to provide improvements to local walking and cycling facilities in encouraging the use of sustainable transport modes by providing ease of access to and from the development. It accords with Local Plan policy 39.

### Traffic Regulation Order (TRO)

44. This payment, to the local highways authority, is necessary to promote and advertise a potential TRO with the objective of reducing the speed limit from 40mph to 30mph next to the development. It is necessary in the interests of highway safety.

#### Conclusion on Planning Obligations

45. With the exception of the A27 junction works within the Agreement, all of the other planning obligations are necessary, directly related to the development and are fairly and reasonably related in scale and kind to the development. Accordingly, they meet the relevant tests in Regulation 122(2) of the CIL Regulations and the Framework.

#### Other Matters

46. The issue of prematurity has been put to me. The site is allocated in the eLP for a similar number of dwellings as proposed in this appeal. It is not uncommon for sites to be developed in advance of the adoption of a new local plan (or even before it is examined). The site occupies a suitable location and I have not found any unacceptable harms that would result from its proposed development. Moreover, there is a need for housing in the district given the **Council's HLS position** and on the basis of all that, I see no reason to hold up the development of the site for reasons of prematurity.
47. Agricultural land quality is also a matter raised at the Inquiry and it was pointed out that most of the land is grade 1 and 2 agricultural land. This falls within the Framework definition of Best and Most Versatile Agricultural Land. Whilst I understand the issue of food security, there is no evidence to indicate that this is a scarce commodity in the district. Furthermore, there is no absolute bar to development on land within these classifications and the loss of such needs to be taken into account in the overall planning balance against the benefits of the scheme overall. In any case, the allotments would utilise at least some of the grade 1 land and would still be productive in the growing of food in some capacity.
48. In terms of coalescence, the development would result in a smaller gap between this part of Bosham and Fishbourne. However, a substantial amount of **undeveloped land between the site's eastern** boundary and the western extent of Fishbourne would remain such that the effects would be acceptable.
49. I also heard evidence relating the capacity of the sewage system. The relevant local treatment works is currently able to accommodate and additional 171 dwellings. The suggested related conditions provide a suitable mechanism to secure additional capacity. It is then up to Southern Water to comply with the statutory duties placed upon it by the relevant Act.

#### Planning Balance

50. There is no dispute that the Council cannot current demonstrate a five-year supply of deliverable housing sites (5-year HLS). Although the Council and appellant have provided different HLS figures of 4.65 years and 3.9 years respectively, it is common ground that the difference is not material to my determination of the appeal.
51. In this circumstance, the necessary application of paragraph 11d) of the Framework means that the development plan is out-of-date. Planning



- permission should be granted unless the application of other Framework policies that protect assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
52. I have found that the proposal would not harm the AONB, the SPA or the SAC. Therefore, Framework paragraph 11d)i is not engaged. Neither would the proposal result in harm to the local highway network. There would be only minimal landscape harm that attracts limited weight against the proposal.
53. The appeal site is allocated for a total of 295 dwellings in Policy A11 of the Regulation 19 version of the Chichester Local Plan (the emerging plan). This is clearly around the same figure as proposed in this appeal. At the Inquiry, the Council confirmed that it expects the allocation to remain in the emerging plan and thus considers it a **'sound' allocation. I have no evidence to lead me to an alternative view.** Consequently, although the emerging plan is some way from being tested at examination, **the site's allocation carries some**, albeit limited weight in favour of the proposed development. Moreover, it is common ground between the Council and appellant that the site meets all of the 13 criteria in the Interim Housing Statement, which aims to guide new development until a new Local Plan is in place or a five-year housing land supply is achieved. This carries significant weight in **the proposed development's favour.**
54. The proposal would provide much needed housing including affordable ones. It would provide a number of community benefits through the provision of the community hall and, open space and other recreational facilities. There would **be a boost to the local economy from an increase in Bosham's population and** temporarily during the construction period. All of these individually attract significant weight in favour of the proposal.
55. There would be some loss of BMV. However, as I have already explained, that does not necessarily render the proposed development unacceptable. The benefits of the proposal are sufficient to outweigh the loss of a relatively modest area of BMV.
56. Although the development plan is out-of-date for the purposes of Footnote 8 of the Framework, the proposal nonetheless accords with it in terms of the main issues in this appeal. There are no adverse impacts that would significantly **and demonstrably outweigh the scheme's** benefits when assessed against the Framework taken as a whole or indeed the development plan on the same basis.

#### Conditions

57. A departure from the standard time limit of three years is appropriate in the interests of expediting the delivery of new homes given the HLS shortfall and accordingly, I have imposed a condition requiring the development to be completed within two years. A condition specifying the approved plans is necessary to ensure certainty. Conditions related to contamination and its remediation are imposed in the interests of ensuring a safe living environment.
58. I have imposed a condition related to archaeology in the interests of ensuring the historic environment is adequately recorded. Conditions related to drainage are necessary in order to ensure the development is satisfactorily drained and

to safeguard the water environment. In the interests of residential amenity and highway safety during the construction period I have imposed a condition requiring a Construction and Environmental Management Plan. A condition is necessary to protect and enhance ecological habitats and I have imposed one accordingly. For the same reasons, I have also imposed conditions restricting the provision of street lighting and the type of domestic lighting within the development.

59. A condition related to railway crossing mitigation is necessary in order to ensure pedestrian and vehicle safety. A materials condition is necessary in order to ensure the satisfactory appearance of the development. This condition has been worded to encompass all of the suggested requirements related to materials finishes and details. I have imposed a condition related to noise in order to ensure a satisfactory living environment.
60. In order to meet climate change objectives, a condition is imposed to require electric vehicle (EV) charging points for the community hall and visitor parking spaces. This condition relates to visitor parking only as the Building Regulations cover EV chargers at private dwellings. A condition related to solar PV is imposed to meet the same objectives. A condition related to the laying out of a landscape scheme is necessary to ensure the appearance of the development is satisfactory. I have imposed conditions related to vehicular access and parking in the interests of highway and pedestrian safety. A condition related to the construction of the internal roads is necessary to ensure they are fit for the intended purpose.
61. It is necessary to impose a condition requiring the provision of fire hydrants in order to ensure a safe living environment. It is necessary to restrict the use of the community hall for activities related to that use. A condition related to water usage is necessary to address nitrate issues. Finally, a condition is imposed to require the provision of a bollard to control access.

#### Conclusion

62. I realise that this decision will come as a disappointment to many local residents. However, as I have set out, there are no compelling reasons not to allow the development to go ahead. For the above reasons, the appeal therefore succeeds.

*H Baugh-Jones*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Paul G Tucker KC  
Martin Carter

Instructed by Peter Cleveland

They called:

Peter Cleveland MSc MRTPI

Henry Adams LLP

Stephen Michael Evans BA(Hons) MA  
CMILT MCIHT MTPS

Pell Frischmann

Daniel Allum-Rooney BSc(Hons) MSc  
GradCIWEM

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Terra Firma Consultancy Ltd

Chris Meddins BSc(Hons) MCIEEM

Tetra Tech

Kevin Wood BSc(Hons)

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### FOR THE LOCAL PLANNING AUTHORITY:

Stephen Morgan

Instructed by Nicola Golding,  
Chichester District Council

He called:

Phil Brady BEng MIHT

Stantec

Tom Day MA(Cantab) MSc

Chichester District Council

Nicholas Gray BSc(Hons) ACIEEM

**Gray's Ecology**

Jeremy Bushell BA(Hons) DipTP MRTPI

Chichester District Council

### INTERESTED PARTIES:

Councillor Andrew Kerry-Bedell

Chichester District Council

Steve Lawrence

Chichester Harbour Conservancy

Donna Thomas

Local resident

Dick Pratt

Local resident

Libby Alexander

Local resident

Jenny Bentall Morris	Local resident
Andrew Gould	Local resident
Charlotte Paxton	Bosham Parish Council
R J Marchant	Local resident
Anna Marchant	Local resident
Peter Simms	Local resident on behalf of Armelle Owen-Navet; Joshua Arlar and; Maria Arlar (local residents)
Councillor Adrian Moss	Chichester District Council
Councillor Jane Towers	Chidham and Hambrook Parish Council
Councillor Diana Gubbey	Fishbourne Parish Council

## INQUIRY DOCUMENTS

ID01	<b>Appellant's opening statement</b>
ID02	<b>Council's opening statement</b>
ID03	Written statement of Donna Thomas
ID04	Written statement of Dick Pratt
ID05	Written statement of behalf of Bosham Association
ID06	Written statement from Jenny Bentall Morris
ID07	Sewage Capacity at Bosham and extract from WSP report Link 10: Hillier Garden Centre to Salthill Road (provided by Mr Gould)
ID08	Written statement from R J Marchant
ID09	Photo montage from Anna Marchant
ID10a	Written statement from Armelle Owen-Navet
ID10b	Written statement from Joshua and Maria Arlar
ID11	Written statement from Jane Towers
ID12	Written statement from Fishbourne Parish Council
ID13	Written statement from Councillor Adrian Moss
ID14	Highways England Designated Funds-A27 NMU Link Improvements Package Chichester to Emsworth (provided by Mr Gould)
ID15	Ecology Statement of Common Ground, Final, September 2023
ID16	Transport and Highways Statement of Common Ground between appellants and National Highways
ID17	<b>Mr Carroll's details</b>
ID18	<b>Appellant's</b> rebuttal on lighting
ID19	Planning Obligation by Unilateral Undertaking
ID20	Planning Obligation
ID21	Addendum – Planning Statement of Common Ground
ID22	The Chichester Local Plan 2021-2039: Proposed Submission (Regulation 19)
ID23	Suggested wording of a planning condition related to lighting

## CONDITIONS

- 1) The development hereby permitted shall begin not later than 2 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 102 D1 - Site Location Plan; 104 P30 - Site Layout Plan; 105 P20 - Proposed Materials Plan; 106 P18 - Proposed Boundary Treatment Plan; 107 P19 - Affordable Plan; 108 P17 - Storey Height Plan; 109 P16 - Bin and Cycle Storage Plan; 114 P9 - PV Plan; 115 P9 - Affordable Dwelling Land Plan; 116 D6 - Landscaped Areas Plan; 117 P9 - Chimney Location Plan; 119 P2 - Community Building; BSO-E5085-001 Rev. A – Levels Strategy sheet 1 of 4; BSO-E5085-002 Rev. A- Levels Strategy sheet 2 of 4; BSO-E5085-003 Rev. A- Levels Strategy sheet 3 of 4; BSO-E5085-004 Rev. A - Levels Strategy sheet 4 of 4; BSO-E5085-005 Rev. A- Drainage Strategy sheet 1 of 4; BSO-E5085-006 Rev. A- Drainage Strategy sheet 2 of 4; BSO-E5085-007 Rev. A- Drainage Strategy sheet 3 of 4; BSO-E5085-008 Rev. A - Drainage Strategy sheet 4 of 4; House Type Booklet prepared by IDP – dated May 2023; 103154-Sk022 Rev A Barnside Pedestrian/Cycle Connection; Sk014 Rev B Cycle Priority Junction Layout; 1595-TF-XX-00-DR-L-1001 Rev P15 Landscape Strategy 1 of 3; 1595-TF-XX-00-DR-L-1002 Rev P15 Landscape Strategy 2 of 3; 1595-TF-XX-00-DR-L-1003 Rev P13 Landscape Strategy 3 of 3; Q3749 Sketch – Rugby/Football Netting; Q3749 Calcs - Post Section & Post Foundation Calculating Template; Fencing Image.
- 3) No development shall commence until an updated Phase 1 Contaminated Land report has been submitted to and been approved in writing by the local planning authority. If the updated report identifies potential contaminant linkages that require further investigation then no development shall commence until a 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.
- 4) If the Phase 2 report submitted pursuant to condition 3 identifies that site remediation is required then no development shall commence until a Remediation Scheme has been submitted to and approved in writing by the local planning authority detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. Any ongoing monitoring shall also be specified. A competent person shall be nominated by the developer to oversee the implementation of the Remediation Scheme. Thereafter the approved remediation scheme shall be implemented in accordance with the approved details and a verification report for the approved contaminated land remediation shall be submitted to and approved in writing to the local planning authority. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The verification report shall be in accordance with



national guidance as set out in DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination CLR11.

- 5) No development/works shall commence on the site until a Written Scheme of Archaeological Investigation has been submitted to and approved in writing by the local planning authority. The Scheme shall include proposals for an initial trial investigation and mitigation of damage through development to deposits of significance identified, and a schedule for the investigation, the recording of findings and subsequent publication of results. The scheme shall be undertaken in accordance with the approved details.
- 6) No development shall commence until details of the proposed overall site-wide surface water drainage scheme has been submitted to and approved in writing by the local planning authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal as set out in Approved Document H of the Building Regulations and the SuDS Manual produced by CIRIA. Winter ground water monitoring to establish highest annual ground water levels and Percolation testing to BRE 365 will be required to support the design of any Infiltration drainage. The details shall include planting plans and sectional drawings of the final configuration of the SuDS basins, their size and locations. No building shall be occupied until the complete surface water drainage system serving that property has been implemented in accordance with the approved surface water drainage scheme.
- 7) No development shall commence 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 unless any alternative is agreed in writing by the Local planning authority. The CEMP shall provide details of the following:
  - (a) the phased programme of construction works;
  - (b) the anticipated number, frequency and types of vehicles used during construction,
  - (c) the location and specification for vehicular access during construction,
  - (d) the provision made for the parking of vehicles by contractors, site operatives and visitors,
  - (e) the loading and unloading of plant, materials and waste,
  - (f) the storage of plant and materials used in construction of the development,
  - (g) the erection and maintenance of security hoarding,
  - (h) the location of any site huts/cabins/offices,
  - (i) the provision of road sweepers, wheel washing facilities and the type, details of operation and location of other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),

- (j) details of public engagement both prior to and during construction works, including a named person to be appointed by the applicant to deal with complaints who shall be available on site and contact details made known to all relevant parties
  - (k) measures to control the emission of dust and dirt during construction, to include where relevant sheeting of loads, covering and dampening down stockpiles and restriction of vehicle speeds on haul roads. A dust management plan should form part of the CEMP which includes routine dust monitoring at the site boundary with actions to be taken when conducting dust generating activities if weather conditions are adverse,
  - (l) measures to control the emission of noise during construction,
  - (m) details of all proposed external lighting to be used during construction and measures used to limit the disturbance of any lighting required. Lighting shall be used only for security and safety,
  - (n) appropriate storage of fuel and chemicals, in bunded tanks or suitably paved areas,
  - (o) waste management including prohibiting burning and the prevention of litter
  - (p) provision of temporary domestic waste and recycling bin collection point(s) during construction,
  - (q) hours of construction.
- 8) The development hereby permitted shall be carried out in accordance with the mitigation measures and ecological enhancements and recommendations set out in the Ecological Mitigation and Management Plan Appraisal, the Wintering Bird Survey and the Reptile Report prepared by WYG in December 2020 and shall be carried out in accordance with details and a timetable for implementation to be submitted to and agreed in writing by the local planning authority before work commences on site. In addition to the mitigation measures the ecological enhancements shall include:
- wildflower meadow, wooded copse and wetland SuDS planting
  - filling gaps in tree lines or hedgerows with native species
  - the provision of 5 x bat boxes on retained trees within the site and 6 x bat boxes installed on dwellings throughout the site facing south/south westerly and positioned 3- 5 m above ground
  - the provision of 10 x swift nesting boxes, 5 x starling nest boxes, 10 x open fronted bird boxes and 5 x sparrow terraces
  - the provision of 3 no. log piles as habitat for stag beetles
  - gaps to be provided at the bottom of the fences to allow movement of small mammals across the site
  - 2 x hedgehog nesting boxes
- 9) No development shall commence until details of the arrangements for the future access and maintenance of any watercourse or culvert (piped watercourse) crossing or abutting the site have been submitted to and been approved in writing by the local planning authority. The future access and maintenance shall thereafter be carried out in accordance

with the approved details. At no time shall current and future landowners be restricted or prevented as a result of the development from undertaking their riparian maintenance responsibilities of any watercourse on or adjacent to the site.

- 10) No dwelling shall be occupied until the off-site foul drainage infrastructure necessary to serve the relevant phase of the development is operational.
- 11) Before the development hereby permitted is commenced the developer shall agree a scheme with Network Rail to deliver additional safety mitigation measures comprising Miniature Stop Lights and associated infrastructure at the Brooks Lane, Bosham railway crossing and written evidence of the agreed scheme (including the timetable for the works) shall be submitted to the local planning authority. The agreed safety mitigation measures shall be fully installed and operational prior to occupation of the first dwelling on the development or in accordance with a timetable to be submitted to and approved in writing by the local planning authority.
- 12) No development above slab level shall commence until a schedule of all materials and finishes and samples of such materials and finishes to be used for external walls, windows, doors and roofs of the building(s) have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 13) Before construction of any dwelling above slab level a scheme for noise attenuation measures shall be submitted to and approved in writing by the local planning authority showing how the recommendations in section 5 of the noise impact assessment produced by 24 Acoustics (dated December 2020) will be put in place at the development. The noise attenuation measures shall thereafter be retained.
- 14) Before construction of any dwelling above slab level the technical specification of the electric vehicle charging point facilities for visitor parking spaces shall be submitted to and be approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the electric vehicle charging points shall thereafter be retained.
- 15) The landscaping of the site shall be based on the submitted strategic planting drawing nos. 1595-TF-XX-00-DR-L-1001 P15; 1595-TF-XX-00-DR-L-1002 P15; 1595-TF-XX-00-DR-L-1003 P13; the Proposed Landscaped Areas Plan 116 REV D6 and shall be in accordance with a further detailed set of landscape drawings specifying the location, numbers, size and species of trees and shrubs to be planted together with details of the proposed watering infrastructure and regime, and a programme/timetable for implementation to be submitted to and approved in writing by the local planning authority before occupation of the first dwelling on the site. The works shall be carried out in accordance with the approved details and planting timetable and in accordance with the recommendations of the appropriate British Standards or other recognised codes of good practice. Any trees or plants which after planting are removed, die, or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved.

- 16) No development shall commence on the Sustainable Urban Drainage System (SuDS) until full details of the maintenance and management of the SuDS system, set out in a site-specific maintenance manual, has been submitted to and approved in writing by the local planning authority. The manual shall include details of financial management and arrangements for the replacement of major components at the end of the manufacturers recommended design life. The manual shall also include the arrangements for the future access and maintenance details of any watercourse or culvert (piped watercourse) crossing or abutting the site. Upon completed construction of the SUDS system, the owner or management company shall adhere to and implement the recommendations contained within the manual, including the approved access and maintenance details for any watercourse or culvert.
- 17) Before the Community Hall building is first brought into use the car parking provision allocated for that purpose and access to that provision as shown on Proposed Site Layout drawing no. N81:2818 104 P30 shall be provided and shall thereafter be retained for car parking purposes.
- 18) The solar PV panels shall be provided in accordance with the details shown on drawing no. 114 Rev P9 (Proposed PV Plan). The solar PV panels shall be constructed so that they are flush fitting with the plane of the roof. No dwelling to be fitted with solar PV panels as shown on shall be occupied unless the solar PV panels for that respective dwelling have been provided and are ready for use.
- 19) Before first occupation of any dwelling, details showing the precise location, installation and ongoing maintenance of fire hydrants to be supplied (in accordance with the West Sussex Fire and Rescue Guidance Notes) shall be submitted to and be approved in writing by the local planning authority. The approved fire hydrants shall be installed before first occupation of any dwelling and thereafter be retained.
- 20) No dwelling shall be first occupied until covered and secure cycle storage provision for that dwelling has been provided in accordance with details to be first submitted to and approved in writing by the local planning authority. Such provision shall thereafter be retained for the stated purpose.
- 21) 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 details shown on the drawing titled Cycle Priority Junction Layout and numbered 103154-SK014 Rev B.
- 22) No dwelling hereby permitted shall be first occupied until the car parking space(s) and any associated turning space serving that dwelling have been constructed, surfaced and drained in accordance with the approved site plan drawing no. N81:2818 104 P30. Once provided the spaces shall thereafter be retained for that purpose.
- 23) The Community Hall hereby permitted shall not be used other than as a community resource for local community purposes within Use Class F2 of the Town and Country Planning (Use Classes) (Amendment)(England) Regulations 2020.
- 24) At no time shall any street lighting be installed in the development hereby permitted other than at the junction of the site access with the

A259, the details of which shall have first been submitted to and approved agreed in writing by the local planning authority. The junction street lighting shall thereafter be carried out in accordance with the approved details.

- 25) Following closure of the show homes/sales offices and before their subsequent first occupation as dwellinghouses the temporary secondary access shall be reconfigured to provide an emergency vehicular access onto the A259 constructed in accordance with plans that have first been submitted to and approved in writing by the local planning authority. The approved scheme shall include measures to prevent unauthorised non-emergency vehicular access. The access shall thereafter be used by emergency vehicles, pedestrians, and cyclists only.
- 26) Before construction of the final wearing course of the internal roads within the development hereby permitted details of the surfacing materials shall be submitted to and approved in writing by the local planning authority. The final wearing course of the internal roads shall thereafter be constructed in accordance with the approved details.
- 27) The development shall not commence until:
  - i) A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the local planning authority; all measures necessary to meet the agreed waste water efficiency calculation must be installed before first occupation and retained thereafter;
  - ii) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by the local planning authority. Such mitigation package shall address all of the additional nutrient load imposed on European Sites by the development when fully occupied and shall allow the local planning authority to ascertain that such additional nutrient loading will not have an adverse effect on the integrity of the European Sites.
- 28) No development shall commence until details of the internal and external lighting (the Lighting Scheme) have been submitted to and approved in writing by the local planning authority. Details shall include:
  - i) A plan detailing **lamp models and manufacturer's specifications**, positions, numbers, heights and measures to limit use of lights when not required.
  - ii) Demonstration that lux levels and light spill from internal and external lighting sources relating to plots 11-42 on both the horizontal and vertical planes do not exceed a light spill above 0.2 lux horizontally and 0.4 lux vertically onto the retained bat commuting corridor on the western boundary of the site.
  - iii) Measures to prevent upward light spill and to prevent light spill.The lighting shall be installed in accordance with the approved details and no other permanent external lighting, including replacement lighting shall be installed other than in accordance with the approved Lighting Scheme.

- 29) Details of a bollard to be installed in accordance with Drawing No. 103154-SK022 shall be submitted to and approved by the local planning authority. The bollard shall be installed in accordance with the approved details.

End of Conditions