



Appeal Decision

Hearing held on 27 January 2026

Site visit made on 27 January 2026

by A Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2026

Appeal Ref: APP/L3815/W/25/3372880

Land East of Inlands Road and South of railway line, Inlands Road, Nutbourne, West Sussex PO18 8RJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Metis Homes Ltd against the decision of Chichester District Council.
 - The application Ref is 24/01161/OUTEIA.
 - The development proposed is up to 49 dwellings; provision of open space and sustainable drainage.
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Decision

1. The appeal is allowed and outline planning permission is granted for up to 49 dwellings; provision of open space and sustainable drainage at Land East of Inlands Road and South of railway line, Inlands Road, Nutbourne, West Sussex, PO18 8RJ in accordance with the terms of the application, Ref 24/01161/OUTEIA, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Metis Homes Ltd against Chichester District Council. That application is subject of a separate Decision.

Preliminary Matters

3. The application was made in outline form with matters of access to be determined at this stage and all other matters reserved for later consideration. I have considered the appeal on the same basis. As such, any details on the drawings relating to matters of scale, layout, appearance or landscaping are considered illustratively only.
4. Since the Council's decision on the application, they have adopted a new Local Plan (August 2025). As such, the policies referred to in the decision letter have no bearing on the appeal. From the evidence, the most relevant policies in the new Local Plan seem to be S1, S2, H1, H2, A13, NE17, T1 and T2. I have also taken into account the policies of the Southbourne Modified Neighbourhood Plan (2023) (SMNP) and the contents of the emerging Southbourne Allocations Development Plan Document (DPD).
5. A Unilateral Undertaking was submitted shortly after the Hearing closed. This purports to secure affordable housing and the provision of open space on the site, works to achieve nutrient neutrality, contributions towards works to the highway network and mitigation for the effect on the Chichester and Langstone Harbours Special Protection Area (SPA) & Ramsar site. I return to this later.

Main Issues

6. In addition to the reasons for refusal set out on the decision notice, the Council consider the development would conflict with policy A13 of the new Local Plan. The main issues therefore are:
- i) the effect of the proposal on highway safety with respect to the increased use of Inlands Road;
 - ii) the effect of the proposal on public safety with respect to the increased use of the Inlands Road level crossing; and
 - iii) whether the proposal would prejudice the delivery of wider infrastructure.

Reasons

Highway safety

7. Inlands Road leads from the busy A259 at its southern end to the countryside north of Southbourne. There is housing almost continuously on its western side from the A259 to the junction with Cooks Lane, and on its eastern side from the A259 to the appeal site. There is a pavement from the railway crossing to the A259, mainly on the western side of Inlands Road, but with a small section on its eastern side close to its southern end. There is a dropped kerb and tactile paving here to allow pedestrians access from one side of the road to the other. North of the railway crossing, there is no pavement or street lighting and the carriageway width varies.
8. The Council's evidence shows that, from measurements taken, the minimum width of Inlands Road is 4.7m, and the appellant does not dispute this, though there is reference in earlier correspondence to a minimum distance of 4.2m being measured. The Council suggest that, to accommodate traffic generated by the development, the road should be 5.5m wide as this is the minimum width identified in Manual for Streets for two lorries to pass each other. Manual for Streets also shows that the minimum width for two cars to pass each other is 4.1m and that for a car and a lorry to pass it is 4.8m.
9. The tracking diagrams in the Council's highways appeal statement show that along most of Inlands Road south of the site, there would be conflict between large cars and a rigid lorry. However, the dimensions given at the bottom of the diagram show a car to be 1.8m wide and a lorry to be 2.5m wide. In practice, vehicles do not hug the kerbs precisely and a gap between passing vehicles would be necessary. Nonetheless, given these dimensions, I consider that any conflict between these types of vehicles would be minimal.
10. Moreover, given the residential nature of the area, the likelihood of two lorries having to pass each other would be rare, and even if that were to occur, there are places along Inlands Road, such as outside Sliema, where that would most likely be possible. In any case, I would not anticipate that the development would materially increase the likelihood of that situation arising.
11. Inlands Road is not a completely straight road as there is a noticeable kink in it by Haley. However, visibility through this change in alignment, and along the road in both directions from here, is good and so I see no reason why the advice in Manual for Streets should not be applicable. Also, although I note the photos in the Council's statement showing evidence of vehicles overrunning the kerb, and

residents have provided photos of cars parked on the kerb and lorries passing, I see no reason why this would be a common occurrence given the residential character of the street and the modest number of dwellings it would serve.

12. On-street parking on Inlands Road is minimal as most houses have off-street parking provision and the four houses in the Priors Orchard development which face Inlands Road all have off street parking within that development. It is understood that double yellow lines, secured by a Traffic Regulation Order (TRO), would be sought to prevent parking opposite the access to the site and maintain visibility. Though the outcome of this TRO could not be guaranteed, it is reasonable to consider that it would be implemented given there is readily available alternative parking for local residents and other users, even if that is elsewhere along Inlands Road. Furthermore, a planning condition could be attached to ensure the development is not occupied until a TRO is confirmed. The effective width of this part of Inlands Road would therefore not be unsafe.
13. Overall, I consider the road would be wide enough to serve the development and the traffic it would generate, such that the safety of all road users would not be compromised.
14. With regard to the pedestrian and cycling environment, residents travelling from the site northwards on Inlands Road and then along Cooks Lane towards the centre of Southbourne would need to walk or cycle along narrow roads with no separate pavement or street lighting. However, as shown on the map in the Council's highways appeal statement, the majority of the facilities in Southbourne are south of the railway lines. Of particular note, is the fact that the distances from the site to the Tesco convenience store north of the railway line and the similarly sized Co-op store south of the railway line, are almost the same. For facilities such as Bourne Community College and Leisure Centre, which are north of the railway line, the shortest route would be via Cooks Lane. However the alternative route via the Stein Road crossing is only 400m longer and still within the preferred maximum distance for walking to a secondary school. I have also considered that it is likely that for many of the existing properties in Priors Orchard, and most of those on Inlands Road, the shortest route to the leisure centre and secondary school is currently via Cooks Lane and yet there have been no accidents reported within the most recent 5 year period (2020- 2024).
15. For pedestrians travelling southwards, the pavement is continuous, excepting a small section at the southern end of Inlands Road. I recognise that the car showroom on the corner of Inlands Road and the A259, and the dwelling behind it, restrict visibility around this junction and necessitate pedestrians to cross from one side of Inlands Road to the other. But, from my site visit, I do not consider this to be unsafe given its distance from the junction. In any case, it may be more convenient for pedestrians wishing to go west along the A259 to go through Priors Orchard opposite the site instead.
16. In summary, although there is no continuous pavement along Inlands Road, there are safe and convenient alternative pedestrian routes which would ensure that access to and from the site by its future occupiers would be safe.
17. With regard to traffic volumes, both parties provided slightly differing data regarding the existing traffic on Inlands Road. But both show daily traffic to be around 1600 vehicles. In terms of traffic likely to be generated by the development, the appellant

estimates around 226 trips daily, whereas the Councils corresponding figure is 251. In terms of the peak hours, the parties only differ in respect of the evening peak, where the Council estimate seven more trips. Obviously any increase in hourly or daily trips, when extrapolated for a whole year, would result in many thousands more trips. However, as a proportion, the increase in traffic on Inlands Road likely to result from the proposal would be around 15%. The appellant's evidence shows that the Inlands Road/A259 junction would continue to operate satisfactorily with this increase in traffic, plus other committed developments, and the Council do not dispute that.

18. The appellant's original Transport Statement considered that all traffic generated by the development would travel south from the site, rather than north. As set out above, there are a number of services and facilities that would be more directly accessed by traveling north, such as the Tesco convenience store, the College and the Leisure Centre. On the other hand, the Co-op convenience store, Southbourne Infant and Junior school and a surgery are more readily accessible from the south. In addition, though there is a small industrial estate on Clovelly Road to the north, the most accessible way to other towns with more employment opportunities, would be by using the A259 to the south, though I do understand that on occasion local residents use the back lanes instead of the A259 to get to other towns if traffic is bad. Overall, it would be reasonable to assume a proportion of traffic would go northwards from the site.
19. The appellant's Highways Statement of Case suggests 13% of traffic would go north. But this is based on the traffic distribution used for assessments for other sites nearby but not accessed from Inlands Road. Indeed, it was initially used to assess the distribution of traffic east and west on the A259 from the Inlands Road junction, so is not a useful guide for the appeal site. The Council suggest that around 50% of all movements go north. But this would include through traffic, for example drivers using Inlands Road to cross the railway lines rather than Stein Road, so also may not be truly reflective of likely distribution of traffic from dwellings on Inlands Road. Whichever figure is more accurate, the Council have not suggested that junctions north of the site, such as with Cooks Lane, would fail to operate satisfactorily with an increase in traffic.
20. There are concerns locally in respect of the ability of Inlands Road to accommodate additional volumes of traffic, and my attention was drawn to a previous comment from the highways authority that Inlands Road would not be suitable to accommodate any additional levels of development. However, this was in relation to a larger scale development of 800 homes, as clarified by the highways authority's update provided to the planning committee meeting in June 2025. In addition, although I understand the development at Priors Orchard was deliberately designed so as to not have access onto Inlands Road, that scheme is significantly larger than the proposal before me and has secured improvements to Inlands Road that the current proposal can benefit from.
21. In summary, the development would lead to an increase in traffic on Inlands Road in both directions. However I do not consider that this would be unacceptably harmful to highway safety. Overall, the proposal would accord with Local Plan policy T2 which require development to provide safe access to the highway for all users.

Level crossing

22. The site abuts railway lines to the north and these lines cross Inlands Road at a level crossing where there is an automatic half barrier. As the name would suggest, the barrier is automated, not monitored, and it only covers the carriageway for traffic approaching it. It is liable to be misused, and evidence from Network Rail, over a nine day survey period in 2015, was that there were 267 misuses. I also heard first hand at the hearing, of incidences of the crossing being misused and it is recognised that, as set out above, the most direct route to the College from nearby dwellings would be over this crossing.
23. Network Rail carried out a risk assessment of the level crossing in 2024. This took into account a number of factors including the usage of the railway line in terms of number, speed and type of trains; use of the crossing in terms of number of vehicles, pedestrians, and cyclists; and the condition of the approaches such as their alignment, orientation and vegetation as well as any historic incidents at the crossing such as barrier or signalling failure. Having assessed this, Network Rail categorise the crossing as E3, with E representing the risk per traverse (on a scale from A to L with A being the highest risk), and 3 representing the collective risk (on a scale from 1 to 12 with 1 being the highest risk). When represented as a Fatalities and Weighted Injuries (FWI) risk, the crossing scores 0.00633¹.
24. The effect of the development would be to increase the number of people using the crossing and therefore increase the collective risk. On the basis that all pedestrian, cycle and vehicular movements generated by the development would utilise the crossing, which in practise is unlikely, Network Rail assess that the FWI score would rise to 0.00637. This is an increase of 0.00004. It would not result in any change to the categorisation of the crossing as E3. Clearly there would be an increase in the risk at the crossing, but the increase, in this case, appears to be minimal. Even if the development facilitates a pedestrian and cycling route from the Harris Scrapyard site through the appeal site, it is unlikely that the use of the crossing would increase materially, given the greater distance that site would be from the amenities in Southbourne which may dissuade walking or cycling.
25. The appellant has drawn my attention to a number of other allowed appeals which addressed issues of safety at railway crossings, albeit at different locations nationwide. Though there will be a range of factors that are accounted for in the assessments and scoring, it is not unreasonable to draw comparisons in terms of how risk is assessed and how an increase in risk is considered. In the Tackley and Formby decisions, the crossings were categorised as being D3 and C2, with FWI scores, post development, of 0.00857 and 0.01016. This demonstrates that these other crossings would be more dangerous than that at Inlands Road. In the Tewkesbury case, the crossing was pedestrian only, but categorised as C3 and the increase in FWI was 0.00569, which is a far greater increase than in this current case. It is also the case that in all these other appeals, the developments involved a greater number of houses than in the scheme before me. In all of these cases, the Inspector found that the increase in risk at the crossing would not result in an unacceptable risk to safety. My view on the current appeal is consistent with this.

¹ Rounded to 5 decimal points

26. Overall, the development would not conflict with policy T2 which requires new development to contribute towards a safe, sustainable, connected and accessible transport network.

Wider infrastructure

27. Policy A13 confirms that, excluding permissions that have already been granted, land for a further 800 homes² will be allocated within the Southbourne Broad Location for Development (BLD) through the Southbourne Allocations Development Plan Document (DPD) along with employment and community uses, to be masterplanned as a whole.
28. The Council are currently in the process of producing the DPD and a Regulation 18 version of this was subject of consultation in 2024. This proposed three scenarios for growth in Southbourne; land to the west, land to the east and a mixed scenario. The appeal site would be on land covered by the east scenario. The drawings in the DPD indicate that in this scenario a multi-modal bridge would be provided over the railway lines at a point that would be roughly at the eastern end of the site.
29. It is understood that development on the east side of Southbourne is the favoured option and that this will most likely be published in a Regulation 19 consultation in April 2026. Nonetheless, given the stage at which the DPD is currently at, it can be given only limited weight at present.
30. Notwithstanding that, policy A13 confirms that the definition of its boundaries and extent, as well as detailed guidance for development, will be provided through the making of allocations in the DPD. As the boundary and extent of the BLD is already shown, this must apply to the boundaries and extent of the allocations to provide the 800 units. However 17 principles are then set out for development in the broad location. In my view, these principles would largely be applicable to any development in the whole of the BLD whether or not on an allocated site. More detailed guidance for the specific allocations would come forward in the DPD.
31. However, of these 17 principles, number 5 states that development will need to ensure that masterplanning and infrastructure provision addresses severance caused by the railway line within the village generally. Similarly, the last part of the policy identifies that piecemeal or unplanned development proposals which are likely to prejudice the delivery of required infrastructure will not be permitted. Clearly, at the current time the masterplanning is at an early stage and the required infrastructure, which would stem from that, is unknown. These aspects would therefore be more appropriately considered once the DPD has been adopted.
32. Furthermore, as the position of the allocation is yet to be established it would be premature to consider that the development proposed should be deducted from the 800 homes identified in A13. For instance, if the DPD were to allocate land west of Southbourne for development, I see no reason why that allocation could not remain to be for 800 units, with the appeal development considered as a windfall site, particularly as all housing figures are minimums. That being the case, it follows that it would not prejudice the delivery of any future infrastructure required either financially in terms of contributions to the funding of infrastructure, or spatially in terms of occupying land that could be used to provide infrastructure. Indeed, the draft DPD states that land has been safeguarded for a multimodal bridge to the

² Totalling the 1050 homes set out for Southbourne in Local Plan policy H2

west of Southbourne and I understand that there is land at Priors Orchard which has been safeguarded for a pedestrian footbridge, both of which could reduce or negate the need for a bridge to the east.

33. Even if I were to consider that the proposal should comprise part of the provision of 800 homes, and hence the adopted DPD allocation could be reduced to around 750 dwellings, there is no evidence to demonstrate that a smaller allocated quantum of development would necessarily prejudice the provision of infrastructure across the railway lines. It is unknown at this stage as to whether the required crossings would be pedestrian only or a multimodal bridge, hence there are no indications of cost, and so it is not possible to consider what may or may not be viable.
34. As such, I could not consider that the proposal would be likely to prejudice the delivery of infrastructure, and therefore there would be no conflict with policy A13, or T1 which requires development to contribute to necessary infrastructure.

Other Matters

Wastewater Treatment capacity

35. The appeal site falls within the catchment of the Thornham Wastewater Treatment Works (WwTW). There would need to be sufficient capacity within the WwTW to serve the development.
36. At the time of the determination of the application, the officer's report showed that the headroom capacity of the WwTW would be 1027 dwellings, using a three year average of dry weather flow, until improvement works are delivered in 2030. The data available at that time showed that there were future commitments within the catchment amounting to 1011 dwellings of which 950 were likely to be delivered before 2030. This equated to a capacity of 77 units.
37. At the hearing the Council provided an update that showed the total commitments now totalled 1016; an increase of five units. The data doesn't show how many of these would come forward before 2030, but even if all five did, the capacity would only fall to 72 units, as there is no reason to consider the 61 units previously expected to come forward after 2030 would now be likely to come forward before then. Therefore the headroom capacity is sufficient to accommodate the 49 dwellings proposed.
38. There would therefore be no conflict with policy NE17 of the Local Plan which aims to ensure that development is phased to align with the delivery and operation of new or improved wastewater infrastructure, and SMNP policy SB20 which broadly seeks the same.
39. On this basis there would be no need for any Grampian condition preventing the occupation of the dwellings until after the improvement works to Thornham have been completed. However, to provide further confidence, a condition limiting the water consumption at the development to 110 litres per person per day, instead of the 150l/pp/pd Southern Water assume, would be necessary.

Unilateral undertaking

40. Local Plan policy H4 requires, in respect of this site, that 30% of the housing should be affordable. This would amount to 14.7 units. The unilateral undertaking (UU)

would secure the provision of 14 affordable homes including first homes, shared ownership, affordable rental units and social rented units. The remaining 0.7 would either be paid as a commuted sum for provision off site, or would be rounded up to a whole unit and an additional affordable rented unit would be provided on site. Either option would accord with the policy.

41. The site is around 0.4km from the Chichester and Langstone Harbours Special Protection Area (SPA) & Ramsar site. These are large, sheltered estuarine basins comprising extensive mud and sand flats exposed at low tide. The qualifying features include large numbers of breeding and over-wintering wildfowl and waders and also a wide range of coastal and transitional habitats supporting important plant and animal communities. They are susceptible to disturbance from recreational activities. Therefore the introduction of 49 homes and their occupants could increase recreational pressures on the SPA which would be likely to cause a significant adverse effect on the integrity of this European site.
42. Natural England have confirmed that they have no objection to the scheme if a financial contribution to the Solent Recreation Mitigation Strategy, known as Bird Aware Solent, is secured. The UU includes an obligation to pay contributions, calculated on the size of each dwelling, to be paid as mitigation and spent on projects set out in the Bird Aware Solent Strategy such as public engagement. As such, I am satisfied that the necessary mitigation has been secured and therefore the development would not be likely to have an adverse impact on the integrity of this habitat site. The proposal would hence accord with Local Plan policy NE5 which requires that development ensures the protection of such sites and biodiversity.
43. The UU sets out that land totalling 1.18ha at Common Road, between Funtington and Racton, will be taken out of agricultural use permanently, be converted to semi-natural habitat and planted with wildflowers, grasses and scrub trees. This would remove 29.23kg of total Nitrogen per year from the land. This would offset the 29.01kg of Nitrogen per year calculated to be generated by the development. It is anticipated that by the time the development is occupied, in around four years' time, any remaining nutrients in the land will have leached away and a condition can be imposed to ensure this. The mitigation therefore would reflect Local Plan policy NE20 which requires development to be nutrient neutral for its lifetime. In addition, this land, as well as measures on the appeal site, would form part of the Biodiversity Net Gain (BNG) provision. The Council are content that the statutory 10% BNG in both habitat and hedgerow units could be achieved and I have no reason to consider otherwise. The development, for this reason also, would accord with policy NE5
44. There is an obligation to provide contributions towards highway improvements to the A27 Chichester Bypass which broadly reflects that set out in the 'Planning Obligations & Affordable Housing' Supplementary Planning Document (2016). There is also a commitment to provide the works to create a pedestrian access and linkages to the existing pedestrian networks at the site entrance, and to provide a Travel Plan.
45. The UU includes an obligation to provide 415m² of open space land on the site and an area of ecological enhancement land on its boundaries. This would reflect Local Plan policy P5 which expects development to provide open space and landscaping.

46. Overall, all the obligations would be directly related to the development, are fairly and reasonably related in scale and kind and are necessary to make the development acceptable in planning terms. They would therefore accord with Regulation 122 of the Community Infrastructure Levy Regulations, and I have taken them into account in my decision. CIL payments could be used to contribute to any other necessary infrastructure.

Other considerations

47. Some time at the hearing was spent discussing the Council's current supply of housing land. However as I find the proposal acceptable, I need not consider that issue as, even if I were to agree with the Council that they do have a five years supply, it would be a neutral consideration and so has no determinative effect.
48. It is noted that the site is outside the settlement boundary identified in policy SB1 of the Southbourne Modified Neighbourhood Plan, and referred to in policy S2 of the Local Plan. However policy A13 recognises that the boundary may need to be changed to accommodate future growth and therefore the conflict with SB1 carries little weight.

Conditions

49. I have considered the conditions agreed by the parties. In places I have slightly altered the wording so that they better reflect the advice in the Planning Practice Guidance. In particular, in some instances, I have removed the tailpieces, which allow for details to be varied with the agreement of the Council, as this would undermine the preciseness of the condition. I have also reordered the conditions to be in a more logical order.
50. Conditions relating to the submission of reserved matters, the commencement of the development and the approved plans are imposed in the interests of certainty.
51. A number of conditions relate to biodiversity including those requiring a Biodiversity Gain Plan, a Habitat Management and Monitoring Plan, an Ecological Enhancement Plan, mitigation strategies for Dormice and Bats, compliance with the Reptile Survey report and to ensure general ecological protection during construction. These are all necessary in the interest of protecting and enhancing biodiversity.
52. Conditions relating to sustainable drainage, and requiring compliance with the Flood Risk Assessment, are imposed in the interests of ensuring the development does not result in flooding on site, or to neighbouring land. Two conditions relating to the north boundary treatment and acoustics are necessary to mitigate the effect of the operation of the railway on future residents.
53. A condition is attached requiring details of levels to ensure the character and appearance of the area is maintained. Conditions relating to hours of construction, a Construction and Environmental Management Plan, and relating to contamination are imposed to ensure the amenity of nearby occupiers, and future occupiers of the site, is protected.
54. One condition is imposed to ensure sustainable and efficient construction practises are employed, and a condition limiting water usage is added for similar efficiency reasons. A condition relating to the construction of the access is attached in order to ensure the site can be accessed safely and for the same reason I have included

the suggested condition relating to the implementation of a Traffic Regulation Order. A condition is imposed in the interest of fire safety.

55. I have not imposed suggested condition 7 as that duplicates the statutory requirements under paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990.

Conclusion

56. The proposal would accord with the development plan taken as a whole and there are no other material considerations that indicate a decision other than in accordance with the development plan. Therefore, for the reasons given above, the appeal should be allowed.

Andrew Owen

INSPECTOR

Richborough

Schedule of Conditions

- 1) Details of the access (pedestrian and cycle to the east only), appearance, landscaping, layout, and scale ("the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than two years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with drawing nos. 01293B_PP01 Rev P01 and 110.0011-0001 Rev P01.
- 5) The details of the reserved matters to be submitted pursuant to condition 1 shall be substantially in accordance with parameter drawing nos. 01293B_PP02 Rev P02, 01293B_PP03 Rev P03, 01293B_PP04 Rev P02, 01293B_PP05 Rev P03 and 01293B_PP06 Rev P02. All heights and Use Class area figures indicated on the parameter plans shall be considered as maxima.
- 6) The development hereby permitted shall not be first occupied until four years from the date of cessation of agricultural use at land North of Common Road, Racton, Chichester (the Nitrate Mitigation Land) in accordance with the Nitrate Report, the date of which to be first agreed in writing by the local planning authority through submission of details verifying the date of cessation.
- 7) The Biodiversity Gain Plan shall be prepared in accordance with Biodiversity Metric dated 14.12.2023 completed by Ben Cooke and with the Post Development UK Habitats Plan Rev A dated 16 January 2025 (within the Biodiversity Net Gain report dated January 2025 prepared by Tetra Tech).
- 8) Prior to the commencement of the development hereby permitted, a Habitat Management and Monitoring Plan (HMMP) shall be submitted to and approved in writing by the local planning authority. The HMMP shall accord with the Biodiversity Gain Plan and include:
 - i. a non-technical summary;
 - ii. the roles and responsibilities of the management company or other organisation delivering the HMMP;
 - iii. the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan; and
 - iv. the management and maintenance measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the first occupation of the development.

The created and/or enhanced habitat specified in the approved HMMP shall thereafter be managed and maintained in accordance with the approved HMMP. 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.

- 9) Prior to the first occupation of the development hereby permitted, a completion report demonstrating that the completed habitat enhancements have been planted in accordance with the details set out in the approved Habitat Management and Monitoring Plan and Biodiversity Gain Plan, shall be submitted to and approved in writing by the local planning authority.
- 10) Prior to commencement of works above slab level, an Ecological Enhancement Plan shall be submitted and approved in writing by the local planning authority. The plan should include (but be not restricted to):
 - i. any removed trees should be replaced at a ratio of 2:1;
 - ii. wildflower meadow planting;
 - iii. filling any gaps in tree lines or hedgerows with native species;
 - iv. bat bricks/tiles integrated into the buildings onsite facing south/south westerly positioned 3- 5m above ground;
 - v. bird box installed on the buildings/and or trees within the gardens of the properties;
 - vi. swift brick installed within each property;
 - vii. grassland areas managed to benefit reptiles;
 - viii. log piles; and
 - ix. gaps at the bottom of the fences to allow movement of small mammals across the site and hedgehog nesting boxes.

The development shall thereafter be implemented and maintained in accordance with the approved details.

- 11) As part of any reserved matters application pursuant to this permission, a Dormice Mitigation Strategy including a program for its implementation shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be implemented fully in accordance with the approved strategy.
- 12) As part of any reserved matters application pursuant to this permission, a Bat Mitigation Strategy including a lighting plan, construction environment management plan and post construction management plan for the site, along with a program for its implementation shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be implemented fully in accordance with the approved strategy.
- 13) The development shall be carried out strictly in accordance with the method of works and mitigation measures detailed in the recommendations section of the submitted Reptile Survey Report dated December 2023 produced by Tetra Tech.
- 14) During construction of the development hereby permitted, the following ecological protection measures shall apply:
 - i. no works to the trees or vegetation clearance on the site shall be undertaken within the bird breeding season (1st March - 1st October) unless otherwise agreed in writing by the local planning authority;

- ii. any brush piles, compost and debris piles on site which could provide shelter areas and hibernation potential for hedgehogs shall only be removed outside of the hibernation period (mid-October to mid-March inclusive). These piles must undergo soft demolition. If any small mammals including hedgehogs are found, relocation away from the construction area into surrounding suitable habitats shall be undertaken; and
 - iii. prior to vegetation clearance, the site shall be assessed by a suitably qualified ecologist before any works take place (within 24 hours of any work).
- 15) As part of any reserved matters application pursuant to this permission, details of the proposed overall site wide surface water drainage scheme shall be submitted to and approved in writing by the local planning authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal as set out in Approved Document H of the Building Regulations and the SUDS Manual produced by CIRIA. Winter ground water monitoring to establish highest annual ground water levels and Percolation testing to BRE 365, or similar, will be required to support the design of any infiltration drainage. The surface water drainage scheme shall be implemented as approved.
- 16) Prior to the development being brought into first use, a survey and report from an independent surveyor to demonstrate that the surface water drainage system has been constructed in accordance with the approved details shall be submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the complete surface water drainage system serving that property has been implemented as approved.
- 17) Prior to first occupation of the development hereby permitted, full details of the maintenance and management of the SUDS system, set out in a site-specific maintenance manual, shall be submitted to and approved in writing by the local planning authority. The manual shall include details of financial management and arrangements for the replacement of major components at the end of the manufacturers recommended design life. The owner or management company shall thereafter strictly adhere to and implement the recommendations contained within the manual.
- 18) The development shall be constructed in accordance with the submitted and approved Flood Risk Assessment (dated August 2024) and maintained as such thereafter.
- 19) As part of any reserved matters application pursuant to this permission, a scheme that addresses the issues of acoustics, ventilation and overheating following Good Acoustic Design Principles shall be submitted to and agreed in writing by the local planning authority. The development shall thereafter be implemented and maintained in accordance with the approved scheme.
- 20) Prior to first occupation of the development hereby permitted, the boundary treatment to the north of the application site, parallel to the railway line, shall be erected, in accordance with details to be first agreed in writing by the local planning authority in consultation with Network Rail. The boundary treatment shall thereafter be retained in accordance with the approved details.

- 21) No development shall commence until plans of the site showing details of the existing and proposed ground levels, proposed finished floor levels, levels of any paths, drives, garages and parking areas and the proposed completed height of the development and any retaining walls have been submitted to, and been approved in writing by the local planning authority. The details shall clearly identify the relationship of the proposed ground levels and proposed completed heights with adjacent buildings. The development thereafter shall be carried out in accordance with the approved details.
- 22) No development shall commence until a Construction and Environmental Management Plan (CEMP) comprising a schedule of works and accompanying plans for that Phase 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. The CEMP shall provide details of the following:
- i. the phased programme of demolition and construction works;
 - ii. the anticipated number, frequency and types of vehicles used during construction;
 - iii. the location and specification for vehicular access during construction;
 - iv. the provision made for the parking of vehicles by contractors, site operatives and visitors;
 - v. the loading and unloading of plant, materials and waste;
 - vi. the storage of plant and materials used in construction of the development;
 - vii. the erection and maintenance of security hoarding;
 - viii. the location of any site huts/cabins/offices;
 - ix. 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);
 - x. 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;
 - xi. 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;
 - xii. measures to control the emission of noise during construction;
 - xiii. 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;

- xiv. appropriate storage of fuel and chemicals, in bunded tanks or suitably paved areas;
 - xv. measures to reduce air pollution during construction including turning off vehicle engines when not in use, and plant servicing;
 - xvi. waste management including prohibiting burning;
 - xvii. provision of temporary domestic waste and recycling bin collection point(s) during construction; and
 - xviii. a construction phase surface water management plan designed to prevent flooding and pollution both on and off site and to protect all surface water drainage features.
- 23) The construction of the development and associated works shall not take place on Sundays or Public Holidays or any time other than between the hours of 0800 hours and 1800 hours Mondays to Fridays and 0800 hours and 1300 hours on Saturdays.
- 24) No development shall commence until a scheme to deal with contamination of land and/or controlled waters has been submitted to and approved in writing by the local planning authority. Unless the local planning authority dispenses with any such requirement specifically in writing, the scheme shall include the following; a Phase 1 report carried out by a competent person to include a desk study, site walkover, production of a site conceptual model and human health and environmental risk assessment, undertaken in accordance with national guidance as set out in DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination CLR11.
- 25) If the Phase 1 report, submitted pursuant to condition 24, identifies potential contaminant linkages that require further investigation then no development shall commence until a Phase 2 intrusive investigation report has been submitted to and approved in writing by the LPA detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011+A1:2013 - Investigation of Potentially Contaminated Sites - Code of Practice. The findings shall include a risk assessment for any identified contaminants in line with relevant guidance.
- 26) If the Phase 2 report, submitted pursuant to condition 25, identifies that site remediation is required then no development shall commence until a Remediation Scheme has been submitted to and approved in writing to the local planning authority detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. Any ongoing monitoring shall also be specified. A competent person shall be nominated by the developer to oversee the implementation of the Remediation Scheme. The report shall be undertaken in accordance with national guidance as set out in DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination CLR11. Thereafter the approved remediation scheme shall be fully implemented in accordance with the approved details.
- 27) Notwithstanding any information submitted with this application, no development shall commence until a strategy outlining details of the

sustainable design and construction for all new buildings, including water use, building for life standards, sustainable building techniques and technology, energy consumption maximising renewable resources, and how a reduction in the impacts associated with traffic or pollution will be achieved including but not limited to charging electric vehicles (including at visitor spaces), has been submitted to and approved in writing by the local planning authority. The approved strategy shall be implemented as approved prior to first occupation.

- 28) The development hereby permitted shall not be occupied until the Building Regulations optional requirement of a water consumption rate of no more than 110 litres per person per day has been complied with.
- 29) No part of the development hereby permitted shall be first occupied until such time as the vehicular and pedestrian access has been constructed in accordance with approved plan 110.0011-0001 Rev P01. The vehicular and pedestrian access shall thereafter be retained for those purposes.
- 30) The development shall not be commenced until any Traffic Regulation Order (TRO) required as part of the highway works by the local highway authority has been made and the works implemented. If requested, evidence of the TRO being in force shall be submitted to and approved in writing by the local planning authority.
- 31) No part of the development shall be first occupied until details showing the precise location, installation timescales, operational date and ongoing maintenance of the fire hydrant(s) (in accordance with the West Sussex Fire and Rescue Guidance Notes) have been submitted to and approved in writing by the local planning authority in consultation with West Sussex County Council's Fire and Rescue Services. The fire hydrant(s) shall thereafter be installed as approved and maintained in accordance with the approved details. Within 1 month of the completion of the fire hydrant(s) installation, confirmation that the fire hydrant(s) is/are ready for operational use shall be made to the WSCC Fire and Rescue Service's Water and Access Manager.

APPEARANCES

FOR THE APPELLANT:

Matthew Reed KC	Landmark Chambers
Patrick Barry	Director, Nova Planning
Mark Smith	Director, Paul Basham Associates
Matthew Good	Senior Planning Director, Pegasus
Damien Power	Director, 9 th Wave Consulting Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Scott Lyness KC	Landmark Chambers
David Cranmer	Director, DCC Planning
James Chequer	Pep Transport Consultants
Craig Hatton	Senior Town Planner, Network Rail
Alex Roberts	Head of Economics Planning Policy, Lambert Smith Hampton

INTERESTED PARTIES:

Cllr Amanda Tait	Southbourne Parish Council
Cllr Tracey Bangert	Chichester District Council
Cllr Richard Bates	Chichester District Council
David King	Local resident
Tina Hufton	Local Resident
Martin Wade	Local resident

DOCUMENTS SUBMITTED AT THE HEARING

Updated headroom monitoring data for Thornham WWTW
Appellants rebuttal Addendum on Housing Land Supply
Additional suggested condition regarding a Traffic Regulation Order
Costs application on behalf of Metis Homes Ltd.

DOCUMENTS SUBMITTED AFTER THE HEARING

Updated committee report with appendices
Costs rebuttals
Completed unilateral undertaking



Costs Decision

Hearing held on 27 January 2026

Site visit made on 27 January 2026

by A Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2026

Costs application in relation to Appeal Ref: APP/L3815/W/25/3372880 Land East Inlands Road and South of Railway Line, Inlands Road, Nutbourne, West Sussex, PO18 8RJ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Metis Homes Ltd for a full award of costs against Chichester District Council.
 - The appeal was against the refusal of planning permission for up to 49 dwellings; provision of open space and sustainable drainage.
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Decision

1. The application for an award of costs is partially allowed in the terms set out below.

Procedural matters

2. The application was submitted in writing at the hearing. The Council was given an opportunity to respond in writing after the hearing, and the applicants given an opportunity for final comments.

Reasons

3. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. It adds that local planning authorities are at risk of an award of costs if they behave unreasonably with regard to the substance of the matter under appeal, for example, by preventing development which should clearly be permitted having regard to its accordance with the development plan, national policy and other material considerations, or by making vague, generalised or inaccurate assertions about a proposal's impact. Local planning authorities are also expected to behave reasonably with regard to procedural matters, for example, by not introducing fresh and substantial evidence at a late stage necessitating extra preparatory work.
5. The planning application, subject of the appeal was recommended for approval by officers. Part of this included responses from the highways authority and Network Rail, who both confirmed that they had no objection to the proposal. Indeed following an initial deferral by the planning committee in May 2025, both these bodies were asked to confirm their views. Their responses were provided to the planning committee when the application was brought back to Members in June 2025.

6. From the content of these responses, it is clear that Network Rail still had concerns. But their final response to officers before the June committee was that they did not wish to object. In addition, the highways authority's response specifically addressed the concerns that the road was of insufficient width and with discontinuous footways, stating that that concern, which appears to stem from the draft Southbourne Allocations Development Plan Document related to proposals for 800 homes. They confirmed they had no objections to this current scheme.
7. It is accepted that Members are not bound by the advice of their officers, and they are able to attach weight to the different planning matters as they see fit. Nonetheless, on technical matters such as the safety of the railway crossing or the ability of the highway to accommodate the movements generated by the development, I consider it was unreasonable for them to disagree with officers and reach an unsubstantiated contrary view.
8. These were the two main reasons for refusal; the other reason relating to the lack of a provision of a planning obligation which, from the officer's report, it appears there was no dispute over. Indeed the officer's recommendation was to approve subject to the obligation being completed. As such, refusing the application meant the development was prevented when it should clearly have been permitted. The appeal was therefore unnecessary and the costs of preparing and submitting the appeal were wasted.
9. However having made the appeal, it was reasonable for the Council to expand upon the two reasons for refusal through written statements and in person at the hearing, including with respect to explaining Network Rail's concerns despite the providing no formal objection to the application. No substantially fresh evidence was introduced. Similarly, due to the adoption of the Local Plan during the appeal process, it was not unreasonable for the Council's case to reflect that, particularly with regard to policy A13 and their contention that there was conflict with that, albeit it is recognised that the policy was at an advanced stage at the time they made their decision.
10. As such, for the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense as set out in the PPG has occurred, but only on the substantive grounds claimed by the applicant, not the procedural ones, and so a partial award of costs is therefore warranted.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Chichester District Council shall pay to Metis Homes Ltd, the costs of the appeal proceedings described in the heading of this decision; limited to those costs incurred with respect to substantive matters only; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to Chichester District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Andrew Owen
INSPECTOR