



Appeal Decision

Inquiry Held on 11-13 July 2023

Accompanied Site Visit made on 12 July 2023

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th September 2023

Appeal Ref: APP/L3815/W/23/3318548

G & R Harris, Main Road, Nutbourne, Chichester, West Sussex PO18 8RL

- 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 Metis Homes Ltd against Chichester District Council.
 - The application Ref 22/01283/FULEIA, dated 13 May 2022.
 - The development proposed is demolition and mixed use development comprising 103 no. dwellings and a Children's Nursery, together with associated access, parking, landscaping (including provision of wildlife corridor) and associated works.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition and mixed use development comprising 103 no. dwellings and a Children's Nursery, together with associated access, parking, landscaping (including provision of wildlife corridor) and associated works at G & R Harris, Main Road, Nutbourne, Chichester, West Sussex PO18 8RL in accordance with the terms of the application, Ref 22/01283/FULEIA, dated 13 May 2022, subject to the conditions in the attached schedule.

Procedural Matters

2. The appeal has been lodged in response to the Council's failure to issue its decision within the prescribed period. The Council's appeal submissions confirmed that, following the Planning Committee resolution at its meeting on 25th May 2023, the Council would only contest this appeal, firstly, in relation to the lack of financial contributions towards the A27 Highway improvements; and secondly, the lack of adequate infrastructure provision through an agreed Section 106 Agreement. I return to these matters later.
3. I have used the Council's description of the development in reaching my decision as it more fully describes the details of the development than that given on the original planning application form. The appellant's appeal form also makes reference to the updated description.
4. The full address for the appeal site is as set out in my decision above rather than that given on the original planning application form. This change has been confirmed in writing by the appellant and I have determined the appeal on this basis accordingly.

5. The inquiry sat for 3 days, with an accompanied site visit on the second day. I also carried out unaccompanied site visits before the inquiry opened, and at other times outside the inquiry sitting period.
6. The proposal constitutes an Environmental Impact Assessment development. An Environmental Statement (ES) was submitted by the appellant as part of the original planning application. Subsequently an Environmental Statement Addendum (ESA) was submitted by the appellant during the appeal process and the availability of this further information was publicised in accordance with the Environmental Impact Assessment Regulations. I am satisfied that the ES and ESA meet the relevant statutory provisions, including publicity and are adequate in terms of their scope.
7. Following receipt of additional supporting information from the appellant and the Council during the appeal process to inform the appropriate assessment of the proposed development, Natural England (NE) were consulted as the appropriate nature conservation body. I have taken into account the response received from NE on 14 August 2023, together with the appellant and the Council's subsequent comments on the NE response, in making this decision.
8. I closed the Inquiry in writing on 12 September 2023 following the receipt of a signed and completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990. The agreement sets out details for securing planning obligations in respect of affordable housing provision, A27 highway improvements, public rights of way improvements, travel plan, mitigation measures in relation to nearby European Protected nature conservation sites, together with the provision, on-going management and maintenance of the open space, allotments, community orchard and an ecological wildlife corridor. I return to these matters later.

Main Issues

9. By the time of the Inquiry, agreement had been reached on two of the main issues identified relating to the A27 highway improvements and infrastructure provision through the planning conditions, planning obligations in the Section 106 Agreement and the Statement of Common Ground (SOCG) between the Council and appellant. Nevertheless, the location of the development and local infrastructure, amongst other things, were raised by objectors. Consequently, I will initially consider the following main issues:
 - (i) Whether the proposed development located predominantly outside any defined settlement boundary is acceptable in principle, having regard to the local and national planning policies relating to the location of new development in the District; and
 - (ii) The effect of the proposed development on local infrastructure in the area.

Reasons

Location of Development

10. The appeal site falls predominantly within the Rural Area outside of any defined settlement boundary, with the exception of a small section of land around the proposed access to the site that falls within the Nutbourne West settlement boundary. The appeal proposal does not meet any of the exceptions for

allowing development outside of settlement boundaries and thereby conflicts with Policies 2 and 45 of the Chichester Local Plan 2014-2029 Key Policies (CLP) (2015) (CLP). The appeal proposal also conflicts with Policy 1 of the Southbourne Parish Neighbourhood Plan 2015 (SPNP) that will only development proposal inside the settlement boundaries.

11. However, the Council has accepted that CLP Policy 4, which sets the overall housing requirement, is out of date. As the housing requirement has not been reviewed within the last 5 years, as required by the CLP, the Council has also accepted that CLP Policies 2 and 45 cannot be considered to be up-to-date, especially as Policy 2 is derived from settlement boundaries which are based on an out-of-date housing requirement.
12. The Council therefore accept that its settlement boundaries and the evidence base underlying CLP Policies 2 and 45 are out of date. By association, Policy 1 of the SPNP is also considered out of date. It is agreed that, when taken together and read as a whole, the most important basket of development plan policies CLP Policies 2 and 45 and Policy 1 of the SPNP for the determination of this appeal are out of date¹. In light of the above factors, I afford limited weight to the conflict with CLP Policies 2 and 45 and Policy 1 of the SPNP and I will consider this further in the planning balance.
13. In acknowledging the current status of the CLP in terms of its out of date housing policies and the absence of a 5 year housing land supply², in November 2020, the Council adopted an Interim Policy Statement on Housing Development (IPS) to enable increased housing delivery and boost housing supply in the District until the emerging Chichester Local Plan Review is adopted.
14. The IPS sets out that applications will be invited to come forward in certain circumstances including housing sites outside the current settlement boundaries that are sustainably located and of an appropriate scale and density, subject to meeting the criteria in the IPS. The Council's evidence at the Inquiry stated that the appeal site would meet the criteria in the IPS. However, the IPS does not form part of the development plan nor is it a supplementary planning document, that has been subject to public consultation. Therefore, whilst it is matter to which I can only give limited weight, given its non-statutory status, it is nonetheless a matter which weighs in favour of the proposal.
15. In terms of securing a sustainable pattern of development, it is matter of agreement between the main parties that the site is locationally sustainable for the development proposed³. Based on the evidence before me and my observations during my site visits, the site would be well-related to day-to-day services and facilities in Southbourne, which is defined as a Higher Order 'Settlement Hub' in the CLP, together with the more limited services and facilities in the adjacent settlement of Nutbourne West. It is accessible by a range of transport modes, including a good bus service running by the site along Main Road to Southbourne and nearby larger settlements of Emsworth, Chichester, Havant and Portsmouth. Opportunities exist to improve pedestrian, cycling and public transport links as part of the proposed development.

¹ Statement of Common Ground (SOCG) Core Documents I02 and P11

² 5 year housing land supply assessment (December 2022) identifies 4.74 years of housing supply

³ SOCG Core Document I02

16. The appeal site is close to the built-up areas of Nutbourne West and Southbourne and would not be remote from the services and facilities in Nutbourne West, Southbourne and the nearby larger settlements. There would at least be a choice to use accessible modes of transport to access local services and facilities and additional dwellings in this location would not significantly undermine the aim of CLP Policy 39 to minimise the need to travel and reduce car dependency as part of new development proposals across the district. In addition, the proposed development would be consistent with the National Planning Policy Framework (the Framework) that seeks to actively manage patterns of growth to ensure that development is focused on sustainable locations (paragraphs 105 and 110).

Local Infrastructure

Highways

17. It is common ground between the Council and the appellant that being within close proximity of Southbourne, the appeal site is accessible to a good range of services and facilities. However, the appeal proposal would still give rise to a notable increase in the level of traffic which would rely on the surrounding local highway network, including A259 Main Road. Set against this, the appeal proposal would result in the removal of 213 daily traffic movements generated by the existing scrapyards operation from the appeal site⁴ and secure improved connectivity across the appeal site from existing residential areas to the wider bus routes, public footpath and cycle network.
18. The submitted details of the proposed principal access off Main Road and the associated changes are uncontested by the Local Highway Authority (LHA). The appellant's extensive assessment of the highway impacts⁵ are also agreed⁶, including the proposal having no unacceptable adverse impacts on the local highway network as a result of the development, including the nearby Inland Road/Main Road junction. There are also no objections from the LHA on highway grounds to the likely cumulative traffic generation from the proposed development together with other committed development in the area and forecast future traffic growth.
19. Furthermore, the imposition of the agreed schedule of planning conditions and planning obligations covering access, sustainable transport, pedestrian connectivity and other highway related details, would adequately safeguard against any unacceptable highway related consequences of the appeal proposal. They would also ensure that the prospective occupants of the new housing enjoy a good level of accessibility to local services and facilities. My assessment of these matters leads me to the same conclusion as the main parties and the Local Highway Authority.
20. In this context, I am satisfied that the concerns raised by Southbourne Parish Council and interested parties about the capacity of the local highway network to safely support the appeal proposal are not supported by contrary evidence. Based on the submitted highway evidence, coupled with my own site observations, at different times of the day, I do not find that there will be an

⁴ PB Associates (PBA) Transport Assessment (TA) (April 2022) Table 8 and Core Document K02 Paragraph 4.6

⁵ PBA TA (April 2022), PBA TA Addendum (August 2022), PBA Technical Note (Oct 2022) and Core Document K02

⁶ SOCG Core Documents I02 and E16

unacceptable impact on highway safety, or that the residual cumulative impacts on the road network will be severe.

21. The resulting improvements to pedestrian connectivity across the appeal site from existing residential areas to the wider bus routes, public footpaths and cycle network is a moderate benefit. The submitted plans also shows future proofing with connection links along the western boundary, which would facilitate connectivity to the land to the west should an application for wider allocation be received in the future.
22. In relation to the effects of the proposal on the A27 highway improvements. I am advised that the delivery of A27 improvements works has been a concern of the Council in the formulation of the emerging Chichester Local Plan Review and that at present it is unclear whether there is sufficient external funding to deliver a full package of A27 improvements, sufficient to serve the entire predicted housing need for the district. Therefore, in the interim, whilst the extent of planned development in the district and any necessary highways works is being decided upon, I am satisfied that, following further viability work undertaken and submitted by the appellant and an independent review by consultants on behalf of the Council, that the financial contribution set out in the Section 106 Agreement is necessary and sufficient to mitigate the impacts of the development on the A27 in this particular case.
23. Overall, in the context of CLP Policy 39 and paragraph 111 of the Framework, the predicted traffic and highway effects of the appeal scheme do not indicate to me that it should be refused. Consequently, subject to the imposition of suitably worded planning conditions and planning obligations to manage access and highway related details and promote sustainable transport, there is no conflict with the development plan or the Framework in this regard.

Flood risk and surface water drainage

24. The majority of the site is located in Flood Zone 1 as defined in the Environment Agency's Flood Mapping for the area, where there is a low risk of flooding. Part of the site, currently occupied by the breakers yard, is located within Flood Zones 2 and 3 where there is a medium to high probability of fluvial flooding, but the appeal proposal shows this area is not proposed for any built development. There is also high risk of groundwater flooding across the whole site.
25. The increased areas of hardstanding and development of the site would inevitably increase the need for appropriate measures to deal with potential flood risk and surface water drainage. The appellant has provided a Flood Risk Assessment and Drainage Strategy setting appropriate measures for the site. I am mindful that the Environment Agency, Southern Water, West Sussex County Council (the Lead Local Flood Authority) and Council's drainage engineer raised no objections to the proposal, subject to appropriate planning conditions, including the use and maintenance of Green Infrastructure and Sustainable Urban Drainage Systems and the provision of the necessary on and off-site drainage infrastructure.
26. Consequently, in the absence of any substantive evidence to the contrary, I consider that the appellant has adequately demonstrated that the proposed development would not adversely impact on flood risk and surface water drainage, in accordance with the requirements of Policies 9 and 42 of the CLP.

These policies seek, amongst other things, to ensure proposals provide the necessary infrastructure to support the development, manage surface water drainage and reduce the potential risk of flooding. In addition, it would accord with the aims of the Framework that seeks to direct development away from the areas at highest risk of flooding, ensure it is made safe for its lifetime without increasing flood risk elsewhere, incorporate sustainable drainage systems and would not contribute to unacceptable levels of water pollution (paragraphs 159, 169 and 174).

Foul Drainage

27. During the Inquiry Southbourne Parish Council and a number of interested parties raised concerns with regard to the capacity of the Thornham Wastewater Treatment Works (WWTW) and the capacity of the foul drainage sewer network for dealing with the development. Southern Water has identified Thornham as one of a number of WWTWs that require improvement as part of their process for identifying where strategic investment needs to be made in their catchment.
28. After initially objecting to the development Southern Water have stated that there is capacity at the Thornham WWTW. The Council, together with Southern Water and the Environment Agency have agreed a position statement (November 2021) on managing new housing development in Thornham catchment. Based on the regular headroom monitoring, there is capacity for 708 dwellings at the Thornham WWTW based on the most recent assessment undertaken by the Council, in consultation with Southern Water and the Environment Agency⁷. The calculations from the Council, based on dry water flows, is a standard calculation method of the Environment Agency which is applied nationally.
29. With regard to the foul sewer network, Southern Water has indicated that it will need to be upgraded and can be addressed through the imposition of appropriate planning conditions. The third parties also argued that the Combined Sewer Outfall (CSO) into the Ham Brook would be affected by the drainage from the appeal site. However, given the positions and relevant levels between the sewers, I am not persuaded based on the evidence presented that the CSO would be affected by the drainage from the site, nor that discharges from the CSO would create a health hazard to the future occupants of the development.
30. As the statutory undertaker Southern Water are obliged by The Water Industry Act 1991 to accept flows and provide the necessary capacity to drain property within their area and new connections charges are paid to provide any upgrades needed to serve new development. Southern Water as statutory undertaker have confirmed that they have capacity to facilitate the development and will upgrade the sewers connections to the development within two years of any planning permission on the site⁸.
31. Notwithstanding the evidence of Southbourne Parish Council and interested parties, I have no compelling basis for concluding that Southern Water are unable to treat the sewage arising from the proposal and upgrade the sewers connections to the development. Should Southern Water fail to meet their

⁷ Core Document PO9

⁸ Mayer Brown Drainage Strategy (August 2022) page 12, Core Documents E10, J02 and P11

obligations under the Act, the industry regulator, OFWAT, is obliged to take appropriate action and to ensure necessary work is carried out and a condition is attached that allows for interim measures to be undertaken pending the completion of the work, if necessary, in agreement with the Council. Therefore, whilst I understand the strongly held views of the Parish Council and interested parties in this regard, I cannot conclude that sewage from the development will not be adequately dealt with.

32. Consequently, I consider that the appellant has adequately demonstrated that the proposed development would not adversely impact on foul water drainage, in accordance with the requirements of Policy 9 of the CLP that seeks, amongst other things, to ensure proposals provide the necessary infrastructure to support the development. In addition, it would accord with the aims of the Framework that seeks that development would not contribute to unacceptable levels of water pollution (paragraph 174).

Community infrastructure capacity

33. The appeal proposal will generate additional demands on local infrastructure. Interested parties have raised concerns about the capacity of these local services to support such increased demands. However, the main parties have identified that the appropriate contributions from the appeal scheme toward appropriate infrastructure to support the development can be secured through the Council's Community Infrastructure Levy (CIL) scheme⁹. I am satisfied that the adopted CIL scheme would allow the Council to secure appropriate infrastructure mitigation to address this at an appropriate stage in the delivery of the appeal scheme. Moreover, there is no substantiated evidence before me to corroborate the interested parties' concerns about local infrastructure, including educational and healthcare capacity, to lead me to reject the main parties assessment on this matter.
34. Consequently, in the absence of harm there is no conflict with CLP Policy 9 or the Framework in these regards. However, as these contributions towards local infrastructure would be mitigation, they do not constitute material benefits.

Other Matters

Emerging Planning Policy

35. During the Inquiry the Council provided an update on the proposed submission version of the emerging Chichester Local Plan Review (CLPR) outlining that it had been the subject of Regulation 19 public consultation in February/March 2023. Policy S2 of the CLPR identifies Southbourne as a Settlement Hub and allocates 1,050 dwellings to Southbourne under Policy H2 to be delivered within a 'Broad location of development', which includes part of the appeal site. Policy A13 sets out the overarching principles for development proposal within the Broad location of development. Policy NE4 of the CLPR identifies a strategic wildlife corridor along the Ham Brook Chalk Stream, which runs through the appeal site. However, as I do not have evidence before me as to the extent of unresolved objections to the policies in the CLPR and it has not yet been submitted for examination, having regard to the advice provided in Paragraph 48 of the Framework, I attribute limited weight to the policies in the CLPR.

⁹ Core Documents J01 and J02

36. The emerging modified Southbourne Parish Neighbourhood Plan (ESPNNP) was submitted to the Council in January 2023, subject to public consultation in March/April 2023 and an examiner was appointed in July 2023 to undertake an examination of the ESPNNP. However, as I do not have evidence before me as to the extent of unresolved objections to the policies in the ESPNNP and it has not yet fully undergone examination nor a referendum, having regard to the advice in the Framework¹⁰, I attach limited weight to the policies in the ESPNNP.

Ecology and Biodiversity

37. The appeal site is within the 5.6km Zone of Influence for the Chichester and Langstone Harbour Special Protection Area (SPA) and Ramsar site and the Solent Marine Special Area of Conservation (SAC) and within short distance of a number of designated and non-designated nature conservation sites including the Chichester Harbour Site of Special Scientific Interest. It is also in close proximity to the 12km buffer edge of the Singleton and Cocking Tunnels SAC.
38. The designations are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). The qualifying features of the SPA and Ramsar site include a variety of breeding and non-breeding waterfowl. The conservation objectives include maintaining or restoring the population, distribution and habitats of the qualifying features. The qualifying features of the Solent Maritime SAC include various tidal, intertidal and shoreline habitats and the vegetation that colonise these places. The Desmoulin's whorl snail is a qualifying species of these areas. The conservation objectives include maintaining or restoring the extent, distribution, structure and function of the qualifying habitats and species. The qualifying species of the Singleton and Cocking Tunnel SAC, include the Barbastelle Bat and the conservation objectives include maintaining functionally linked habitats outside of the SAC¹¹.
39. Under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) I am required as competent authority to undertake an Appropriate Assessment of the proposal on the basis of its likely significant effects on European Protected sites. The proposal would give rise to likely significant effects on the qualifying features of the SPA and Ramsar site through increased recreational disturbance during occupation (alone and in-combination) and surface water pollution, including during the construction period, from the site and the Ham Brook which directly discharges into the Chichester and Langstone Harbours SPA and Ramsar. The proposal would also give rise to likely significant effects on the qualifying features of the SPA and Ramsar site and Solent Maritime SAC through increased nutrient outputs during occupation (alone and in-combination)¹².
40. The mitigation proposed for recreational disturbance is through the Bird Aware Solent Strategy, which is delivered by the Solent Recreation Mitigation Partnership. This is effectively a Strategic Access Management and Monitoring Scheme to fund a package of wardening, education, green infrastructure improvements and monitoring. A financial contribution of £78,426 would be secured from the proposed development towards the Bird Aware Solent Strategy through the submitted Section 106 Agreement. Natural England is satisfied that this would provide acceptable mitigation.

¹⁰ Paragraph 48 of the Framework

¹¹ Core Documents M13 and K03

¹² Core Documents M13 and K03

41. Mitigation for surface water pollution during the construction phase would be controlled through a Construction and Environmental Management Plan to be secured via planning conditions. This would include a number of requirements to safeguard the water environment including measures to control fuel storage, spillages and the prevention of sediment entering the surface water system. During the operative phase polluted runoff would be controlled by attenuation through a site wide surface water drainage scheme and the use of sustainable drainage techniques, which would be secured via planning conditions.
42. To ensure that harm would not ensue to the protected European sites, Natural England requires all residential development to achieve nutrient neutrality. The appeal proposal used Natural England's latest advice for calculating nitrogen budgets. The submitted Section 106 Agreement shows a mitigation scheme for the offsetting of the nutrient output from the proposed development. It shows an area of agricultural land of 3.42ha at Land North of Common Road, Chichester, that falls within the fluvial catchment area of the Solent Maritime SAC. It is proposed that the mitigation land will be taken out of agricultural use and planted with native broadleaf woodland to mitigate the appeal proposal and to make it nitrate neutral. The Section 106 Agreement covers the provision, on-going management and monitoring of the woodland on the nitrate mitigation land and would secure the mitigation in perpetuity¹³.
43. The effects of sewerage discharge on the European Protected Sites are also a concern of the interested parties. Foul drainage from the site would be treated at the Thornham WWTW which I am advised discharges to Chichester Harbour. Having had regard to the proposed development and the evidence before me, including the advice from Natural England and Southern Water, I am satisfied there is sufficient capacity at the Thornham WWTW to accommodate the development and that the proposal would be acceptable subject to appropriate conditions being attached to cover the upgrading of the foul drainage network prior to the occupation of any dwellings on the site. In the absence of any substantive evidence to the contrary, I therefore have no basis for concluding that the development, in combination with other development, as a result of the operation at Thornham WWTW, would have a likely significant effect on any European Protected sites.
44. Having had regard to the characteristics of the proposed development and the evidence before me, including the advice from Natural England, in making an appropriate assessment, I am satisfied that the proposed mitigation measures identified in the Section 106 Agreement and planning conditions are sufficient to ensure that the proposed development would not adversely affect the integrity of any of the aforementioned European Protected sites.
45. Lastly, with regards to bats, the appeal site is in close proximity to the Singleton and Cocking Tunnels SAC and there are records of Barbastelle bats, which are a qualifying feature of the SAC, along the Ham Brook through the site. The proposed mitigation measures identified in the Section 106 Agreement and planning conditions, including the creation of a Green Corridor along the Ham Brook with additional tree planting and controlled lighting to provide a dark corridor for commuting bats¹⁴.

¹³ Core Documents J02, K03 and M13

¹⁴ Core Documents J02, K03 and K04

46. Having had regard to the characteristics of the proposed development and the evidence before me, including the advice from Natural England and the Council's Environmental Strategy Unit, in making an appropriate assessment, I am satisfied that the proposed mitigation measures identified in the Section 106 Agreement and planning conditions, are sufficient to ensure that the site would allow for commuting and foraging by the protected bats and it would not adversely affect the integrity of the nearby European Protected Singleton and Cocking Tunnels SAC.
47. I have also considered the effects of the proposal on local wildlife outside European protected areas. The application was accompanied by an ecological assessment¹⁵ which found that provided adequate mitigation was provided, the effects of the proposal on local wildlife were likely to be minimal. The main parties' evidence confirms that the existing breakers yard on the eastern part of the site and the large open undeveloped garden area (including semi-improved grassland) on the western part of the site are of limited ecological value due to the nature of the existing activities. However, the Ham Brook and the hedgerows and established trees along the boundaries are identified as supporting greater biodiversity.
48. The scheme was subject to a number of ecological surveys in relation to protected species including water voles, badgers, reptiles and Great Crested Newts. The Council have identified that additional mitigation will be required, but that these matters would not preclude development of the site¹⁶.
49. The appeal scheme shows that a proposed ecological buffer and wildlife corridor would be provided along the Ham Brook and the boundaries would be retained as a green link that would connect to the proposed open space. The appellant's evidence identifies opportunities to increase biodiversity and create new species rich habitats to support new foraging activity for species on the site as well as those originating from beyond the site. The submitted ecological evidence demonstrates that appropriate mitigation can be secured to avoid any residual harm. Furthermore, I acknowledge that the removal of the breakers yard use would have a positive impact upon the proposed ecological wildlife corridor and linkages to existing wildlife corridors would be improved as part of the green infrastructure proposals.
50. Having regard to the ecological evidence submitted with the application, I am therefore satisfied that subject to the mitigation measures set out within it, which can be secured by planning conditions, the proposal would not have a detrimental impact on the biodiversity of the site, including protected species. I therefore find no conflict with Policies 49 and 50 of the CLP which together seek to protect local wildlife and to ensure that the effects of new development are appropriately mitigated.

Character and appearance

51. The large triangular appeal site, measuring about 6.01 hectares, comprises of the Harris Scrapyard, an operational breakers yard, located on the eastern portion of the site. On the western portion of the site is a two storey dwelling, Willow Green, fronting onto Main Road and a large open undeveloped parcel of

¹⁵ EA and ESA including WYG Ecological Appraisal (January 2021)

¹⁶ SOCG Core Document I02

land associated with the residential curtilage of a property, known as Oak Farm. Willow Green would be demolished to provide access to the proposal. Residential development is located to the south and east of the site, a railway line to the north and the Ham Brook, a natural watercourse, runs along the eastern boundary of the site. Open fields and paddocks are located to the west, with further residential development a short distance away on the built up edge of Southbourne.

52. In terms of its character and appearance, as identified in the appellant's Landscape and Visual Impact Assessment¹⁷ and my observations during my site visits, the site enjoys a high level of containment from the wider surrounding countryside as a result of the combination of the railway line, peripheral vegetation and adjacency in part to the built-up area. There are limited public vantage points of the site from the surrounding properties and a Public Rights of Way running along the eastern boundary of the site on the opposite side of the Ham Brook. The appeal site does not fall within a valued landscape within the meaning of paragraph 174 of the Framework. The existing character of the site would change significantly as a result of the proposed development on the breakers yard and the open undeveloped area of land and a change in the nature of the site would be an inevitable consequence of this.
53. However, in its wider setting, a substantial area of open undeveloped land and countryside would remain beyond the residential site. Overall, the appeal proposal would not cause the substantial erosion of the open undeveloped land and countryside in this part of the District. Despite the loss of the appeal site to development, the prevailing overall character and setting of the settlements of Nutbourne West and Southbourne would be maintained.
54. Furthermore, the appellant has demonstrated through their landscape evidence that a suitable mitigation strategy could be secured to limit the visual impact of the residential development throughout the year when viewed from the site's immediate surroundings. There would also be an opportunity to soften the existing edge to the existing built-up area. The retention and enhancement of existing hedgerows and the additional landscaping and green infrastructure provision would help to integrate the development into the surrounding landscape.
55. I have noted the concerns raised by interested parties about the impact of the proposed development on the Chichester Harbour Area of Outstanding Natural Beauty (AONB), located a short distance to the south of the site on the opposite side of the A259 Main Road. However, due to the separation distance and topography of the surrounding area, together with the intervening buildings, structures and mature vegetation between the appeal site and the AONB, there is only limited inter-visibility. The proposed development would have a neutral material impact on the setting of the AONB, and therefore would preserve the landscape and scenic beauty of the AONB.
56. There has been some local concern from the Chichester Harbour Conservancy and interested parties that the proposed development would result in the coalescence of settlements of Southbourne and Nutbourne West and would set a precedent for further development that would lead to a damaging cumulative impact on the setting of the AONB. However, the development is not within any strategic gap identified in the development plan. This is not land that is

¹⁷ Terraforma Consultancy Ltd Landscape and Visual Impact Assessment (April 2022)

important to the separation of Southbourne and any settlement to the south or east. The appeal site does not fall within any important strategic landscape gaps identified in the Council's Landscape Gap Assessment¹⁸ in order to prevent coalescence of the settlements and maintain their separate identities. In addition, each application and appeal must be determined on its individual merits, and a generalised concern that the granting of planning permission would set a precedent for other similar developments does not justify withholding permission on these grounds in this case.

57. Consequently, I conclude that the proposed development would not have an unacceptable harmful effect on the character and appearance of the area, including the AONB. The development would accord with the overall aims of Policies 33, 43 and 48 of the CLP and Policy 4 of the Southbourne Parish Neighbourhood Plan 2015 which seek, amongst other things, to ensure development is of a high quality design that recognises distinctive local landscape character, including the AONB and respects and enhances the character of the surrounding area and its setting in the landscape.

Contamination

58. The Environment Agency have advised that the proposed development and removal of the scrap yard would present a high risk of contamination that could be mobilised during the construction to pollute groundwater and aquifers in the location. The appellant's Flood Risk Assessment and Ground Investigation Report accompanying the development acknowledges this and as such, in accordance with the advice of the Environment Agency, mitigation measures are required through the imposition of appropriate planning conditions.
59. The appellant's submitted details for de-contamination of the scrap yard to safeguard the integrity of the Ham Brook chalk stream are uncontested by the Environment Agency and Council's Environmental Protection Team, subject to appropriate planning conditions being attached to deal with the contamination land investigations and remediation strategy. In this context, I am satisfied that the concerns raised by interested parties about the de-contamination of the site can be dealt with through the imposition of the agreed schedule of conditions.

Section 106 Agreement and Planning Obligations

60. Paragraph 57 of the Framework and Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) require that planning obligations should only be sought, and weight attached to their provisions, where they are: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
61. The appeal scheme proposes the delivery of 21 affordable units of a range of types and tenures to meet the prioritised needs for affordable housing in the District. I am satisfied that, following further viability work undertaken and submitted by the appellant and an independent review by consultants on behalf of the Council to assess the viability of the proposed development, that the affordable housing contribution set out in the Section 106 Agreement is necessary and fairly and reasonably related in scale and kind to the

¹⁸ Core Document P10

- development in this particular case. This is in accordance with the Council's requirements as set out in Policy 34 of the CLP on affordable housing.
62. The affordable housing evidence presented demonstrates that Chichester District is the 14th least affordable local authority outside London and that the housing prices and rents remain high compared to average household incomes in the area, with medium affordability ratio (medium house price to medium gross household earnings) increasing from 6.1 in 2002 to 13.7 in 2021¹⁹. The Council states that the latest Housing and Economic Need Assessment 2022 outlines an identified need to deliver about 200 affordable homes per year up to 2039 in the district²⁰. However, the Council's latest Annual Monitoring Report (2021-22) and appellant's evidence indicates that the affordable housing completions have been consistently and significantly lower in many cases in recent years than the annual affordable need in the district²¹.
63. The significance of this particular appeal scheme's level of contribution to boosting an appropriate mix of affordable housing in the district is not disputed by the Council and it is agreed that it should be afforded substantial weight as a material consideration²². The submitted legal agreement contains planning obligations which are capable of securing the appropriate level and mix of affordable housing, management of the nomination rights and local criteria to support the delivery of the affordable home for local people in the area. The legal agreement, as a mechanism to ensure that the appeal scheme delivers the important housing benefits of the appeal proposal weighs very heavily in favour of the appeal proposal.
64. The Section 106 Agreement includes contributions of £788,256 towards the A27 highway improvements, as set out above, £15,000 towards Public Rights of Way improvements within the vicinity of the site and £3,500 towards travel plan monitoring. These would be necessary to mitigate the proposal's impact on the local highways network and to promote sustainable transport.
65. The Section 106 Agreement includes various provisions and obligations that cover the provision, on-going management and maintenance of the allotments, community orchard, ecological buffer to the Ham Brook and open space, including the provision of a locally equipped children's play area within the development. The Section 106 Agreement also covers the strategic mitigation measures to mitigate the additional impacts and recreation pressures and for the offsetting of the nutrient output from the proposed development in relation to the nearby protected European designated sites as outlined above.
66. I am satisfied that the proposed obligations set out above are necessary, directly related, and fairly and reasonably related in scale and kind to the proposed development, in accordance with the Framework and CIL Regulations. The contributions in the Section 106 Agreement and how they would be spent are supported by the relevant local plan policies, representations from the Council's consultees, appeal statements, CIL compliance statements and the Statement of Common Ground between the main parties.

¹⁹ Core Documents D01, J01 Paragraph 6.25 and K04 Paragraph 5.5

²⁰ Core Documents C15 and K04 Paragraph 5.5

²¹ Core Documents C03 Table 18 and J01 Paragraph 6.25

²² Core Document SOCG I02 and K04 Paragraph 5.5

Other issues

67. Whilst concerns about prematurity have been raised, I consider the development is not so substantial or that its cumulative effect so great that it would undermine the plan making process. The emerging CLPR has not yet been submitted for examination and, the examination on the emerging modified Southbourne Parish Neighbourhood Plan (ESPNP) has just commenced. Therefore, looking at both the emerging CLPR and ESPNP, having regard to the advice provided in the Framework (paragraphs 49 and 50), I give these matters limited weight in my decision.
68. Various references have been made in evidence and submissions to other planning decisions and judgements, all of which have been considered. Each turns on its own individual facts and, whilst generally relevant to varying degrees, none dissuade me from the assessments and conclusions based upon the particular circumstances of this appeal.
69. I have noted the objections raised by Southbourne Parish Council, Chichester Harbour Conservancy and interested parties to the proposal. These include the impact on the amenities of local residents and local infrastructure, loss of a greenfield site and land outside the defined settlement boundary contrary to local and national policies, prematurity of the development in advance of the emerging Local Plan and Neighbourhood Plan, highway safety, traffic, pedestrian and cycle connectivity, flood risk, drainage, sewerage capacity, contamination, impacts on protected species and biodiversity, Ham Brook Strategic wildlife corridor, Chichester Harbour AONB and nearby protected European designated sites and setting a precedent for development.
70. However, I have addressed a number of these matters in the main issues and other matters above. No objections were received from the Local Highways Authority, the Council's Drainage Engineer, Council's Environmental Strategy Unit and the local infrastructure providers, subject to appropriate planning obligations being secured and conditions applied to the proposal. It is a matter of agreement between the main parties, that ecological and biodiversity matters can be dealt with through the imposition of conditions and planning obligations to ensure that the development is not harmful to these interests²³.
71. The other matters raised are not being contested by the Council. I am satisfied that these matters would not result in a level of harm which would justify dismissal of the appeal and can be dealt with by planning conditions or through the Section 106 Agreement where appropriate. In addition, I have considered the appeal entirely on its own merit and, in the light of all the evidence before me, this does not lead me to conclude that these other matters, either individually or cumulatively, would be an over-riding issue warranting dismissal of the appeal.

Conditions

72. Having regard to the Framework and Planning Practice Guidance, I have considered the suggested planning conditions submitted and agreed by the Council and the appellant during the roundtable discussion at the Inquiry. In addition to the time limit condition of two years necessary to expedite the housing delivery on the site, I have specified the approved plans and details as

²³ SOCG Core Document I02

this provides certainty (1 & 2). Those conditions relating to the detailing of external materials and finishes, windows, roofs, site levels and boundary treatment are necessary in order to allow for a design led approach and high quality development in the interests of the character and appearance of the area (3, 4, 5, 6 & 7).

73. A condition relating to hard and soft landscaping works on the site is necessary to safeguard the character and appearance of the area and ensure the protection and enhancement of the trees, hedges and biodiversity on the site (8). Conditions relating to the submission of an Ecological Construction Management Plan and Landscape and Ecological Management Plan are necessary to ensure the protection and enhancement of trees, hedges and biodiversity on the site (9 & 10). A condition relating to an external lighting management scheme is necessary to protect wildlife in the area (11). There is some potential for archaeological remains so a scheme of investigation on the site would be necessary to ensure proper assessment and recording (12).
74. Details of foul, surface water, sustainable drainage and flood risk measures together with future access arrangements are necessary in order to ensure an adequate foul sewer network and drainage facilities are provided, to mitigate against potential flooding, the pollution of the water environment and to ensure future access for maintenance (13, 14, 15, 16, 17 & 18). Conditions relating to the contamination land investigations, remediation strategy and a scheme for managing any borehole installed for the investigation of soils, groundwater or geotechnical purposes are necessary in the interest of public safety and to mitigate against potential pollution of the water environment (19 & 20).
75. For the construction period, conditions requiring the submission of a Construction and Environmental Management Plan, controlling the hours of construction and the details of the methods of piling, deep foundations and any investigation boreholes are necessary in order to mitigate the environmental impact of development works and to protect the amenities of occupants of neighbouring properties (21, 22, 23 & 24). A condition relating to the scheme of noise mitigation is necessary in order to safeguard the amenities of local residents and the future occupants of the development (25).
76. A range of highway improvements are necessary to limit highway impact and to encourage and promote sustainable transport including access and visibility splays (26), internal roads provision (27), car and cycle parking arrangements (28 & 29), refuse and recycling storage facilities (30) and submission of futureproofed links to the west of the site (31). A condition relating to electric vehicle charging infrastructure is necessary in order to promote sustainable transport and reduce greenhouse gas emission (32).
77. A condition relating to the details of the sustainable design and construction for the development is necessary in order to promote on-site renewable energy provision and reduce greenhouse gas emission (33). A condition relating to consumption of potable water is necessary to promote water efficiency and sustainable development (34). A condition relating to fire hydrants is necessary to ensure all dwellings are within the Fire and Rescue Service recommended distance of a fire hydrant for the supply of water for firefighting (35).
78. A condition restricting the children's nursery is necessary in order to retain the children's nursery floorspace and ensure compatible with the residential element of the proposed development (36).

79. I consider all the conditions to be reasonable and necessary to the development of the site. I have reworded some of them for consistency and have reordered them for clarity. Some of the particular requirements involve work to be done before development can start on site or before the development can be occupied. These measures are so fundamental to the acceptability of the proposal that it would be otherwise necessary to refuse planning permission.

Overall Planning Balance

80. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan, unless material considerations indicate otherwise.
81. The Council accepts that it cannot demonstrate a five year supply of deliverable housing sites. There is no need to explore more than one route in deciding whether the presumption in favour of sustainable development applies. A five year housing land supply shortfall is sufficient and as such paragraph 11d) of the Framework applies. Furthermore, for the reasons outlined above, there are no policies in the Framework protecting assets of particular importance that provide a clear reason for refusing the development in this particular case²⁴. The tilted balance in paragraph 11d)ii) of the Framework is therefore engaged.
82. In terms of the adverse impacts, there would be a limited negative effect on the landscape character and appearance of the area, although the development can be sited to reduce the harm and incorporate design measures to mitigate the impact to an acceptable level. I acknowledge that there is some conflict with the development plan, albeit that the conflict is reduced, and limited weight is afforded to the conflict with CLP Policies 2 and 45 and Policy 1 of the SPNP as described above. The proposal accords with the overall aims of all other relevant development plan policies set out in the CLP and SPNP. Other potentially adverse effects would be overcome or satisfactorily mitigated by planning conditions and the Section 106 Agreement.
83. Against that, the proposal would provide 103 new dwellings, of which 21 would be affordable. The evidence before me demonstrates an ongoing housing supply shortfall and extremely bleak outlook for local affordable housing provision. The capability of the appeal proposal to contribute significantly to addressing the housing needs and the existing and predicted shortfalls in affordable housing are significant social benefits carrying substantial weight.
84. The appeal site would be well-related to day-to-day services and facilities in Southbourne together with the more limited services and facilities in Nutbourne West and is accessible by a range of transport modes, including a good bus service running by the site along Main Road to Southbourne and nearby larger settlements of Emsworth, Chichester, Havant and Portsmouth. This would enable future residents to reach the day to day and the essential services and employment available in these settlements and help reduce car dependency. These are key objectives of the Framework and are social and environmental benefits that carry moderate weight.
85. The removal of the breakers yard and replacement with open space and an ecological wildlife corridor alongside the Ham Brook are positive benefits of the

²⁴ See Footnote 7 of the Framework

appeal scheme that would also result in the effective use of previously developed land. The ecological, landscaping and Green Infrastructure provision across the site would offer the opportunity to promote the health and well-being of the local people and the biodiversity in the area, key social and environmental objectives of the Framework carrying moderate weight.

86. Furthermore, a biodiversity net-gain of around 26% for area based habitats and around 58% for linear habitats is proposed²⁵ and this could be delivered as part of the green infrastructure proposals. The Framework only requires a net-gain, and the proposal therefore goes significantly beyond current policy requirements. Consequently, this aspect of the biodiversity proposals is a moderate benefit of the appeal scheme.
87. The contributions towards public open space, while necessary to mitigate the impact of the additional population from the development, would also be available to all residents in the local area. High levels of public open space, including a community orchard and allotments, are to be secured through the conditions and planning obligations. These contributions together with the provision of a children's nursery and a play area within the development are social benefits of the scheme which carry moderate weight.
88. The commitment to higher energy efficiency, sustainable construction and sustainable transport measures are clear environmental benefits, representing a move towards a low carbon economy and promoting more sustainable means of travel. These are key objectives of the Framework and are environmental benefits that carry moderate weight.
89. The economic benefits of development would include investment in construction and related employment for its duration during construction and in the children's nursery on the site that would offset the loss of employment from the existing breakers yard operation. There would also be an increase in subsequent local household expenditure and demand for services. The additional population would increase spending in the local economy to provide long term support for local shops and services, supporting a prosperous economy. This is a key objective of the Framework and are economic benefits that carry moderate weight.
90. Consequently, overall, in my view, the adverse impacts arising from this development do not significantly and demonstrably outweigh the scheme's benefits. The proposal would therefore represent a sustainable form of development when assessed against the Framework read as a whole, which is a material consideration in favour of the development. The factors above collectively provide the material considerations to grant planning permission other than in accordance with the development plan in this specific case.

Conclusion

91. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

David Troy

INSPECTOR

²⁵ Core Documents M10 and M11

APPEARANCES

FOR THE APPELLANT:

Matthew Reed KC	King's Counsel, Landmark Chambers
Patrick Barry	Director, Nova Planning Ltd
Steven Lecocq	Team Leader, Associate Civil Engineer, Mayer Brown
Mark Smith	Director, Paul Basham Associates
David West	Associate Director, Tetra Tech
Kevin Wood	Associate Ecologist, Southern Team Lead, Tetra Tech
Lionel Fanshawe	Director, Principal Landscape Architect Terra Firma
John Newman	Director, Sturt & Co Ltd Chartered Surveying Practice

FOR THE COUNCIL:

Andrew Parkinson	Barrister, Landmark Chambers
Jane Thatcher	Senior Planning Officer, Chichester District Council
Tony Whitty	Manager Planning Policy, Chichester District Council

INTERESTED PARTIES:

Amanda Tait	Southbourne Parish Council
Ceri Stunt	Interested Party
Roy Seabrook	Interested Party
Elaine Brown	Interested Party
Oona Hickson	Local Councillor, Chichester District Council
Jonathan Brown	Local Councillor, Chichester District Council
John Garrett	Interested Party
David King	Interested Party
John Keynes	Interested Party
Susan Green	Interested Party
Alan Green	Interested Party

DOCUMENTS SUBMITTED DURING THE INQUIRY:

- P01 Appellant Opening Statement
- P02 Council Opening Statement
- P03a Statement from Southbourne Parish Council
- P03b Thornham works – sewage capacity limitations for new housing
- P03c Storm Sewage Overflows
- P03d DWMP June 2023
- P03e DWMP: Potential Options Thornham Wastewater system
- P03f Thornham Wastewater Treatment Works Catchment Map
- P04 Statement from Roy Seabrook
- P05 Statement from Cllr Oona Hickson
- P06 Statement from Ceri Stunt
- P07 Statement from Elaine Brown
- P08a Statement from Cllr Jonathan Brown
- P08b Statement from Cllr Jonathan Brown – Policy References
- P09 Headroom Monitoring for Thornham WWTW (July 2023)
- P10 Extract from the Landscape Gap Assessment for Chichester District Council (May 2019)
- P11 Appellant Closing Statement

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of two years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing No.	Drawing/Document Title	Scale	Sheet Size	Revision Number
Site Plan Drawings				
01293_S01	Site Location Plan	1:1250	A2	P02
01293_S03	Existing Site plan with demolition details	1:500	A0	P01
01293_MP01	Site Layout	1:500	A0	P03
01293_MP02	Site Levels	1:1000	A1	P03
01293_MP03	Parking strategy	1:500	A0	P03
01293_MP04	Refuse / recycling strategy	1:500	A0	P03
01293_MP05	Illustrative Site Masterplan	1:1000	A3	P03
Site Sections				
01293_SS_00	Site sections - Sheet 1	1:200	A1	P03
01293_SS_01	Site sections - Sheet 2	1:200	A1	P02
01293_SS_02	Site sections - Sheet 3	1:200	A1	P02
01293_SS_03	Proposed with Existing Cross Sections	1:200	A0	P01
House Designs				
01293_HT2A_00	HT2A Semi Type 2- Plans, Elevations & Section	1:100	A1	P02
01293_HT2A_01	HT2A 4 Unit Terrace Type 2 - Plans, Elevations & Section	1:100	A1	P01
01293_HT2A_02	HT2A 3 Unit Terrace Type 2 - Plans, Elevations & Section	1:100	A1	P02
01293_HT2A_03	HT2A-HTA3A 4 Unit Terrace - Plans, Elevations & Section	1:100	A1	P01
01293_HT3A_00	HT3A Detached Type 1- Plans, Elevations & Section	1:100	A1	P02
01293_HT3A_01	HT3A Detached Type 2- Plans, Elevations & Section	1:100	A1	P02
01293_HT3A_02	HT3A Semi Type 1 - Plans, Elevations & Section	1:100	A1	P02
01293_HT3A_03	HT3A Semi Type 2 - Plans, Elevations & Section	1:100	A1	P02
01293_HT3A_04	HT3A Type 1 - HT3B Type 2 Detached - Elevations & Section	1:100	A1	P02
01293_HT3A_05	HT3A Type 1 - HT3B Type 2 Detached - Plans	1:100	A1	P02

01293_HT3A_06	HT3A-HT3B Semi Type 1 - Plans, Elevations & Section	1:100	A1	P02
01293_HT3B_01	HT3B Detached Type 2 - Plans, Elevations & Section	1:100	A1	P02
01293_HT4A_00	HT4A Detached Type 1- Elevations & Section	1:100	A1	P01
01293_HT4A_01	HT4A Detached Type 1- Plans	1:100	A1	P01
01293_HT4A_02	HT4A Detached Type 2- Elevations & Section	1:100	A1	P01
01293_HT4A_03	HT4A Detached Type 2- Plans	1:100	A1	P01
01293_HT4A_04	HT4A Detached Type 2- Plans, Elevations & Section	1:100	A1	P01
01293_HT4A_05	HT4A Detached Type 2- Plans, Elevations & Section	1:100	A1	P01
01293_HT4C_00	HT4C Detached Type 1- Plans, Elevations & Section	1:100	A1	P02
01293_HT4C_01	HT4C Detached Type 1- Plans, Elevations & Section	1:100	A1	P02
01293_HT4C_02	HT4C Detached Type 1- Plans, Elevations & Section	1:100	A1	P02
01293_HT4C_03	HT4C Detached Type 2- Plans, Elevations & Section	1:100	A1	P01
01293_HT4C_04	HT4C Detached Type 2- Plans, Elevations & Section	1:100	A1	P01
01293_HT4C_05	HT4C Detached Type 2- Plans, Elevations & Section	1:100	A1	P02
01293_HT4C_06	HT4C Detached Type 2- Plans, Elevations & Section	1:100	A1	P02
01293_HT5A_00	HT5A Detached Type 1- Plans, Elevations & Section	1:100	A1	P01
01293_HT5A_01	HT5A Detached Type 1- Plans, Elevations & Section	1:100	A1	P02
01293_HT5A_02	HT5A Detached Type 2- Plans, Elevations & Section	1:100	A1	P01
01293_HT5A_03	HT5A Detached Type 2- Plans, Elevations & Section	1:100	A1	P02
01293_G_00	Detached Garages Sheet 1 - Plans, Elevations & Section	1:100	A1	P02
01293_G_01	Detached Garages Sheet 2 - Plans, Elevations & Section	1:100	A1	P02
01293_G_02	Detached Garages Sheet 3 - Plans, Elevations & Section	1:100	A1	P02
01293_FOG_00	FOG with Bins, Cycles and Car Barn	1:100	A1	P01
Apartment Designs				
01293_BA_00	Block A - South & East Elevations	1:100	A1	P04
01293_BA_01	Block A - North & West Elevations	1:100	A1	P04

01293_BA_02	Block A - Sections	1:100	A1	P04
01293_BA_03	Block A - Ground & First Floor Plan	1:100	A1	P03
01293_BA_04	Block A - Second Floor & Roof Plans	1:100	A1	P04
01293_BB_00	Block B - South & East Elevations	1:100	A1	P02
01293_BB_01	Block B - North & West Elevations	1:100	A1	P02
01293_BB_02	Block B - Sections	1:100	A1	P02
01293_BB_03	Block B - Ground & First Floor Plan	1:100	A1	P04
01293_BB_04	Block B - Second Floor & Roof Plans	1:100	A1	P05
01293_BC_00	Block C - South & East Elevations	1:100	A1	P02
01293_BC_01	Block C - North & West Elevations	1:100	A1	P02
01293_BC_02	Block C - Sections	1:100	A1	P02
01293_BC_03	Block C - Ground & First Floor Plan	1:100	A1	P02
01293_BC_04	Block C - Second Floor & Roof Plans	1:100	A1	P02
01293_ST_00	Block C - Bin & Cycle Store	1:100	A3	P01
Nursery Designs				
01293_N01	Nursery - Floor Plans	1:100	A1	P01
01293_N02	Nursery - Elevations and Sections	1:100	A1	P01
Landscape Designs				
211-TF-00-00-DR-L-1000	Landscape Proposals (Masterplan)	1:1000	A1	-
211-TF-00-00-DR-L-1001	Inset	1:200	A1	-
211-TF-00-00-DR-L-1002	Inset	1:200	A1	-
211-TF-00-00-DR-L-1003	Inset	1:200	A1	-
211-TF-00-00-DR-L-1004	Inset	1:200	A1	-
211-TF-00-00-DR-L-1005	Inset	1:200	A1	-
211-TF-00-00-DR-L-1006	Inset	1:200	A1	-
211-TF-00-00-DR-L-1007	Inset	1:200	A1	-
211-TF-00-00-DR-L-1008	Inset	1:200	A1	-

- 3) Notwithstanding any details submitted, no development above slab level shall commence until a full schedule of all materials and finishes and samples of such materials and finishes to be used for external walls, window/door surrounds and roofs of the buildings (including the children's nursery), have been submitted to and been approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved schedule of materials and finishes unless otherwise agreed in writing by the Local Planning Authority.
- 4) Before construction of any dwelling above slab level and notwithstanding any information submitted to the contrary, details shall be submitted to and be approved in writing by the Local Planning Authority of the windows to be installed in the development. Window frames shall be flush fit and not storm proof frames and shall be set within window reveals of not less than 100mm depth. The development thereafter shall be carried out in accordance with the approved details.
- 5) No development above slab level shall commence until verge details for all roofs (including main roofs, garages and porches) have been submitted to and been approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved details.
- 6) Prior to construction works commencing in connection with the first building hereby permitted, plans of the site showing details of the existing (pre-remediation), post-remediation and proposed ground levels, proposed finished floor levels, levels of any paths, drives, garages and parking areas and the proposed completed height of the development and any retaining walls shall be submitted to, and approved in writing by, the Local Planning Authority. The details shall clearly identify the relationship of the proposed ground levels and proposed completed height with adjacent buildings. The development thereafter shall be carried out in accordance with the approved details.
- 7) Prior to first occupation of the dwellings hereby permitted the associated boundary treatments shall be provided in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include;
 - (a) scaled plans showing the location of the boundary treatments and elevations, and
 - (b) details of the materials and finishes.Thereafter the boundary treatments shall be maintained as approved in perpetuity.
- 8) The hard and soft landscaping of the site shall be based on the submitted Landscape Proposals drawing no. 2211-TF-00-00-DR-L-1000/Rev.P04 and shall be in accordance with a further detailed set of landscape drawings specifying the location, numbers, size and species (including native species) of trees and shrubs to be planted together with details of the proposed watering infrastructure and regime, together with the proposed finished levels of contours, means of enclosure, car parking layouts; other vehicles and pedestrian access and circulation areas; details and samples of the hard surfacing materials, 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. Due to the presence of dormice in the area to the north of the site, the planting scheme shall take dormice into consideration and incorporate native species of planting which would benefit dormice (e.g. late flowering berry producing species such as honeysuckle and bramble). Bats and water voles should also be taken into account with regard to planting and landscaping. 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 are removed, die, or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of the same species, size and number as those that are removed, damaged or die, or as originally approved, unless otherwise first agreed in writing by the Local Planning Authority.

- 9) No development shall commence, including demolition, site clearance and remediation, nor any plant, machinery or equipment brought onto the site, until an Ecological Construction Management Plan (ECMP), comprising a schedule of management measures and accompanying plans has been submitted to and approved in writing by the Local Planning Authority. The ECMP shall be prepared in accordance with the approved Ecology Documentation prepared by the Tetra Tech (previously known as WYG) Thereafter the approved ECMP shall be implemented and adhered to throughout the entire construction period unless any alternative is agreed in writing by the Local Planning Authority. The ECMP shall provide the following:
 - (a) full details of wildlife buffers and protective fencing to be erected around all retained trees, hedgerows, planted areas, the chalk stream and all ditches on and around the boundary of the site. These details shall be in accordance with the Arboricultural Implications Assessment and Method Statement (Ecourban Arboricultural Ltd, 20th December 2022) and the recommendations of BS5837:2012. The buffer areas shall be undisturbed at all times during the construction period, with no work taking place within the buffer and no vehicles, equipment or materials to be stored within the fenced area at any time. Any fencing shall be retained until all equipment, machinery, surplus materials and soil have been removed from the site;
 - (b) specifications of protective and construction fencing to ensure suitability for wildlife;
 - (c) specification and details of how the chalk stream will be protected during demolition and construction, especially in relation to decontamination, pollution prevention, the storage of materials, and how runoff of water, soil, dust and/or silt will be controlled into the stream ensuring water quality is protected;
 - (d) ecological and environmental safeguards for any works required within the buffer areas or to existing trees, hedges or vegetation, including details of timing of works and any requirements for additional surveying or an ecological watching brief on site during works;
 - (e) protection of all retained trees and hedges in accordance with BS5837:2012;

- (f) details of how any lighting required for construction purposes will be designated and installed to minimise disturbance to wildlife;
- (g) details of waste management within the site to ensure no adverse impact on wildlife and confirmation there shall be no burning of materials on site;
- (h) details of how any trenches will be covered overnight, or a means of escape made available so animals cannot access them;
- (i) management of the development area prior to works commencing to minimise disturbance to wildlife; and,
- (j) mitigation measures during and following construction works to be carried out as specified within the approved ecology documentation prepared by Tetra Tech (formally WYG).

The ECMP shall demonstrate how the site will be managed, in accordance with the criteria set out above and shall be implemented in accordance with the agreed criteria and plans set out above. All fencing and other protection measures shall be maintained as agreed until all equipment, machinery, surplus materials and soil have been removed from the site unless otherwise agreed in writing by the Local Planning Authority.

- 10) No development shall commence including demolition, site clearance and remediation, nor any plant, machinery or equipment brought onto the site, until a Landscape and Ecological Management Plan (LEMP) setting out measures to ensure the delivery and long term management of open spaces and areas of ecological value, has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall be prepared in accordance with the mitigation measures and ecological enhancements and recommendations set out in the Bat Activity Survey (WYG, Nov 2020), Bat Emergence/Return Survey Report (WYG, Jan 2021), Ecological Appraisal (WYG, Jan 2021), Consultation Response (Tetra Tech, 27th April 2022), Reptile Report (WYG, January 2021), EIA – Section 8 Ecology (Savills, May 2022), Biodiversity Net Gain Assessment (Tetra Tech, November 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 protected species mitigation measures and Biodiversity Net Gain habitats the following ecological enhancements shall be included:
- (a) any trees removed should be replaced at a ratio of 2:1;
 - (b) areas for wildflower meadow planting are identified;
 - (c) filling any gaps in tree lines or hedgerows with native species;
 - (d) At least 10no. bat bricks/tiles are integrated into the buildings onsite facing south/south-westerly positioned 3-5m above ground and, 10no. bird boxes to be installed on the buildings and/or trees within the site;
 - (e) grassland areas managed to benefit reptiles;
 - (f) locations for creation or retention of log piles on site are specified;
 - (g) gaps are included at the bottom of the fences to allow movement of small mammals across the site;
 - (h) number and location of hedgehog nesting boxes to be included on the site; and,
 - (i) Prior to start on site a badger survey and updated Great Crested Newt surveys should be undertaken to ensure badgers and Great Crested Newts are not present on the site.

(j) If any works need to take place to the trees or vegetation clearance on the site, they should only be undertaken outside of the bird breeding season which takes place between 1st March to 1st October inclusive. If works are required within this time an ecologist will need to check the site before any works take place (within 24 hours of any work).

(k) Any bush piles, compost and debris piles on site could provide shelter areas any hibernation potential for hedgehogs. These piles must be removed outside of the hibernation period mid-October to mid-March inclusive. The piles must undergo soft demolition.

The scheme shall include a scheme for maintenance for an appropriate period of 5 years. Thereafter the development shall be carried out in accordance with the measures included in the LEMP, including timing and phasing arrangements, unless otherwise agreed in writing by the Local Planning Authority.

- 11) Before first occupation of any dwelling, details of the proposed external lighting of the site shall be submitted to and be approved in writing by the Local Planning Authority. This information shall include a layout plan with beam orientation and schedule of equipment in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed, maintained and operated in accordance with the approved details, unless the Local Planning Authority gives its written consent to any variation. The lighting scheme shall be based on the recommendations contained within the Lighting Technical Report (April 2022 by Design for Lighting Ltd). The lighting scheme shall take into consideration the presence of bats in the local area, including the use of dark corridors along the ecological corridor to the east and shall minimise potential impacts to any bats using trees and hedgerows by avoiding artificial light spill through the use of directional lighting sources and shielding. The layout and detailed design should be designed to show that it can deliver an increase in light level from all sources of light, including light spill from occupied properties, of no more than 0.2 lux on the horizontal plane and below 0.4 lux on the vertical plane, in line with Bat Conservation Trust guidelines. The lighting shall be installed, maintained and operated in accordance with the approved details, unless the Local Planning Authority gives its written consent to any variation. Any proposed external lighting system should comply with the Institute of Lighting Engineers (ILE) guidance notes for the Reduction of Light Pollution.
- 12) No development, including site clearance, demolition and remediation works, shall commence until a written scheme of archaeological investigation of the site 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 importance thus identified, and a schedule for the investigation, the recording of findings and subsequent publication of results. Thereafter the scheme shall be undertaken fully in accordance with the approved details and a timetable to be agreed in writing by the Local Planning Authority.

- 13) The development hereby permitted shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) (dated August 2022) and the following mitigation measures detailed within the FRA:
- a) all buildings between cross-sections 8 and 12 ('Area 1') will have finished floor levels set no lower than 6.44 m above Ordnance Datum (AOD).
 - b) all buildings downstream of cross-section 8 ('Area 2') will have finished floor levels set no lower than 6.10 m above Ordnance Datum (AOD).
 - c) The access road levels shall be raised to be no lower than 4.73 m above Ordnance Datum (AOD).
 - d) Flood Plain compensation will be provided as described in the FRA, with 233m³ provided in compensation for 187m³ lost.

The flood plain compensation and the access road levels shall be fully implemented prior to first occupation of the development. The mitigation measures for the buildings shall be fully implemented prior to occupation of each building it relates to. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

- 14) No development, excluding site clearance, demolition and remediation works, shall commence, until details of the proposed overall site wide surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal as set out in Approved Document H of the Building Regulations and the SUDS Manual produced by CIRIA and shall also take into account the latest climate change allowances as set out in the Planning Practice Guidance. Winter ground water monitoring to establish highest annual ground water levels and Percolation testing to BRE 365, or similar approved, will be required to support the design of any infiltration drainage. The surface water drainage scheme shall be implemented as approved unless any variation is agreed in writing by the Local Planning Authority. 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.
- 15) No development, excluding site clearance, demolition and remediation works, shall commence until details of the management and maintenance of the sustainable drainage system so that it continues to operate satisfactorily for the lifetime of the development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 16) Notwithstanding any information submitted to the contrary details including planting plans and section drawings of the final configuration of the proposed sustainable urban drainage system basins in terms of size and positioning and the associated landscaping proposals shall be submitted to and be approved in writing by the Local Planning Authority before commencement of the development, excluding site clearance, demolition and remediation works, hereby permitted. The development shall thereafter be carried out in accordance with the approved details

unless any variation is subsequently agreed in writing by the Local Planning Authority following the submission of details in that behalf.

- 17) The development shall not be occupied until the approved off-site improvement works necessary to provide foul drainage for the whole development have been completed or, in the event that the approved off-site improvement works are not completed in full by the time of first occupation, detailed interim measures for the disposal of foul water sewerage shall be first agreed in writing by the Local Planning Authority in consultation with Southern Water acting under its statutory duties contained in the Water Industry Act 1991 and shall be implemented in full. The interim measures shall be managed and maintained thereafter in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 18) No development excluding site clearance, demolition and remediation works, shall commence until details of the arrangements for the future access, including a minimum 3m ditch maintenance buffer from the top of the banks and maintenance access points and maintenance arrangements of any watercourse or culvert crossing or abutting the site have been submitted to and 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.
- 19) The development hereby permitted shall be carried out in full accordance with the recommendations in the Ground Investigation Report by Geo-Environmental dated February 2018, in particular the environmental considerations and recommendations set out in Section 6.

The site shall be remediated in accordance with the approved measures and timescale and a verification report, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites – Code of Practice and the Environment Agency's Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the development.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall be carried out in accordance with the approved additional measures and a verification report for all the remediation works shall be submitted to the Local Planning Authority for approval prior to occupation of the development.

- 20) No development, including site clearance, demolition and remediation works, shall commence until a scheme for managing any borehole installed for the investigation of soils, groundwater or geotechnical

purposes has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide details of how redundant boreholes are to be decommissioned and how any boreholes that need to be retained, post-development, for monitoring purposes will be secured, protected and inspected. The scheme as approved shall be implemented prior to first occupation of the development.

- 21) No development shall commence, including any works of demolition, site clearance and remediation until a Construction and Environmental Management Plan (CEMP) comprising a schedule of works and accompanying plans in relation to the demolition, site clearance and remediation processes 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 period of demolition, site clearance and remediation unless any alternative is agreed in writing by the Local Planning Authority. The CEMP shall provide details of the following:
- (a) the anticipated number, frequency and types of vehicles used during construction;
 - (b) the location and specification for vehicular access during construction;
 - (c) the provision made for the parking of vehicles by contractors, site operatives and visitors;
 - (d) the loading and unloading of plant, materials and waste;
 - (e) the storage of plant and materials used in construction of the development;
 - (f) the erection and maintenance of security hoarding;
 - (g) the location of any site huts/cabins/offices;
 - (h) 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);
 - (i) 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;
 - (j) 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;
 - (k) measures to control the emission of noise during construction;
 - (l) 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;
 - (m) appropriate storage of fuel and chemicals, in bunded tanks or suitably paved areas;
 - (n) measures to reduce air pollution during construction including turning off vehicle engines when not in use and plant servicing;
 - (o) waste management including management of litter and prohibiting burning;

- (p) measures to prevent the discharge of water or other substances (e.g. soil wash off/erosion, siltation and all other forms of water bourn pollution) to ground or surface waters without the prior written approval of the Environment Agency;
 - (q) provision of temporary domestic waste and recycling bin collection point(s) during construction; and,
 - (r) measures to be taken in the event of emergency spillages.
- 22) No development shall commence, excluding any works of demolition, site clearance and remediation, until a Construction and Environmental Management Plan (CEMP) comprising a schedule of works and accompanying plans in relation to the construction process (i.e. all development following completion of demolition, site clearance and remediation works) 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, excluding demolition, site clearance and remediation, unless any alternative is agreed in writing by the Local Planning Authority. The CEMP shall provide details of the following:
- (a) the anticipated number, frequency and types of vehicles used during construction;
 - (b) the location and specification for vehicular access during construction;
 - (c) the provision made for the parking of vehicles by contractors, site operatives and visitors;
 - (d) the loading and unloading of plant, materials and waste;
 - (e) the storage of plant and materials used in construction of the development;
 - (f) the erection and maintenance of security hoarding;
 - (g) the location of any site huts/cabins/offices;
 - (h) 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);
 - (i) 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;
 - (j) 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;
 - (k) measures to control the emission of noise during construction;
 - (l) 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;
 - (m) appropriate storage of fuel and chemicals, in bunded tanks or suitably paved areas.
- 23) Construction works, including works of site clearance and ground preparation, and deliveries to and from the site, shall not take place other

than between 07.30 and 18.00 Monday-Friday, 0830 and 1300 on Saturdays and at no time on Sundays or on Bank or Public holidays.

- 24) No development, excluding site clearance, demolition and remediation works, shall commence on site until the method of piling/foundation design and the method for any investigation boreholes using penetrative methods has been submitted to and be approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved methods unless any variation is agreed in writing by the Local Planning Authority.
- 25) No development, excluding site clearance, demolition and remediation works, shall commence until a scheme of noise mitigation in accordance with the recommendations in Chapter 6 of the Environmental Impact Assessment and the Stage 2 Acoustic Design Statement, particularly the measures proposed in sections 3.4.6 – 3.4.11, produced by Clarke Saunders Associates (submitted as an appendix to the EIA) has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be carried out before the first occupation of each dwelling.
- 26) No dwelling shall be first occupied until such time as the main vehicular (including the off-site highways works) and pedestrian access serving the development from Main Road has been constructed and visibility splays provided of 2.4 by 120m in both directions, in accordance with the details shown on drawing numbers 110.0010.002/Rev.B (A259 Main Road Access – GA Standalone Access) and 110.0010.004/Rev.B (A259 Main Road Access – Visibility Standalone Access). Once provided the visibility splays shall be kept free of all obstructions over a height of 0.6m above adjoining carriageway level.
- 27) Before construction of the final wearing course of the internal roads within the development hereby permitted details shall be submitted to and be approved in writing by the Local Planning Authority of the surfacing materials which shall be suitably strong enough to take the weight of a 26 tonne waste freighter vehicle. The final wearing course of the internal roads shall thereafter be constructed in the approved surfacing materials.
- 28) No part of the development shall be first occupied until the car parking spaces have been constructed in accordance with the approved parking strategy plan (01293-MP03/Rev.P03). These spaces shall thereafter be retained at all times for their designated purpose.
- 29) Notwithstanding the submitted plans, no part of the development hereby permitted shall be first occupied until covered and secure cycle parking spaces (including cycle/scooter covered and secure storage racks for the children's nursery) have been provided in accordance with plans and details that shall first have been submitted to and approved by the Local Planning Authority. Thereafter the cycle/scooter parking shall be retained for that purpose in perpetuity.

- 30) No part of the development hereby permitted shall be occupied until refuse and recycling storage facilities have been provided in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the refuse and recycling storage facilities shall be maintained as approved and kept available for their approved purposes in perpetuity.
- 31) No development above slab level shall commence until a detailed specification of the method of the futureproofed links to the west of the site as detailed on the submitted Illustrative Site Plan has been submitted and approved by the Local Planning Authority. The details shall include, layout, materials, treatment and finishes and how these future links would be managed and safeguarded to ensure the links are maintained for possible future requirement.
- 32) No development shall commence above slab level, until the developer has provided details in respect of the provision of Electric Vehicle (EV) charging facilities for the development. This shall include the location and detailed specification and charging speed for the active EV charging facility to serve each residential unit and the location, number, detailed specification and charging speed and arrangements for management of payment for the active EV charging facilities to serve the children's nursery. These details shall be submitted to and approved in writing by the Local Planning Authority. No building which is to be provided with an active charging facility shall be first occupied until the EV charging facility for that building has been provided and is ready for use.
- 33) No development shall commence above slab level, until details of the sustainable design and construction for the development, including details of the final energy efficiency calculations, details of exact location, form, appearance and technical specification (including acoustic performance) of the air source heat pumps for the residential units and the compact heat pump cylinders for the flats and any photovoltaics to be erected on the roofs of the buildings have been submitted to and approved in writing by the Local Planning Authority. These details shall be in general conformity with the Sustainability Appraisal & Statements dated 12 May 2023 and 28th April 2022. The development thereafter shall be carried out in accordance with the approved details unless any variation is agreed in writing by the Local Planning Authority.
- 34) The dwellings hereby permitted shall be designed to ensure the consumption of potable water by the occupiers shall not exceed 110 litres per person per day. The fixtures, fitting and appliances shall thereafter be retained to comply with this requirement.
- 35) Before first occupation of any dwelling, details showing the location, installation and ongoing maintenance of fire hydrants shall be submitted to and approved in writing by the Local Planning Authority. The approved fire hydrants shall be installed before first occupation of any of the dwellings that they will serve and shall thereafter be retained for their intended purpose. Within 1 month of the completion of the fire hydrants' installation, confirmation that the fire hydrants are ready for operational

use shall be made to the WSCC Fire and Rescue Service's Water and Access Manager.

- 36) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, and the Town and Country Planning (General Permitted Development) Order 2015, or in any other statutory instrument amending, revoking and re-enacting the Order, the children's nursery building hereby permitted shall not be used other than as a children's day nursery in Use Class E(f) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 or in any provision equivalent to that Class in any other statutory instrument revoking and re-enacting that Order).

Richborough